

Ordinance No. 2022-07-11-K

**AN ORDINANCE OF THE CITY OF RANGER, TEXAS REPEALING AND REPLACING ORDINANCE NO. 2015-05-26-D; PROHIBITING CERTAIN NUISANCE CONDITIONS ON PRIVATE PROPERTY WITHIN THE CITY; PROVIDING FOR THE ABATEMENT OF NUISANCES BY PROPERTY OWNER OR CITY AND FOR THE FILING OF LIENS TO SECURE CITY'S COST; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Ranger (the "City") is a home rule municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution; and

**WHEREAS**, the accumulation of litter, solid waste, garbage, trash and vegetative overgrowth impair the quality of life and are injurious to the prospects for economic development of our community; and

**WHEREAS**, standing and stagnant water, the accumulation of solid waste, garbage, trash and vegetative overgrowth, together with overgrown grass, weeds and brush on lots and property, are a threat to the health of the community, create fire hazards, and otherwise detract from the quality of life in our community; and

**WHEREAS**, the regulation, management and control of solid waste, garbage and trash, together with stagnant water and the growth of grass, weeds and brush on property within the City of Ranger, Texas are essential to the public health, safety and welfare of the community.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF RANGER, TEXAS THAT THE FOLLOWING PROVISIONS ARE HEREBY ENACTED AS THE NUISANCE ORDINANCE OF THE CITY OF RANGER:**

**ARTICLE I. POLICY AND DEFINITIONS**

**Section 1.1. Adoption of Findings of Fact.**

The findings and recitations set out in the preamble of this Ordinance are found to be true and correct and they are hereby adopted by the City Commission and made a part hereof for all purposes.

**Section 1.2. Policy.**

The terms and provisions hereof shall apply to stagnant water and to the accumulation and storage of any solid waste, including garbage and trash, and to the growth, accumulation, cutting and storage of grass, weeds and any other vegetative material upon property in the City of Ranger, Texas, to the end that property shall be maintained in a

sanitary and healthful condition for the benefit of all residents and citizens in the community.

### **Section 1.3. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this Ordinance.

**(a) Brush.** All uncultivated shrubs, bushes and small trees.

**(b) Carrion.** Dead putrefying flesh of any animal, fowl, or fish

**(c) Dump.** Dispose, discharge, place, deposit, throw, leave, sweep, scatter, unload, or toss

**(d) Earth and Construction.** Earth, rocks, bricks, concrete, other similar materials and waste materials resulting from construction or remodeling.

**(e) Filth.** means any matter in a putrescent state.

**(f) Garbage.** Rubbish, trash, kitchen and household waste, ashes, bottles, cans, rags, paper, food, food containers, lawn trimmings, tree trimmings, hedge trimmings, leaves, grass, weeds and refuse, and all decayable wastes, including animal and vegetable matter, but not including sewage, hazardous, toxic or corrosive materials, earth and construction materials as herein, or any other material which may be found to be harmful to garbage collection and handling personnel or equipment.

**(g) Injure.** Any and all character of physical damage, whether caused by fire or force, and which shall be done or caused willfully by any person.

**(h) Junk.** All worn-out, worthless or discarded material including, but not limited to, any of the following materials, or parts of such materials ,or any combination thereof: new or used iron, steel or nonferrous metallic scrap, brass or waste materials; used and/or inoperative household appliances, household electrical or plumbing fixtures, floor coverings and/or window coverings not currently in use; used lumber, brick, cement block, wire, tubing and pipe, tubs, drums, barrels, and/or roofing material not currently in use; air conditioning and heating equipment not currently in use; used vehicle components and parts not currently in use; used furniture other than that designed for outdoor use or that which would normally be considered as antique furniture; used and/or inoperative residential lawn care equipment and machinery not currently in use; used pallets, windows or doors not currently in use; new or used sheet metal, structural steel and/or chain not currently in use; used and/or inoperable vending machines, radios and/or televisions not currently in use, and any other type of used and/or inoperable machinery or equipment not currently in use.

