

ORDINANCE NO. 12042017

A ORDINANCE OF THE CITY OF MILES, TEXAS, DEFINING AND ENUMERATING NUISANCES AND PROHIBITING SAME; PROVIDING FOR NOTICE AND ABATEMENT OF NUISANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 217 of the Texas Local Government Code authorizes a Type A General Law Municipality to: abate and remove a nuisance and punish by fine the person responsible for the nuisance; and, define and declare what constitutes a nuisance and authorize and direct the summary abatement of the nuisance, and abate in any manner the governing body considers expedient any nuisance that may injure or affect the public health or comfort; and

WHEREAS, the City is to ensure compliance with its ordinances in an effort to promote health and general welfare, to prevent the City from becoming a place unattractive to its inhabitants and visitors; to eliminate public nuisances for the enhancement of the safety of its Citizens; and to establish family values, and the blessings of quiet seclusion and cleanliness, making the area a sanctuary for people; and

WHEREAS, the City Council in compliance with the laws of the State of Texas, and the ordinances of the City, and the exercise of the City's legislative discretion and police powers, have concluded that the regulations set forth herein should be adopted.

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

SECTION 1. DEFINITIONS

For the purpose of this Ordinance, "Nuisance" includes, but is not limited to, whatever is dangerous to human life or health, whatever renders the ground, the water or the food a hazard or injurious to human life or health or that is offensive to the senses or that is or tends to become detrimental to the public health.

Administrator shall mean City of Miles Code Enforcement Officer, Mayor or designee who administrator, implement, and enforce the provisions of this Ordinance.

Objectionable, unsightly or unsanitary matter of whatever nature shall mean all uncultivated vegetable growth, objects and matter not included within the meaning of the other terms defined in this section, which are liable to produce or tend to produce disease or an

unhealthy, unwholesome or unsanitary condition on the premises or within the general locality where the growth, objects or matter is situated, including, without limitation, the accumulation of stagnant water, carrion, filth, impure or unwholesome matter, weeds in excess of twelve inches (12”), rubbish and brush.

Rubbish shall mean all garbage, trash or refuse, discarded or useless articles, discarded clothing or textiles of all sorts, and in general all litter and other things usually included within the meaning of the term.

Vehicle shall include but not be limited to cars, trucks, trailers, recreational vehicles, travel trailers, boats or other watercraft or motorcycles.

Weeds shall mean uncultivated vegetable growth or matter, including grasses, which has grown to a height of more than twelve inches (12”) or which, regardless of height, has become an unwholesome or decaying mass or breeding place for mosquitoes or vermin.

SECTION 2. PROHIBITED ACTS OR CONDITIONS WHICH CONSTITUTE A NUISANCE.

The following acts, commissions, omissions, conditions or deeds by any person shall be and hereby are declared to be a nuisance:

A. The act of allowing to exist any full or overflowing privy, vault, cesspool, septic tank, garbage can, container, or other receptacle for filth, waste, garbage, and human and/or animal excrement upon any premises owned or controlled by any person or the failure to maintain in proper condition any cesspool, septic tank, or other sewage or septic system;

B. The carcasses of animals or fowl not disposed of within a reasonable time (“reasonable time” to be no longer than 24 hours after death of the animal or fowl);

C. Secondhand, used, or discarded furniture, in general public view, other than furniture designed for outside use and for commercial trade or sale, except for a period of time not to exceed thirty (30) days;

D. Abandoned, discarded or unused inoperable (objects or equipment such as boats, automobiles, and equipment parts, farm equipment, lawn mowers, fixtures, and appliances, inoperable campers and camper shells;

E. Accumulation of rubbish, trash, refuse, junk or other abandoned materials, metals, lumber or other things tires; to remain upon any premises, or upon any alley or public right of way that may be at the front, rear, or side of any lots;

F. Any conditions which provides harborage for rats, mice, snakes, mosquitoes and other vermin;

G. The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage;

H. Permitting, allowing, constructing, maintaining, a fence, walk, tree, hedge, structure, vehicle, or any other obstruction over, on, or across any public property, way, alley, street, sidewalk, or park; or any act or condition which interferes with, obstructs or tends to obstruct or renders dangerous for its intended use any public or private street, highway, sidewalk or adjoining property.

