

AN ORDINANCE OF THE CITY OF LOWRY CROSSING, TEXAS

ORDINANCE NO. 126

AN ORDINANCE OF THE CITY OF LOWRY CROSSING, TEXAS, IMPLEMENTING CHAPTER 342, OF THE TEXAS HEALTH AND SAFETY CODE, AS AMENDED; PROVIDING FOR THE CONTROL OF WEEDS, BRUSH AND UNWHOLESOME MATTER; MAKING IT UNLAWFUL FOR ANY PERSON OWNING, CLAIMING, OCCUPYING OR HAVING SUPERVISION OR CONTROL OF ANY REAL PROPERTY, OCCUPIED OR UNOCCUPIED, WITHIN THE CORPORATE LIMITS OF THE CITY, TO PERMIT WEEDS, BRUSH OR ANY OTHER "COMBUSTIBLE MATERIAL" TO GROW TO A GREATER HEIGHT THAN TWELVE (12) INCHES UPON ANY SUCH REAL PROPERTY WITHIN ONE HUNDRED FIFTY (150) FEET OF ANY PROPERTY LINE; PROVIDING THAT IF, AFTER NOTICE, THE OWNER FAILS TO REMOVE SUCH WEEDS OR UNWHOLESOME MATTER THE CITY MAY CAUSE SUCH TO BE REMOVED AND ASSESS THE EXPENSES OF CITY AS A LIEN AGAINST THE PROPERTY; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY FOR VIOLATION OF THIS ORDINANCE OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; PROVIDING HOWEVER, WHERE A DIFFERENT PENALTY HAS BEEN ESTABLISHED BY STATE LAW FOR SUCH OFFENSE THE PENALTY SHALL BE THAT FIXED BY STATE LAW, AND FOR ANY OFFENSE WHICH IS A VIOLATION OF LAW THAT GOVERNS FIRE SAFETY, ZONING, OR PUBLIC HEALTH AND SANITATION, INCLUDING THE DUMPING OF REFUSE, THE PENALTY SHALL BE A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

**SECTION 1. ADOPTION OF STATE REGULATIONS**

The following regulations regarding sanitation are adopted pursuant to Chapter 342, Health and Safety Code, as amended, which is hereby adopted, as amended.

**SECTION 2. WEEDS, BRUSH AND UNWHOLESOME MATTER**

It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the City, to permit weeds, brush or any other "combustible material" to grow to a greater height than twelve (12) inches upon any such real property within one hundred fifty (150) feet of any property line. All vegetation, not regularly cultivated, and which exceeds

twelve (12) inches in height shall be presumed to be a fire hazard and constitute a nuisance.

**SECTION 3. DUTY OF PROPERTY OWNER TO CUT AND REMOVE WEEDS, BRUSH AND UNSIGHTLY MATTER, AND TO REMOVE STAGNANT WATER, RUBBISH, TRASH, CARRION OR OTHER IMPURE OR UNWHOLESOME MATTER.**

- A. It shall be the duty of any person owning, claiming, occupying or having supervision or control of any developed or improved real property within the corporate limits of the city, occupied or unoccupied, to cut and/or remove all weeds, brush and other combustible matter from such property and to a point fifteen (15) feet outside any such property line that is adjacent to a street or alley right-of-way as often as may be necessary to comply with the preceding section; provided, that the cutting and removing of same at least once every thirty (30) days shall be deemed in compliance with this section.
- B. Within the boundaries of a subdivision plat that has been approved as a planned development, the Homeowner's Association shall be responsible for maintaining all common areas. Except in those cases where the homeowners association has agreed to take responsibility, individual homeowners that own property within a planned development shall be responsible for maintaining any property that is adjacent to a street or alley right-of-way up to the boundary of the subdivision plat.
- C. It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the City, to keep such property and any building thereon free from stagnant water, rubbish, trash, filth, carrion or other impure or unwholesome matter of any kind, and to keep the sidewalks in front of this property free and clear of the same, and, to fill up, drain or regrade any lots, ground or yards which shall be unwholesome or have stagnant water therein and, to cleanse and disinfect any house, building, establishment, lot, yard or ground from rubbish, trash, filth, carrion or other impure or unwholesome matter of any kind.
- D. Rubbish, as that term is used in this ordinance, shall include but not be limited to the debris left upon properties after any building or other structures on such properties have been:
1. Destroyed by fire or other calamity and the same not restored to its original or better condition or removed from the property within ninety (90) days from the date of such destruction;
  2. Intentionally wrecked or demolished by the owner;
  3. Moved from such property to another location; or
  4. Vacated by a prior owner or tenant.