**(i) Lot.** In addition to land within the boundaries of the property lines, all land adjacent to and extending beyond the property lines of any lot or parcel of land to the curb lines or adjacent streets where curb lines have been established or, where no curb lines have been established, to eight (8) feet beyond the property lines.

**(j) Occupant** means any person who resides on property.

**(k) Owner** means any person or entity shown as the property owner on the latest property tax assessment rolls or any person having or claiming to have any legal or equitable interest in the property, including any agent who is responsible for managing, leasing or operating the property.

**(l) Property** means all privately owned occupied or unoccupied property, including vacant land, and/or a building designed or used for residential, commercial, business, industrial or religious purposes. The term "property" shall also include a yard, ground, wall, driveway, fence, porch, steps or other structure appurtenant to the property.

**(m) Refuse** means a heterogeneous accumulation of worn-out, used, broken, rejected or worthless materials including, but not limited to, garbage, rubbish, paper or litter, and other decayable or non-decayable matter

**(n) Rubbish.** All refuse, rejected tin cans, old vessels of all sorts, useless articles, abandoned pipe, discarded clothing and textiles of all sorts, and in general all litter. The words "any and all objectionable or unsanitary matters," not included within the meaning of the other terms as herein used, mean those which are liable to produce or tend to produce an unhealthy, unwholesome or unsanitary condition to the general locality where the same are situated.

**(o) Solid Waste.** Household garbage and refuse and commercial garbage and refuse, brush cuttings and weeds.

**(p) Trash and debris** means all manner of refuse including, but not limited to mounds of dirt, piles of leaves, grass and weed clippings, paper trash, useless fragments of building material, rubble, furniture other than furniture designed for outside use, useless household items and appliances, items of salvage, such as scrap metal and wood, old barrels, old tires, objects that hold water for an extended time, tree and brush trimmings, and other miscellaneous wastes or rejected matter.

**(q) Unwholesome Matter.** All stagnant water, filth, carrion, impure matters and any condition liable to produce disease.

**(r) Weeds.** All rank and uncultivated vegetable growth or matter which is liable to become an unwholesome or decaying mass or breeding place for flies, mosquitos, snakes, or fire hazards.

## **ARTICLE II. WEEDS AND OFFENSIVE CONDITIONS ON PRIVATE PROPERTY**

### **Section 2.1. Prohibited Conduct.**

It shall be unlawful for an Owner or Occupant of any Lot within the City limits to:

- (a) Fail to keep the property free from brush, earth and construction materials, garbage, junk, refuse, rubbish, solid waste, trash, weeds, unwholesome matters and any other objectionable, unsightly, or unsanitary matter of whatsoever nature;
- (b) Fail to keep the sidewalks on the Lot free and clear from weeds and tall grass from the line of such Lot to the established curb line next adjacent thereto;
- (c) Fail to fill up and drain holes and depressions in which water collects;
- (d) Allow any Lots owned or controlled by the Owner or Occupant to be unwholesome or have stagnant water thereon, or which from any other cause, to be such condition as to be liable to produce disease; or
- (e) Fail to keep any house, building, establishment, lot yard or ground owned or occupied or under his or her control at all times free from filth, carrion or other impure or unwholesome matter of any kind.

### **Section 2.2. Nuisance Declared; Duty To Abate.**

Whenever conditions described by Section 2.1 of this Ordinance exist, the same is hereby declared to constitute a public nuisance, and the prompt abatement of which is hereby declared to be a public necessity. Any such nuisance shall be removed from the property by the owner or other person in possession or control of such property.

### **Section 2.3. Limitation on Height of Vegetation, Grass and Weeds.**

- (a) It shall be unlawful for any person who shall own or occupy any lot or lots in the City limits to allow weeds and/or grass grow on such lot or lots to a height of more than twelve (12) inches. Weeds and/or grass of a height exceeding twelve (12) inches are declared a nuisance.
- (b) It shall be unlawful for any owner or occupant of any property within the city to suffer or permit tree limbs, brush or unsightly vegetation to grow within one foot of the public street or alley adjacent to that private property.

