

ORDINANCE NO. 18-01

AN ORDINANCE OF THE CITY OF BRONTE, TEXAS REPEALING AND REPLACING ORDINANCE #14-10; DECLARING SPECIFIED CONDITIONS AS NUISANCES AND UNLAWFUL; ESTABLISHING A POLICY FOR THE ABATEMENT OF NUISANCES; PROVIDING FOR THE ENFORCEMENT OF THE PROVISIONS OF THIS ORDINANCE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR SEVERABILITY AND REPEALING CLAUSES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Bronte (the "City") has the power to enact and enforce provisions regarding prohibited nuisances – including stagnant water and other unsanitary conditions; filth, carrion, and other unwholesome matter; and weeds and certain public nuisances – pursuant to Chapter 342 of the Texas Health & Safety Code;

WHEREAS, the City "has exclusive control over the highways, streets, and alleys" of the City and may abate or remove an encroachment from a street or alley within the City pursuant to Section 311.112 of the Texas Transportation Code;

WHEREAS, additionally, the City has the authority to "require a person to keep weeds, unclean matter, or trash from the street, sidewalk, or gutter in front of the person's premises" and to prevent or abate an encroachment of a sidewalk pursuant to Section 311.003 of the Texas Transportation Code;

WHEREAS, the City Council of the City of Bronte (the "City Council") desires to amend the City's existing nuisance regulations to strengthen the provisions and clarify the processes of those regulations; and

WHEREAS, the City Council finds that it is in the best interest of the citizens of Bronte to strengthen the City's nuisance ordinance and that the regulation, management, and control of these nuisances are essential to the public health, safety, and welfare of the community, as well as for the preservation of private property values within the City.

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

SECTION 1. Repeal and Enactment. Ordinance #14-10, adopted on October 9, 2014, is hereby repealed, and all other ordinances or parts of ordinances in conflict with this Ordinance are also hereby repealed. The provisions contained in this Ordinance #18-03 are hereby enacted as the Nuisance Ordinance of the City of Bronte, Texas.

SECTION 2. Finding of Fact. The findings and recitations set out in the preamble of this Ordinance are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 3. Definitions. As used in this Ordinance, the following terms shall have the meanings given below:

(a) “Code Enforcement Official” means the City employee designated by the Mayor or City Council to inspect and enforce violations of this Ordinance. The code enforcement official shall not be the person acting as the Municipal Court Judge.

(b) “Junk” means all worn out, worthless, and discarded materials, including but not limited to automobile and equipment parts; inoperable lawn mowers, fixtures, and appliances; discarded furniture; old iron or other metal including scrap metal; glass; paper; and cordage.

(c) “Nuisance” means any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises is located. A nuisance is a condition, act, or omission that either:

- (1) Injures or endangers the comfort, health, or safety of others;
- (2) Offends decency;
- (3) Is offensive to the senses;
- (4) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for its intended use any public or private street, highway, or sidewalk;
- (5) In any way unreasonably renders other persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(d) “Refuse” means ashes; cans; rags; food and food containers; lawn, tree, and hedge trimmings; all biodegradable wastes, including animal and vegetable matter; and any other kitchen and/or household waste.

SECTION 4. Nuisances on Private Property. The following conditions on property within the City are hereby declared to be and constitute nuisances; provided, however, this list is not deemed to be conclusive, limiting, or restrictive, and this list is in addition to the general definition of “nuisance” in Section 3(c), above:

(a) Accumulation of Unwholesome Matter. The accumulation of brush, earth and construction materials, junk, refuse, and any other objectionable, unsightly, or unsanitary matter whatsoever on property or relating to the condition or appearance of property.

(b) Unsanitary Condition. Maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitos, snakes, rodents, vermin, or other disease-carrying pests, including but not limited to a condition of property that creates disagreeable or obnoxious odors and stench and/or the extended placement of carcasses or animals or fowl not disposed of within a reasonable time after death.

(c) Stagnant Water. Any accumulation of stagnant water permitted or maintained on a lot or piece of ground. This includes contributing to the development of stagnant water by allowing or maintaining weeds and grass to grow in excess, or debris or rubbish to accumulate, in any stream or creek running through private property.

(d) Sidewalks, Curbs and Alleys. Permitting or allowing any weeds, dirt, filth or refuse of any kind to remain on any sidewalk in front of or at the side of any premises, to the curb line or past the curb line in front or to the side of any premises, or to the alley line or upon any alley that may be at the rear or side of any lots.

(e) High Weeds and Grass. Suffering or permitting any vegetation, other than cultivated crops or vegetation maintained for landscaping purposes, to grow to a height greater than twelve (12) inches on any property which is adjacent to any public street or road or located within one hundred (100) feet of any property that is occupied by a residence or business.

(1) Grazing of Animals. If the owner or occupant of any sized tract of land within the City uses a portion of his or her property for grazing, the owner or occupant shall only be in violation of Section 4(e) if more than 51% of the subject property contains grass or weeds that have grown taller than 12 inches.

(f) Weeds and Grass in Waterways. Permitting or allowing grass or weeds to grow to any height which impedes the flow of a creek, stream, or other waterway which runs over private property.

SECTION 5. Nuisances Prohibited. It shall be unlawful for any owner or occupant of property to cause, permit, maintain, or allow the creation or maintenance of a nuisance.

SECTION 6. Notice to Abate.

(a) Notice. Whenever a nuisance is found to exist within the City's jurisdiction, the code enforcement official shall give written notice to the owner or occupant of the property upon which such nuisance exists.

(b) Service to Owner. The notice must be given:

(1) personally to the owner in writing;

(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; or

(3) if personal service cannot be obtained:

(A) by publication at least once;

(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 a notice is mailed in accordance with this Section, 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.

