

ORDINANCE NO. 269

AN ORDINANCE AMENDING ORDINANCE NO. 216 OF THE CODE OF ORDINANCES OF THE CITY OF BEVIL OAKS; AND PROVIDING FOR REGULATION OF GARBAGE, TRASH, WASTE AND OTHER REFUSE ON PUBLIC AND PRIVATE PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF BEVIL OAKS AND REGULATING GRASS, LEAVES, SHRUBS, WEEDS, BRUSH, AND OTHER DEBRIS WITHIN SAID CITY; PROVIDING A PENALTY AND SEVERABILITY CLAUSE; AND, REPEALING ALL ORDINANCES IN CONFLICT.

WHEREAS, accumulation of garbage, trash, waste and other refuse on public and private property within the city limits of the City of Bevil Oaks creates health and sanitation problems and is a nuisance to the Citizens of Bevil Oaks;

WHEREAS, the City Council of the City of Bevil Oaks desires to restrict such accumulations within the City;

WHEREAS, no person may accumulate, or allow to accumulate, litter, junk, rubbish or garbage on occupied, unoccupied or vacant privately owned property within the City; ,

WHEREAS, typical violations of this Ordinance include accumulation of trash, wood debris, building and fencing materials, indoor furniture, appliances, tires, car parts, and other related materials, garbage, trash, refuse, and other miscellaneous debris;

WHEREAS, it shall be unlawful for the owner or occupant of a property within the City to utilize the premises of such property for the open storage of the following enumerated items, including but not limited to, appliances, refrigerators, stoves, glass, carpet, upholstered furniture, tires, auto parts, building rubbish, or other similar items, including grass, leaves, shrubs, weeds, brush, and other debris within the City. It shall be the duty and responsibility of each such owner or occupant to keep the premises within the City clean and in compliance with this ordinance;

WHEREAS, illegal dumping harms the environment and creates a danger to public health and safety. Violators caught illegally dumping trash, debris, and creating a public health nuisance will be fined immediately. Residents are asked to record license plate numbers of illegal dumpers and to report the incident to the City immediately, making it easier for law enforcement to catch the culprits;

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Bevil Oaks:

SECTION 1: Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative fee. The city's minimum administrative fee not to exceed \$500.00 that shall be assessed if and when the city abates or causes to be abated a nuisance. Such fee shall not include the actual costs incurred in abating or causing to be abated a nuisance. Without amending this article, the city may impose an administrative fee of more than \$500.00 if the city's actual cost of implementing this article is greater than \$500.00.

Brush. Scrub vegetation or dense undergrowth.

Carrion. The dead and putrefying flesh of any animal, fowl, or fish.

Costs. The actual cost the city incurs in abating or causing to be abated a nuisance, including without limitation, the cost of mowing, weeding, removing objectionable, unsightly, or unsanitary matter, etc.

Cultivated. Vegetation that is deliberately grown and currently and continuously maintained by the owner, occupant, or agent of the property.

Expenses. The total of the administrative fee and costs incurred by the city in abating or causing to be abated a nuisance.

Filth. Any matter in a putrescent state.

Garbage. All decayable waste.

Impure or unwholesome matter. Any putrescible or no putrescible condition, object, or matter which tends to, may, or could produce injury, death, or disease to human beings.

Junk. All worn out, useless, worthless, discarded, or scrap material, including, but not limited to, odds and ends, old metal, scrap lumber, building debris or old building materials, used tires, vehicle parts, and other items no longer used in the manner in which they were intended, including, but not limited to, upholstered furniture, working and nonworking appliances, and machinery and parts thereof.

Maintained. Watered, pruned, trimmed, treated, and controlled in such a manner as to enhance the use or enjoyment of one's property, without interfering with the enjoyment or use of neighboring property or public access.

Nuisance. Anything which is injurious to the health or morals, or indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property.

Objectionable, unsightly, or unsanitary matter. Any matter, condition, or object which is or should be objectionable, unsightly, or unsanitary to a person of ordinary sensitivities.

Owner. A person having title to real property.

Person. Shall include a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

Refuse. A heterogeneous accumulation of worn out, used, broken, rejected, or worthless materials, including garbage, rubbish, or litter, and other decayable or non-decayable waste.

Rubbish. Both garbage and trash and shall include all animal, vegetable and inorganic matter subject to discard that is generated from within a household, residence, or business, such as, but not limited to, coffee grounds, tin cans, paper bags, boxes, glass, and food articles. It shall also include all animal, vegetable, and inorganic matter subject to discard that is not typically generated from within a household, residence, or business, such as, but not limited to, shrubbery, grass clippings, brush, yard cleaning materials, leaves, tree trimmings, stoves, refrigerators, iceboxes, pieces of metal scrap, feathers, furniture, dead animals, rocks, shingles, building materials, junk, trash, refuse, and other worn-out, wrecked or dismantled machinery, tractors, automobiles, and other similar wastes.