(c) It shall be unlawful for any owner or occupant of any property within the city to suffer or permit limbs, brush and other vegetation existing above a public street or alley to hang lower than twelve (12) feet above the alley or public street or seven (7) feet above the sidewalk and other rights-of-way.

(d) With respect to lots, tracts or parcels of land of five or more acres and under single ownership, the provisions of this section shall not apply to any area more than 100 feet away from any open public street or thoroughfare, as measured from the right-of-way line of such street or thoroughfare, and more than 100 feet away from any adjacent property under different ownership and on which any building is located or on which any improvement exists, as measured from the property line.

(e) Property designated as and/or required by an ordinance to be maintained in its natural state shall be exempt from the provisions of this section.

(f) Property included, as part of conservation easement shall be exempt from these provisions.

**Section 2.4. Discharge of Sewage.**

Any person or persons who shall allow or permit sewage to discharge into the ground or subsurface soil, which shall have the effect of causing odors, obnoxious, unhealthy and unwholesome conditions to exist, is declared to have caused a public nuisance and shall be in violation of this ordinance.

**Section 2.5. Right to Inspect.**

The City Police Department or designee is authorized to inspect any property within the City limits of the City of Ranger, at any reasonable time. Should the Owner or Occupant refuse to allow the Police Department to enter into property to perform such inspections, the Police Department may obtain an administrative search warrant pursuant to the procedures established by state law.

**Section 2.6. Notice; Violations; Failure to Abate.**

(a) In the event the officer charged with enforcement of this article shall determine that a situation exists which is in violation of this Ordinance, the officer may issue a notice and/or citations to the owner or occupant, or both, of the property upon which such condition exists.

(b) Such notice must be given:

(1) in writing, served upon such owner in person by an officer or employee of the City;

(2) by letter addressed to such owner at the owner's address as recorded in the Eastland County Appraisal District records; or

(3) if personal service cannot be obtained, then notice may be given by publishing a brief summary of such order at least once in the official newspaper of the City of Ranger, by posting a notice on or near the front door of each building on the property upon which the violation relates, or by posting notice on a placard attached to a stake driven into the ground on the property to which the violation relates if no buildings exist.

(c) In the event any owner is mailed a notice in accordance with subsection (b) 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.

(d) Notices provided by mail or by posting as set forth in subsection (b) may provide for year round abatement of the nuisance and inform the owner that should the owner commit any other violation of the same kind that pose a danger to the public health and safety on or before the first anniversary of the date of the notice, the City without further notice may abate the violation at the owner's expense and assess the costs against the property.

### **Section 2.7. Assessment Of City's Abatement Cost; Collections Of Cost.**

In the event the owner does not remedy a violation of this Ordinance within ten (10) days after the City sends notice pursuant to §2.5, the City Manager may cause any of the work or improvements mentioned in Article II to be done at the expense of the City, on the account of the owner of the property on which such work or improvements are done.

### **Section 2.8. Cost Of City Abatement Constitutes Lien.**

(a) Cumulative of the City's remedy by fine, as set forth herein, if the City performs abatement pursuant to §2.6, the City Secretary shall mail the owner a statement of the City's expenses in performing the abatement and allow the owner thirty (30) days to reimburse the City for said expenses.

(b) Should the owner fail to reimburse the City within this time period, the City may assess the same against the real estate or lot or lots upon which such expense is incurred.

(1) The lien is security for the City's expenditures plus ten (10) percent interest on the expenditures from the date of such payment by the City.

(2) Upon filing with the county clerk of Eastland County, Texas, of a statement by the City Secretary of such expenses, the City shall have a privileged lien upon said real estate or lot or lots, second only to tax liens and liens for street improvements, to secure the expenditure so made and ten (10) percent interest on the amount from the date of such payment so made by the City.

(3) The City may, additionally, institute suit and recover such expenses and foreclose such lien in any court of competent jurisdiction, and the statement so filed with the county clerk or a certified copy thereof shall be prima facie proof of the amount expended in any such work or improvements to remedy such condition or remove any such matter.