(c) Service to Occupant. Notice to the occupant shall be sent by certified mail and addressed to the occupant at the address of the property in question.

(d) Contents of Notice. The notice to abate a nuisance issued under the provisions of this Ordinance shall contain:

- (1) The description of what constitutes the nuisance.
- (2) The location of the nuisance, if the same is stationary.
- (3) An order to abate the nuisance within 7 days of receipt of the notice.
- (4) A statement of acts necessary to abate the nuisance.
- (5) A statement that if the nuisance is not abated as directed the City, at its option, shall abate such nuisance and assess the cost thereof against such person.

(e) Contents of Notice for High Weeds and Grass. In addition to the information required by Subsection (d), above, a notice of violation for high weeds and grass may contain the following:

“You are required to maintain all of your property so as to keep grass, brush and weeds at a height of less than twelve (12) inches. In the event you fail to do so, the City or someone hired by the City will enter upon your property and mow or have it mowed at thirty (30) day intervals during such annual growing season. You have ten (10) days from the date of this notice to correct the violation. Tall weeds are breeding ground for rats and mice; and are a source of fuel for many fires. Please help us clean up Bronte.”

(f) In a notice provided by this Section, the code enforcement official may inform the owner by regular mail and a posting on the property, or by personally delivering the notice, that if the owner commits another violation of the same kind or nature that poses a danger to public health and safety on or before the first anniversary of the date of the notice, the City without further notice may correct the violation at the owner’s expense and assess the expense against the property as provided under this Ordinance. If a violation covered by a notice under this Subsection 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 do the work to abate the nuisance and pay for the work done or improvements made and charge the expenses to the owner of the property.

SECTION 7. Abatement by City; Lien.

(a) Abatement by City; Expenses. Upon failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this Ordinance to abate the same, the Mayor or his or her designee may proceed to abate such nuisance and a statement of cost incurred in the abatement shall be prepared thereof. The expenses of such abatement shall be charged against the owner and shall thereupon become a valid and enforceable personal obligation of the owner, which may be recovered by the City in a suit brought for that purpose.

(b) Expense Statement. Whenever the City shall have performed any work or paid any necessary expenses in connection with any work done in the removal of abatement of any nuisance,

a City representative shall immediately prepare and deliver or mail to the owner of the property upon which the nuisance was located an itemized statement detailing all costs and expenses incurred and paid by the City in connection to the abatement of the nuisance. Said statement shall be sent to the owner of said property if his true address is known; if not, then to the owner of record according to the last official tax roll of the City at the address on the roll. Such expense statement shall contain the following:

- (1) Name and address of owner;
- (2) Description of the property sufficient to identify same, and where property had been subdivided, a description by lot and block number of any particular subdivision shall be sufficient, or the description as per the map of the City;
- (3) Statement of the action of the City;
- (4) Itemized statement of the work done and performed, together with the cost thereof opposite each item; and
- (5) Statement of payment made by the City to other parties, and to who made, or reasonable charges by any concerned City department.

Upon delivery of mailing of the statement provided for above, the City shall be entitled to the payment of the aggregated amount so expended, or reasonable charges for City work, or costs paid, as therein set forth in the expense statement.

(c) Lien. Should the owner fail or refuse to pay the amount due within thirty (30) days after the expense statement is mailed or delivered, the notarized statement containing the cost information, signed by the Mayor, shall be filed with the County Clerk of Coke County, Texas. Such statement, when filed, shall constitute a lien upon the property on which the expense was incurred second only to tax liens and liens for street improvements, and the amount remaining unpaid on said statement shall accrue interest at the rate of 10% per annum from the date the lien was recorded in the County records, or at a rate otherwise specified in Texas Health and Safety Code section 342.007 or subsequent statute. The City may bring a suit for foreclosure of the lien in the name of the City.

SECTION 8. Disposition of Items of Personal Property. In the event there are salvageable items of personal property of more than minimal value removed from the real property under this Ordinance, the items shall be placed in storage. Additional notice shall be given to the effect that if such items of personal property are not retrieved from the City within ninety (90) days, the City may cause the same to be sold at auction. The proceeds of the sale shall be used to pay for any costs incurred in the storage of the property and any excess amount shall be set off against the costs to be charged against the owner of the premises.

SECTION 9. Liability. Neither the City of Bronte nor any authorized agent acting under the terms of this Ordinance shall have any liability by reason of orders issued or work done in compliance within the terms of this Ordinance.

SECTION 10. Violations; Penalty. Persons found in violation of this Ordinance shall be charged with a Class C misdemeanor, and, if convicted, shall be fined not more than \$500.00. If it is determined that the violation committed relates to fire safety or public health and sanitation, the fine assessed shall be not more than \$2,000.00, and if the violation relates to dumping of refuse, the fine assessed shall be not more than \$4,000.00. Each day such violation continues, or be permitted to continue, shall be a separate offense. Criminal prosecution for violations of this Ordinance shall be

separate and apart from any abatement proceeding undertaken by the City, so the City may proceed with the abatement process, criminal prosecution, or both.

SECTION 11. Non-exception. No exception to this Ordinance shall be made for any condition which existed at the time of this passage.

SECTION 12. Severability. Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstances thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair, or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

SECTION 13. Open Meetings. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by the Open Meetings Act, Chapter 551, Texas Local Government, and that public notice of the time, place, and purpose of said meeting was given as required by same.

SECTION 14. Effective Date. This Ordinance shall take effect immediately upon its adoption by the City Council and after publication as required by the Texas Local Government Code.

PASSED AND APPROVED on first reading this 21st day of June 2018.

PASSED, APPROVED, AND ADOPTED on second and final reading this 19th day of July 2018.


Paul Gohman, Mayor

ATTEST:


Teresa Ballard, City Secretary