



City of Pattison

P.O. Box 223

Pattison, TX 77466

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ORDINANCE # 141

AN ORDINANCE OF THE CITY OF PATTISON, TEXAS DECLARING CERTAIN ACTIONS AND CONDITIONS TO BE A NUISANCE; PROVIDING FOR PROCEDURES AND NOTICES; PROVIDING FOR CHARGING EXPENSES TO OWNER OF THE PROPERTY; PROVIDING FOR ASSESSMENT OF EXPENSIVES AS A LIEN ON REAL ESTATE; PROVIDING FOR A PENALTY NOT TO EXCEED \$2000.00; PROVIDING FOR SEVERABILITY.

WHEREAS, pursuant to Section 217.002 of the Texas Local Government Code, except as otherwise prohibited, the City may abate and remove a nuisance and punish by fine the person responsible for the nuisance; and

WHEREAS, pursuant to Subsection 217.002 of the Texas Local Government Code, the City may define and declare what constitutes a nuisance and direct the abatement of nuisance; and

WHEREAS, pursuant to Subsection 217.002 of the Texas Local Government Code, the City may abate in any manner the City considers expedient any nuisance that may injure or affect the public health; and

WHEREAS, the City Council finds that property conditions and uses that cause or result in a nuisance harm the public welfare, property values, economy, and quality of life in the City of Pattison; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PATTISON, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this ordinance are hereby found to be true and correct.

Section 2. General prohibition.

Whatever is dangerous to human health, or whatever renders the ground, the water, the air, or food a hazard or injurious to human life or health or that is offensive to the senses or that is or threatens to become detrimental to the public health, is hereby declared to be a nuisance, and as such, is unlawful and liable to be abated.

Section 3. Specific enumeration; declared a nuisance.

It shall be unlawful for any person, business, or corporation, to store, leave, accumulate, maintain, use, place, deposit, leave or permit to be or remain on any public or private property any of the following items, or conditions, within the corporate limits of the City. Said action is hereby declared to be and constitutes a nuisance and is unlawful.

The following nuisance items shall not be deemed or construed to be conclusive, limiting, or restrictive:

- (1) *Construction materials*, including all waste, debris, concrete, lumber, rock/brick, metal, or other materials resulting from construction or demolition.
- (2) *Earth materials*, including substances such as dirt, sand, gravel, mud, clay, wood chips, limbs or brush capable of blowing or spilling thereby creating unsightliness and/or creating a hazard for the general public.
- (3) *Garbage*, including decayable waste from public and private residences, businesses, establishments and restaurants including vegetable, animal and fish offal, and animal and fish carcasses.
- (4) *Junk*, including worn out, used and/or discarded material or items, including, but not limited to, odds and ends, lawn maintenance equipment, dilapidated or junked trailers, travel trailers or boats, automotive parts or other machinery parts, furniture, iron or other scrap metal, propane tanks, tires, and glass.
- (5) *Litter*, including garbage, refuse and rubbish and all other waste material which if thrown or deposited as herein prohibited tends to create a danger to public health, safety and welfare.
- (6) *Weeds, grass, or other uncultivated plants* which grow in such profusion as to harbor vermin, reptiles or rodents, or create a fire hazard; and weeds or grass which attain a height greater than twelve (12) inches. Exemptions from the provisions of this section are as follows:
 - a. Actively utilized crop production and/or grazing areas.
 - b. Heavily wooded areas containing uncultivated grass, weeds, or underbrush.
 - c. Property which is used for the production of hay if said property is a minimum lot size of five (5) acres and a mowed fifty-foot wide buffer is maintained adjacent to property used for residential or commercial purposes.
- (7) *Stagnant water* deposited or allowed to remain into, upon, or along any drain, gutter, alley, sidewalk, street, or vacant lot or upon any public or private premises.
- (8) *Fences* in deteriorated condition or subject to falling down due to lack of maintenance or damage, or that have been repaired with materials that are not comparable to the original fence construction.

- (9) *Appliances* intended for indoor use, working or nonworking, used, stored, abandoned or located anywhere in the public view such as: refrigerators, freezers, microwaves, washers, dryers and televisions.

Section 4. Burning prohibited.

It shall be unlawful for any person, business, or corporation, to allow, or permit any burning within the corporate limits of the City of Pattison, of any item declared to be a nuisance item.

Section 5. Duty to abate nuisances.

- (a) It shall be the duty of the owner or his agent or the occupant of any lot, building, premises, or place where any nuisance may exist, to remove, abate, or destroy the same without delay. On any refusal or failure by any owner or occupant of any lot, building, or place of any kind where a nuisance exists, the City through its appointed designee may abate the nuisance as provided herein.
- (b) Whenever any nuisance is found in any place for removal, abatement, or destruction of which no person can be held liable under the provisions hereof, the City, through its appointed designee, may remove, abate, or destroy same.

Section 6. Notice to property owners.

- (a) When any violation of this article is found to exist in the judgment of the City or its designee, the City shall serve the owner or occupant or any other person responsible for creating the violation with a written notice alleging the specific violations occurring, the nature of the remedial action required to correct the violation, and informing the owner or occupant or any other person responsible for creating the violation of the person's right to appeal the matter by requesting an administrative hearing. For purposes of this article the "owner" includes an owner, occupant, and/or any person having supervision or control over the property.
- (b) The notice must be given:
- (1) Personally to the owner in writing; or
 - (2) By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located, by certified mail, return receipt requested. If the city mails a notice to a property owner in accordance with this subsection, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered; or
 - (3) If written notice cannot be given personally to the owner or the owner's address is unknown:
 - a. By publication in a local newspaper at least once; or
 - b. By posting the notice on or near the front door of each building on the property to which the violation relates; or