## **ARTICLE III. GENERAL PROVISIONS**

### **Section 3.1. Violations; Penalty.**

(a) Any person having supervision or control of any lot, tract, parcel of land or portion thereof, failing to comply with any provision or requirement as set forth in the preceding sections of this article shall be subject to a fine, upon conviction in the municipal court, of

(1) not less than \$300.00 or more than \$2,000.00 if the person has not been previously convicted under this section;

(2) not less than \$400.00 or more than \$2,000.00 if the person has been previously convicted once under this section, regardless if the previous conviction related to the same piece of property;

(3) not less than \$500.00 or more than \$2,000.00 if the person has been previously convicted twice under this section, regardless if the previous conviction related to the same piece of property.

(b) Each and every day, or part thereof, that the premises shall remain in a condition in violation of the terms of this article shall constitute a separate offense.

(c) It is specifically provided that corporations shall have criminal exposure under this Ordinance.

(d) This section shall be in addition to and cumulative of the provisions for the abatement of the nuisance and charging the cost of the abatement against the owner of the premises by the city.

### **Section 3.2 Defenses and responsibilities.**

(a) It shall be a defense to prosecution under Article II, Weeds and Offensive Conditions, that the vegetation is any of the following:

(1) Agricultural crops, except grass and hay, unless subsection (b) stated below applies;

(2) Hay that is grown for the specific purpose of cultivation and is a part of a predominantly homogeneous plant population may be grown to any height provided it is maintained in compliance with this section and is located no closer

than twenty feet to an adjacent property under different ownership and on which any building or improvement exists;

- (3) Cultivated trees;
- (4) Cultivated shrubs;
- (5) Flowers or other decorative ornamental plants under cultivation; or
- (6) Wildflowers, but only until such time as seeds have matured following the final blooming of the majority of the plants; or
- (7) Compost for the purpose of gardening or farming; or
- (8) Mulch for weed suppression.

(b) It is a defense to prosecution under Article II, Weeds and Offensive Conditions, if the water filling a depression or stagnant water is a tank or pond used for the purpose of irrigation of crops or for livestock.

### **Section 3.3. Prima Facie Evidence.**

In any prosecution charging a violation of this ordinance governing the discharge of sewage, proof that the particular sewage described in the complaint was discharged into the ground or subsurface soil in violation of Section 2.4 above, together with proof that the defendant named in the complaint was, at the time of such discharge, the registered owner or occupant of such lot or lots, shall constitute in evidence a prima facie presumption that the registered owner or occupant of such lot or lots was the person who discharged such sewage when such violation occurred.

### **Section 3.4. Remedies.**

All remedies cited herein are in addition to and not in lieu of all remedies permitted to the City by law.

### **Section 3.5. Repealer Clause.**

Ordinance No. 2015-05-26-D, adopted on May 26, 2015, is hereby repealed. All other ordinances or ordinance provisions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

### **Section 3.6. Severability.**

If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Commission in adopting this Ordinance that no portion be Inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**Section 3.7. Effective Date.**

That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Ranger, and it is accordingly so ordained.

**Section 3.8. Open Meetings Act.**

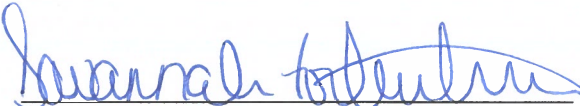
That it is hereby officially found and determined that the meeting which this Ordinance was passed was open to the public as required by law and that the public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act; Tex. Gov't Code.

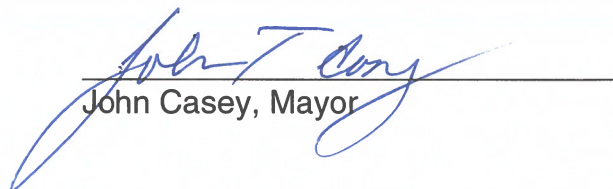
**PASSED AND APPROVED ON FIRST READING** on this 27<sup>th</sup> day of June, 2022.

**PASSED, APPROVED, AND ADOPTED ON SECOND READING** on this the 11<sup>th</sup> day of July, 2022.

**ATTEST:**

**THE CITY OF RANGER, TEXAS**

  
Savannah Fortenberry, City Secretary

  
John Casey, Mayor