Trash. All non decayable waste.

Undeveloped property. Tracts of land or lots, upon which no structure exists.

Vegetation. Any grass, weeds, shrubs, trees, brush, bushes, or vines.

Weeds. Vegetation that because of its height is objectionable, unsightly or unsanitary, but excluding cultivated crops, shrubs, bushes, trees, flowers, and vines.

SECTION 2: Overgrown vegetation, rubbish, and other unsanitary matter prohibited. It shall be unlawful for any person owning, leasing, claiming, occupying, or having supervision or control of any real property, occupied or unoccupied, improved, or unimproved, developed, or undeveloped, within the corporate limits of the city, to suffer, permit, or allow:

- (1) Uncultivated grass, weeds, or brush to grow greater than twelve (12) inches upon such premises; or to grow upon such premises, including along the sidewalk or street adjacent to the premises between the property line and the curb or, if there is no curb, between the property line and the driving surface;
 - (A) A person commits an offense if the person owns, occupies, or controls any real property and fails to maintain the parkway adjacent to the property free of weeds and grass that exceed twelve (12) inches;
 - (B) It is an exception that the real property was a lot, tract, parcel of land, or undeveloped land of two (2) or more acres under common ownership and the high grass or weeds was not closer than fifty (50) feet to:
 - (i) Any adjacent street; or
 - (ii) Any structure or other improvement on any adjacent property owned by

another person; or

(C) Is an exception that the real property was a lot, tract, parcel of land, or undeveloped land with agricultural zoning; or

- (2) Refuse, rubbish, junk, litter, trash, debris (vegetation, building or other), garbage, discarded items, carrion, filth, animal or human feces, or any other unsightly or unsanitary matter to accumulate or remain upon such premises or to grow in rank profusion upon such premises, including along the sidewalk or street adjacent to the premises between the property line and the curb or, if there is no curb, between the property line and the driving surface.

SECTION 3: Duty to comply with ordinance. It shall be the duty of any person owning, leasing, claiming, occupying, or having supervision or control of any real property, occupied or unoccupied, improved or unimproved, developed or undeveloped, within the corporate limits of the city to cut or cause to be cut, grass, weeds and brush, and to remove or cause to be removed, rubbish and other objectionable, unsightly or unsanitary matter as often as necessary to comply with the requirements of this article, and to otherwise maintain that property in full compliance with this article.

SECTION 4: Nuisance declared. All grass, weeds, vegetation, or brush not regularly cultivated and which exceed twelve (12) inches as prohibited herein, and all rubbish, shall be presumed to be objectionable, unsightly, and unsanitary, and are hereby declared a public nuisance.

SECTION 5: Notice of violation prior to abatement by city.

- (1) Notice required. Except as provided by section 8 of this article, if the owner of land fails to comply with the requirements of sections 2, 3 and/or 4, a city official may cause the property owner to be notified to cut the grass, weeds, or brush or to remove the rubbish, brush, or other unsanitary or unsightly matter within 10 days of the date of the notice.
- (2) Where notice given. The notice must be given:
- a) Personally, to the owner in writing;
 - b) By letter addressed to the owner at the owner's post office address; or
 - c) If personal service cannot be obtained or the owner's post office address is unknown:
 - i) By publication on the city's official website at least twice within 10 days;

- ii) By posting the notice on or near the front door of each building on the property to which the violation relates; or
- iii) If the property contains no buildings, by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.

SECTION 6: Consequence of failure to abate nuisance. If the owner does not cut the weeds, grass, or plants, or remove the rubbish within 10 days of the notice, the city may go on such property or authorize another to go on such property and do or cause the work to be done and charge the expenses incurred to the owner of the property and assess the expenses against the real estate on which the work is done. The remedy provided in this section is in addition to any criminal penalties or other remedies authorized by this article or other law.

(1) Additional notice and authority to abate. Although it is not required, if the notice is given by certified mail, return receipt requested, then the city may:

- a) Inform the owner in the notice if the owner commits another violation of the same kind (failure to mow weeds) on or before one year from the date of the notice, the city without further notice may correct the violation and assess the expenses against the property; and
- b) If a violation occurs within the one-year period, and the city has not been informed in writing by the owner of an ownership change, then the city, without notice, may take corrective action and assess the expenses against the owner and the property.

(2) Contents of notice. The notice shall contain:

- a) The name and address of the record owner;
- b) An identification, which is not required to be a legal description, of the property upon which the violation is located;
- c) A statement describing the violation and the work necessary to correct the violation;
- d) A statement advising the owner that if the work is not completed within ten (10) days, the city will complete the work and charge the expenses to the owner;
- e) A statement that if the city performs the work and the owner fails to pay the expenses, a priority lien may be placed on the property;
- f) A statement that the city may, at any time, file a criminal misdemeanor complaint in municipal court with a maximum fine of \$2,000.00 for each day the violation exists, in addition to or in lieu of any other remedy provided by law.