**SECTION 4. NOTICE TO OWNER TO REMOVE AND REMOVAL BY CITY UPON FAILURE OF OWNER TO REMOVE**

- A. If the owner of property within the city does not comply with this ordinance or the requirements of Chapter 342, Health and Safety Code, as amended within seven (7) days of notice of a violation the city may:
1. do the work or make the improvements required; and
  2. pay for the work done or improvements required and charge the expenses to the owner of the property.
- B. The notice must be given personally to the owner in writing:
1. 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
  2. if personal service cannot be obtained:
    - a. by publication at least once in the official news paper of the city; 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. or by posting the notice on a place card attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.
- C. If the city mails a notice to a property owner in accordance with Subsection B above and the United States Postal Service returns the notice as "reused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.

**SECTION 5. ASSESSMENT OF EXPENSES; LIEN**

In the event that any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the City, refuses and fails, after the required notice has been given, to comply with the provisions of this ordinance, the city may go upon such property and do or cause to be done the work necessary to obtain compliance, and may charge the expense incurred in doing or having same done, to the owners of such property as provided hereunder and in compliance with Chapter 342, Health and Safety Code, as amended.

**SECTION 6. CHARGE TO BE LEVIED AS AN LIEN**

- A. To obtain a lien against the property, the Mayor, municipal health authority, or municipal officer designated by the Mayor must file a statement of expenses with the county clerk of the county where the city and the property is located. The lien statement must state the name of the owner, if known, and the legal description of the property. The lien shall attach upon the filing of the lien statement with the county clerk and the lien shall be security for the expenditures made by the city and interest accruing at the rate of 10 percent on the amount due from the date of payment by the city.
- B. The lien is inferior only to tax liens and liens for street improvements.
- C. The City Council may foreclose said lien in a proceeding as authorized in Chapter 342, Health and Safety Code, as amended.

**SECTION 7. ADDITIONAL AUTHORITY TO ABATE DANGEROUS WEEDS**

- A. As used in this section “Dangerous Weeds” are weeds that are higher than 48 inches and are an immediate danger to the health, life, or safety of any person.
- B. The City Council may authorize the abatement of “dangerous weeds” with out notice by complying with the provisions of §342.008 of Chapter 342, Health and Safety Code, as amended, after the city has conducted such abatement.

**SECTION 8. REPEALING CLAUSE**

All parts of ordinances, inconsistent or in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 9. SEVERABILITY CLAUSE**

If any article, paragraph or subdivision, clause or provision of this ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

**SECTION 10. SAVINGS CLAUSE**

An offense committed before the effective date of this ordinance is governed by the prior law and ordinances, as amended, in effect when the offense was committed and the former law is continued for this purpose.

**SECTION 11. PENALTY CLAUSE**

Any person firm or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense; providing however, where a different penalty has been established by state law for such offense the penalty shall be that fixed by state law, and for any offense which is a violation of law that governs fire safety, zoning, or public health and sanitation, including the dumping of refuse, the penalty shall be a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense; and every day any offense is continued shall constitute a new and separate offense..

**SECTION 12. EFFECTIVE DATE**

This ordinance shall take effect immediately after its passage and publication of the caption, as the law in such cases provides.

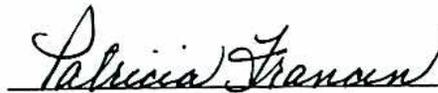
**DULY ADOPTED** by the City Council of the City of Lowry Crossing, Texas, on the 3 day of APRIL, 2001.

APPROVED:



MAYOR

ATTEST:



CITY SECRETARY

APPROVED AS TO FORM:



Lawrence W. Jackson, City Attorney