SECTION 3. ABATEMENT PROCEDURE

Notice to owner. Should the Administrator or other designated representative determine that a nuisance (defined in Section 2) exists on any lot or parcel of real estate within the City, written notice shall be given to the owner of the lot upon which the nuisance exists. Such notice shall identify the nuisance, identify the property upon which the nuisance exists, and direct the owner to take such action as the City deems reasonable, appropriate and necessary to remove the nuisance. Such notice shall be delivered personally to the owner or occupant in writing, by letter addressed to the owner or occupant at the owner's address or occupant's address as recorded in the records of the Runnels County Appraisal District, or, if personal service cannot be obtained, or sent by certified mail to the owner or occupant's address.

Nothing in this Ordinance shall prohibit the Administrator from noticing the owner or occupant of a violation(s) in a more informal manner or method in an attempt to keep peace and goodwill between the City and its Citizens, but notice shall be by personal service or by certified mail prior to beginning of any formal abatement procedures contained in this Ordinance.

Abatement by City. If formal abatement procedures are enacted, and if the owner fails or refuses to remove the nuisance within ten (10) days following notice as provided in this section. The City may do or cause to be done that which will abate such public nuisance and enter upon the property, and may pay therefor, and charge the expenses incurred in doing such work or having such work done or improvements made to the person who owns such lot or building. If such work is done or improvements made at the expense of the City, then the expenses shall be assessed on the real estate or lot for which such expense was incurred.

In a notice provided under this section, the City may inform the owner by regular mail and a posting on the property that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary 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. If a violation covered by such notice 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 further notice may cause the work to be done or make the

improvements required, and pay for the work done and improvements made and charge the expenses to the owner as otherwise provided herein.

Collection of expenses. Any and all costs involved in the abatement of a nuisance under the provisions of this Ordinance shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed, proven and collected as provided for by law. Such lien shall be notice to all persons from the time of its recording, and shall bear interest at the legal rate thereafter until satisfied.

The Administrator or City official designated by the Mayor shall file a statement of expenses giving the name of the owner, if known, the amount of such expense, the date on which such work was done, and the legal description of the premises upon which such work was done, or improvements made with the county clerk. The City shall have a privileged lien on such lot or real estate upon which such work was done, or improvements made, to secure the expenditures so made, in accordance with V.T.C.A., Health and Safety Code, Chapter 342, which lien shall be second only to tax liens or liens for street improvements. For any such expense and interest, suit may be instituted, and recovery and foreclosure of such lien may be had in the name of the City, and the statement of expenses so made, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements.

Contents of Notice. The notice to abate a nuisance issued under the provisions of this ordinance shall contain:

- (a) An order to abate the nuisance within a stated time, which shall be reasonable under the circumstances, or to request a hearing within ten (10) days after service of notice to abate the nuisance. Request for a hearing shall be in writing and shall be addressed to the Municipal judge in which court the procedure to abate the nuisance is pending.
- (b) The location of the nuisance, if the same is stationary.
- (c) The description of what constitutes the nuisance.
- (d) A statement of acts necessary to abate the nuisance.
- (e) A statement that if the nuisance is not abated as directed and that no request for hearing is made within the prescribed time, the City, at its option, shall abate such nuisance and assess the cost thereof against such person.

Hearing on nuisance. A public hearing must be held prior to the abatement of the nuisance by the City when such hearing is requested by the owner or occupant of the property upon which such nuisance exists or by the person causing or maintaining the nuisance. The hearing shall be held before the Judge of the Municipal Court. After considering relevant evidence, the Judge of the Municipal Court shall determine whether conditions constituting a nuisance exist. If a nuisance is found to exist, the Judge shall order the abatement of the

nuisance. Any ruling or order by the Judge of the Municipal Court at this hearing shall become final unless appealed within five (5) days to a Court of proper jurisdiction. The decision by the Judge of Municipal Court shall be final unless appealed to a court of competent jurisdiction within five (5) from the order of abatement.

SECTION 4. That all ordinances, including Ordinance 030501 of the City of Miles, Texas in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City of Miles, Texas not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 5. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 6. That this ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provide.

SECTION 7. Any person, firm or corporation violating any of the provisions of this ordinance or the provisions of any other ordinance of the City of Miles, Texas, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed the sum of five hundred (\$500.00) dollars for each offense, and each and every day such offense shall continue shall be deemed to constitute a separate offense.

SECTION 8. That all recitals contained in this Ordinance are fully incorporated herein as if fully written.

PASSED AND APPROVED this 4th day of December 2017.

APPROVED:

By: Sylvester Schwertner
Sylvester Schwertner, Mayor

ATTEST:

By: Amy Fischer
Amy Fischer, City Secretary