(3) Notice filed with county clerk. If notice is provided to the owner as permitted by subsection 6.2 of this section, the Mayor or the Mayor's designee shall cause a copy of the entire notice to be filed with the county clerk.

SECTION 7: Assessment of expenses; lien; appeal.

- (1) Contents of notice. In assessing the expenses incurred pursuant to section 6 against the property on which the work is done or improvements made, the city shall send the owner of the property upon which the work was done a notice which shall include:
 - a) Identification of the property;
 - b) Description of the violation;
 - c) A statement that the city abated the condition;
 - d) A statement of the city's expenses in abating the condition;
 - e) An explanation of the property owner's right to request a hearing within 10 days of the date of the letter; and
 - f) A statement that if the owner fails or refuses to pay the expenses within 30 days of the date of the notice, the Mayor or the Mayor's designee shall place a lien against the property by filing with the county clerk of the county a notice of lien and statement of expenses incurred.
- (2) Where notice given. The notice shall be sent in the same manner as provided in section 5.
- (3) Hearing. The Mayor acting pursuant to authorization under state law or the Mayor's designee will conduct a hearing if the property owner submits a written request within 10 days of the date of the notice. The hearing shall be held within thirty (30) days of the receipt of a request for a hearing. At the hearing:
 - a) The owner and the city may testify or present witnesses or written information related to the city's abatement of the nuisance.
 - b) The city has the burden to show that a violation of this article existed, notice was given in substantial compliance with this article, and expenses incurred to abate the violation were reasonable.
 - c) At the close of the hearing, the Mayor or the Mayor's designee may approve the expenses, deny the expenses, or adjust the amount of the expenses and approve them as adjusted.
 - d) Lien on property. If no hearing is requested, or a hearing is held and the expenses are determined to be valid or are otherwise appropriately adjusted, and the owner fails or refuses to pay the expenses within 30 days after written notification to pay, the Mayor or the Mayor's designee shall place a lien against the property by filing with the county clerk a notice of lien and statement of expenses incurred.

- (e) Security provided by lien. The lien is security for the expenses and interest accruing at the rate of 10% per annum from the date the work was performed or the expenses were incurred by the city, or if limited by law, to the highest amount permitted by law.
- (f) Privileged lien. When the statement is filed, the city shall have a privileged lien on that property, second only to tax liens and liens for street improvements.
- (g) Suit or foreclosure to recover expenses. The city may institute suit to recover the expenses, with interest, and may foreclose on the property. The original or a certified copy of the statement of expenses is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.

SECTION 8: Additional authority to abate dangerous weeds without prior notice.

- (a) Authority to abate dangerous weeds. The city may abate, without prior notice, weeds that:
 - (1) Have grown higher than 48 inches; and
 - (2) Are an immediate danger to the health, life, or safety of any person.
- (b) Notice of abatement. Not later than the 10th day after the date the city abates weeds under this section, the city shall give notice to the property owner in the same manner provided in section 5.2 of this article. The notice shall contain the items specified in section 6.2 of this article.
- (c) Hearing. The Mayor or the Mayor's designee shall conduct an administrative hearing under this section if, no later than the 30th day after the date of the abatement of the weeds, the property owner files with the city a written request for a hearing. The hearing shall be conducted by the Mayor or the Mayor's Designee no later than the 20th day after the date a request for hearing is filed. At the hearing:
 - (1) The owner and the city may testify or present witnesses or written information related to the city's abatement of the nuisance.
 - (2) The city has the burden to show that a violation of this section existed, notice was given in substantial compliance with this section, and expenses incurred to abate the violation were reasonable.
 - (3) The Mayor or the Mayor's designee may approve the expenses, deny the expenses, or adjust the amount of the expenses and approve them as adjusted.

SECTION 9. PENALTY. Any person, firm, company, partnership, corporation, or association violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount of not less than One Hundred Dollars (\$100.00) nor more than Two

Thousand Dollars (\$2,000.00) for each such violation, and each and every day that the provisions of this Ordinance are violated shall constitute a separate and distinct offense.

SECTION 10. PUBLICATION. The caption of this ordinance shall be published in accordance with 52.001 of the Texas Local Government Code.

SECTION 11. EFFECTIVE DATE AND REPEAL. This Ordinance will be effective upon publication. Ordinance 216 is hereby repealed on the date upon which this Ordinance becomes effective.


SECTION 12. OPEN MEETINGS. It is hereby official found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Texas Government Code.

PASSED, APPROVED and EFFECTIVE this 15 day of August, 2024.

Attest: City of Bevil Oaks, Texas.



Mayor Cheryl Mitchell



City Council Secretary, Jeff Thibodeaux
City of Bevil Oaks, Texas