

*(unapproved draft)*

**ORDINANCE NO. 2024-037**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WOLFFORTH, TEXAS, AMENDING CHAPTER 6, ARTICLE III – STAGNANT WATER, WEEDS, AND RUBBISH WHICH SHALL BE AMENDED TO UNWHOLESOME CONDITIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR PUBLICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOLFFORTH, TEXAS, THAT:**

Part 1. Enacted

THAT, Chapter 6, Article III STAGNANT WATER, WEEDS AND RUBBISH of the Code of Ordinances is hereby amended to UNWHOLESOME CONDITIONS and amending Sec. 6.03.001, Sec. 6.03.002, Sec. 6.03.003, Sec. 6.03.004, Sec. 6.03.005, and Sec. 6.03.006 which shall read as follows:

§ 6.03.001 Unwholesome conditions specified; unlawful to maintain.

(a) Weeds. It shall be unlawful for the owner, lessee, or occupant of any land, tract, or lot or any portion thereof, regardless of size, within the corporate limits of the city, to fail to maintain said property free of weeds, grass and undergrowth over twelve (12) inches tall, nor shall such person accumulate or permit the accumulation of such matter on the sidewalks, parkways, street gutters or alleys abutting such property.

(b) Rubbish. It shall be unlawful for the owner, lessee, or occupant of any land, tract, or lot or any portion thereof, regardless of size, within the corporate limits of the city, to fail to maintain said property free from household trash, garbage, used building materials and supplies, used and/or discarded household fixtures or appliances, toxic materials, dead animals, brush piles, debris, rubbish, materials which constitute a fire hazard, or any other matter which may be detrimental to the health, safety and welfare of the citizens of the city, nor shall such person accumulate or permit the accumulation of such matter on the sidewalks, parkways, street gutters or alleys abutting such property.

(c) Stagnant Water. It shall be unlawful for the owner of any lot or other premises in the city to allow or permit holes or places where water may accumulate and become stagnant to be or remain on such lot or premises, or to allow or permit the accumulation of stagnant water.

(d) Drainage of Water. It shall be unlawful to allow for the drainage of water from washing machines, sinks, any appliance inside the house, septic tanks, wells or irrigation systems into the yard or into the alley or street, or to permit the same to remain thereon.

(e) Sanitation. Exterior property and premises shall be maintained in a clean, safe, and sanitary condition. The owner, lessee, or occupant of any land, tract, or lot or any portion thereof, shall keep that part of the exterior property such occupant occupies or controls in a clean and sanitary condition.

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(f) Grading and drainage. Premises, a lot, plot, or parcel of land, easement, or public right-of-way, including any structures thereon, shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water.

(g) Fences. Fences shall be maintained structurally sound and in good condition. Any necessary fence repairs must comply with Sec. 14.05.009.

§ 6.03.002 Notice.

(a) In the event that any owner or any person(s) having supervision or control of the property violates the provisions of this article, the city code enforcement officer, or their designee, shall give notice to the aforementioned persons setting forth the noncompliance and ordering these persons to abate or remove the violation described in such notice, within such time as may be specified in the order.

(b) The city, in the notice of a violation, shall inform the aforementioned persons that if another violation of the same kind or nature that poses a danger to the public health and safety occurs on or before the first anniversary of the date of the notice, the city without further notice will correct the violation at the owner's expense and assess the expenses against the property. If a violation covered by a notice under this subsection occurs within a one-year period, and the municipality has not been informed in writing by the owner of an ownership change, then the municipality without notice may take any action permitted and assess its expenses.

(c) Such notice shall be in writing and may be served upon such person in any one or more of the following ways:

(1) Personally given to the owner in writing;

(2) Addressed to the owner by letter to 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 or if the owner's post office address is unknown, notice may be given by publication at least once in the city's official newspaper or by posting the notice on or near the front door of each building on the property to which the violation relates or 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.

(d) If the city mails a notice in accordance with this subsection and subsection (c) 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.

§ 6.03.003 Abatement.