- c. By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates if the property contains no buildings.
- (c) The notice shall inform the owner:
- (1) Of each violation occurring on the property;
 - (2) That failure of the owner to abate, or cause abatement of, the violation within ten (10) calendar days of receipt or posting of said notice as provided herein:
 - a. Shall subject the owner to further penalties as set forth in this ordinance; and
 - b. May result in the city abating the nuisance, assessing the costs against the owner and filing a lien on the property; and
 - (3) That if the owner commits another violation of the same kind or nature as described herein on or before the first anniversary of the date of the notice, and the city has not been previously informed, in writing, by the owner of an ownership change, the city, without further notice, may correct the violation at the owner's expense and assess the expense against the property; and
 - (4) An explanation of the property owner's right to request an administrative hearing before the city council or municipal court judge about the city's abatement of the nuisance.
- (d) The city shall conduct an administrative hearing on the abatement of nuisance under this section if, not later than the tenth calendar day after the date of the notice of the nuisance, the property owner files with the municipal court clerk a written request for a hearing.
- (e) An administrative hearing conducted under this section shall be conducted not later than the twentieth day after the date a request for hearing is filed. The owner may testify or present any witnesses or written information relating to the city's abatement of the nuisance.

Section 7. Correction or removal of nuisance by city.

- (a) If the owner of property, after notification, does not comply with the city's requirements set forth in the notice within ten (10) calendar days after the date of notification, the city may:
- (1) Perform the abatement or make the improvements required, charge the expenses to the owner of the property, and obtain a lien against the property as provided in this ordinance herein; or
 - (2) Employ the services of a contractor to perform the abatement or make the improvements, charge the expenses of the contractor's services to the owner of the property, and obtain a lien against the property as provided in this ordinance herein; and/or
 - (3) File a complaint against the property owner in the municipal court.

Section 8. Assessment of expenses; lien.

- (a) To obtain a lien against the property, the mayor, or designee, designated by the mayor shall file a statement of expenses, including administrative expenses with the county clerk. The lien statement must state the name of the owner, if known, the physical address of the property, and the legal description of the property. The city secretary shall prepare the lien statement and any other document(s) required for perfecting the lien. The lien attaches upon the filing of the lien statement with the county clerk.
- (b) The lien obtained by the city is security for the expenditures made and interest accruing at the rate of ten (10) percent per year on the amount due from the date of payment by the city.
- (c) The lien is inferior only to:
 - (1) Tax liens; and
 - (2) Liens for street improvements.
- (d) The city council may authorize the city attorney to bring a suit for foreclosure in the name of the city to recover the expenditures and interest due.
- (e) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.
- (f) The remedy provided by this section is in addition to any other remedies provided for herein.
- (g) The city council may authorize the city attorney to foreclose a lien on property in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code, Health and Safety Code § 342.001 et seq., or other applicable law.

Section 9. Additional authority of city to abate dangerous weeds.

- (a) The city may abate, without prior notice, weeds that:
 - (1) Have grown higher than forty-eight (48) inches; and
 - (2) Are in immediate danger to the health, life, or safety of any person.
- (b) Not later than the tenth calendar day after the date the city abates weeds under this section, the city shall give notice to the property owner in the manner required in this ordinance.
- (c) The notice shall contain:
 - (1) An identification, which is not required to be a legal description, of the property;
 - (2) A description of the violation that occurred on the property;
 - (3) A statement that the city abated the weeds; and
 - (4) An explanation of the property owner's right to request an administrative hearing before the municipal court judge regarding the city's abatement of the weeds.

- (d) The city shall conduct an administrative hearing on the abatement of weeds under this section if, not later than the thirtieth calendar day after the date of the notice of the abatement of the weeds, the property owner files with the municipal court clerk a written request for a hearing.
- (e) An administrative hearing conducted under this section shall be conducted not later than the twentieth day after the date a request for hearing is filed. The owner may testify or present any witnesses or written information relating to the city's abatement of the weeds.
- (f) The city may assess expenses and create liens under this section in the same manner as it assesses expenses and creates liens pursuant to this ordinance. A lien created under this section is subject to the same conditions as a lien created pursuant to this ordinance.

Section 10. Penalty.

Any person violating any provision of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined any sum not to exceed two thousand dollars (\$2,000.00) for each violation. Each day a violation continues shall be considered a separate offense.

Any person or corporation who permits, aids, assists, or employs another person or corporation to violate this ordinance shall be deemed in violation of this ordinance as if such person or corporation had actually committed such act or failed to actually perform such act as herein required. Such person or corporate representative need not actually be present at the time of the violation; and a person or corporation may be deemed in violation of this ordinance whenever the act of permitting, aiding, assisting, or employing occurs before or after the violation.

Section 11. Abatement of nuisances; other remedies.

Notwithstanding any penal provision herein, the city attorney is authorized to file suit on behalf of the city for such injunctive relief as may be necessary to abate such nuisance whenever any nuisance as herein defined is found in any place within the city. The city may pursue any available remedy at law or in equity regarding any nuisance as herein defined.

Section 12. Severability.

If any section or part of any section or paragraph of this ordinance is declared invalid or unconstitutional for any reason, it shall not be held to invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

Section 13. Conflict with other ordinances.

All ordinances or parts inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or

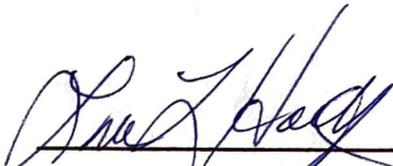
circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Pattison, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

This Ordinance shall become effective immediately from and after its passage by City Council and publication.

PASSED AND APPROVED by a majority vote of the City Council on the 16th day of June 2021.

ATTEST:

APPROVED:



Lorene Hartfiel, City Secretary



Joe Garcia, Mayor