(a) If such owner or any person(s) having supervision or control of the property in question fails or refuses to comply with the demand for compliance in the notice within seven (7) days of such notice or publication, the city may do such work or cause the work to be done to bring the real property into compliance with this article. The costs, charges, and expenses incurred in doing or having such work done or improvements made to the real property shall be a charge to and personal liability of such person.

(b) A statement of the cost incurred by the city shall be mailed to the owner or any person(s) having supervision or control of the premises, which statement shall be paid within thirty (30) days of the date of the mailing thereof. In the event that the statement has not been paid within

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the thirty-day period of time provided, the city has the right to exhaust the remedies available found in section 6.03.004 of this article.

(c) In addition to collecting the costs and expenses incurred by correcting the violations under this article, upon abatement by the city, the city shall charge the sum of two hundred dollars (\$200.00) per occurrence, which sum is hereby found to be the cost to the city of administering the terms of this article. The administrative fee will be charged per lot, tract, or parcel of land.

§ 6.03.004 Filing of lien statement.

The mayor, health officer or municipal official designated by the mayor shall file a statement of expenses incurred under section 6.03.003 with the county clerk. The lien statement shall state the name of the owner, if known, the legal description of the property, a description of the work performed, and the amounts claimed. The lien attaches upon the filing of the lien statement with the county clerk. The lien is inferior only to tax liens and liens for street improvements. The city may bring a suit for foreclosure to recover the expenditures and interest due. The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the municipality in doing the work or making the improvements.

§ 6.03.005 Emergency abatement.

(a) The city may abate, without notice, the following:

(1) Weeds that have grown higher than 48 inches and are an immediate danger to the health, life, or safety of any person.

(2) Rubbish that has accumulated and is an immediate danger to the health, life, or safety of any person.

(b) Not later than the 10th day after the date the city abates weeds or rubbish under this section, notice shall be given to the property owner in the manner required by section 6.03.002.

(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 violations of this article that occurred on the property;

(3) A statement that the municipality abated the weeds or rubbish; and

(4) An explanation of the property owner's right to request an administrative hearing about the municipality's abatement of the weeds or rubbish before the city zoning board of adjustment.

(d) The city shall conduct the hearing on the abatement of weeds or rubbish under this section if, not later than the 30th day after the date of the abatement of the weeds or rubbish, the property owner files with the city secretary a written request for a hearing.

(e) The administrative hearing conducted under this section shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the municipality's abatement of the weeds or rubbish.

(f) The city may assess expenses and create liens under this section as it assesses expenses and creates liens under section 6.03.004. A lien created under this section is subject to the same conditions as a lien created under section 6.03.004.

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§ 6.03.006 Penalty.

Any person, firm or individual who shall violate any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be fined in accordance with the general penalty provision set forth in section 1.01.009 of this code. Each and every day the violation continues shall constitute a separate and distinct offense.

Part 2. Open Meetings Act

This meeting was open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given as required.

Part 3. Severability Clause

If any section, sub-section, clause, phrase, or portion of this ordinance shall be held unconstitutional or invalid by a court of competent jurisdiction, such section, sub-section, sentence, clause, phrase, or portion shall be deemed to be a separate, distinct and independent provision and such invalidity shall not affect the validity of the remaining portions.

Part 4. Repeal

All ordinances or parts of ordinances and sections of any of the City Code of Ordinances in conflict with this Ordinance are hereby repealed.

Part 5. Effect on Pending Proceedings

That nothing in this legislation hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Part 4 of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation.

Part 6. Publication

The City Secretary is authorized and directed to publish the caption and penalty prescribed by this ordinance in accordance with State Law.

Part 7. Enforcement

Any person, firm or individual who shall violate any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one dollar (\$1.00) or more than two thousand dollars (\$2,000.00) in accordance with Code of Ordinance Sec. 1.01.009. Each day the violation continues shall constitute a separate and distinct offense.

Part 8. Effective Date

This Ordinance shall be in force and effect from and after November 1, 2024.

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CITY OF WOLFFORTH

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CHARLES ADDINGTON II, MAYOR

ATTEST:

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Terri Robinette, City Secretary

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