

ORDINANCE NO.2016-O-9

AN ORDINANCE AMENDING ARTICLE 8.01 "GENERAL PROVISIONS" OF THE CODE OF ORDINANCES OF THE CITY OF PALACIOS, TEXAS TO ADOPT DEFINITIONS FOR NUISANCES WITHIN THE CITY AND INCLUDE REGULATIONS ON THE STORAGE OF TIRES ON PRIVATE PROPERTY; CONTAINING A SAVINGS CLAUSE; REPEALING INCONSISTENT ORDINANCES; ESTABLISHING A PENALTY FOR VIOLATIONS; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

WHEREAS, the City Council of the City of Palacios has determined that in order to better regulate and control nuisances within the City and thereby protect the health, safety and welfare of the citizens of Palacios, that a uniform set of definitions regarding nuisances be adopted, as described within this ordinance; and

WHEREAS, the City Council of the City of Palacios has also determined that it should adopt regulations on the storage of tires in order to further protect the health, safety, and welfare of its citizens, such regulations being described herein; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALACIOS, TEXAS:

SECTION 1: That Article 8.01, "General Provisions", of the Code of Ordinances of the City of Palacios, Texas is hereby amended to read as follows:

ARTICLE 8.01 GENERAL PROVISIONS

**Sec.8.01.001 Definitions**

For the purposes of this article, all the terms used herein shall be interpreted as follows:

Air contaminant means particulate matter, dust, fumes, gas, mist, smoke, vapor or odor, or any combination thereof, produced by processes other than natural.

Air pollution means the presence in the atmosphere of one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect humans, animal life, vegetation or property, or as to interfere with the normal use and enjoyment of animal life, vegetation or property.

Alley any street herein defined having no legal or official name other than "alley" of twenty feet (20') or less in width.

Brush shall mean scrub vegetation or dense undergrowth.

Carrion shall mean the dead and putrefying flesh of any animal, fowl or fish.

Commercial solid waste container shall mean a container used to store municipal solid waste which has a volume greater than two cubic yards.

Easement A strip of land reserved for the use of the public by the grantor, usually at the rear or side of lots or parcels of land, in which to install and maintain utility lines, drainage ditches or channels, or for other city or public services; the ownership or title to the land encompassed by the easement being retained by the owner. In granting the easement, the grantor is in effect vesting the public with authority to control the use of land within the easement and, in exercising such control, the city may specify that no buildings or part of a building or other permanent structure or fence, in case of a drainage easement, may be located within the limits of the easement.

Encroachment shall mean any object, structure or vegetation which obstructs or otherwise impedes or is likely to obstruct or otherwise impede the lawful passage of traffic, vehicular and pedestrian, over any street, alley, alley easement, utility easement greater than 10 feet in width, or sidewalk in the City.

Filth shall mean any matter in a putrescent state.

Improper storage shall mean the outdoor storage, for a period greater than 24 hours, in a residential district, as defined by the zoning ordinance, of articles and material subject to deterioration by the elements, including but not limited to furniture and appliances other than those customarily installed or used out-of-doors, boxes, vehicle parts, and paper; any material which is stored in a disorderly manner or in such a manner as to offer harborage to vermin; any cut wood, firewood, lumber, or other building material, except masonry, which is not stored a minimum of six inches above the ground.

Impure or unwholesome matter shall mean any putrescible or nonputrescible condition, object or matter which tends to, may, could produce injury, death or disease to human beings.

Notice shall mean given personally or delivered by U.S. Postal Service, certified or regular mail, in writing by a 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; to the occupant or person in charge, or if personal service cannot be obtained, by publication at least once in a paper of general circulation within the City of Palacios; or, by posting notice on or near the front door of each building on the property to 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. In a notice provided under this section, the City may by regular mail and a posting on the property, or by personally delivering the notice, notify the owner 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 of the date of the notice, the City may without further notice correct the violation at the owner's expense and assess the expense against the property.

Nuisance shall include stagnant or unwholesome water, sinks, privies, filth, carrion, weeds, rubbish, brush and refuse, impure or unwholesome matter of any kind, sewage exposed to the atmosphere, objectionable, unsightly or unsanitary matter of whatever nature, litter as defined elsewhere in this Code, harborage for rodents or parasitic insects, open wells, abandoned refrigerators, animal pen or enclosures which have become offensive, improper storage, graffiti, encroachment, substandard premises, junk motor vehicles, junked boats, junked off-road motorcycles or junked all terrain vehicles, poison ivy, poison oak, or poison sumac (within 50 feet of an occupied dwelling,) and potable water nuisances.

Objectionable, unsightly or unsanitary matter shall mean any matter, condition or object which is objectionable, unsightly or unsanitary to a person of ordinary sensitivity.

Open well shall mean any well, or cistern having a depth of ten (10) feet or greater and a width not greater than six (6) feet or any manmade pit, hole or excavation not sufficiently protected or guarded so as to insure the safety of all passing by or near same.

Outdoor decorative lighting shall mean electrical wiring with one or more bulbs or illuminated fixtures placed on a building or in a yard for an indefinite period.

Potable water nuisance means the presence of pooled or standing water from a potable water supply in a quantity and location that may provide a breeding place for mosquitoes, the discharge of potable water to adjacent property in a volume or at a rate that damages vegetation, buildings, fences or other structures on the adjacent property, or the discharge of potable water to a street or other public property that creates a hazard to traffic due to the presence of accumulated water or ice.

Refuse shall mean any homogeneous or heterogeneous accumulation of worn out, used up, broken, rejected or worthless materials.

Rubbish shall mean trash, debris, rubble, stone, fragments of building materials, mounds of dirt or rock and any other material.

Scrap tire A tire that is no longer suitable for use on vehicles due to wear or irreparable damage. Scrap tire does not include repurposed tires for ornamental use.

Sewage shall mean wash water and water-carried animal, culinary, and industrial wastes; liquid waste containing human excreta, and other matter, flowing in or from a property drainage system or sewer. Excreta include feces, urine, secretions from the skin, expectoration, liquid wastes from dwellings and institutions, stables, and business buildings.

Source means any point of origin of an air contaminant.

Temporary portable storage container shall mean a portable storage building or container with an interior volume greater than 400 cubic feet and that is rented, leased, or loaned to a person and intended for short-term storage of personal property.

Unmanaged landscape vegetation shall mean:

- (1) Landscape trees, bushes, shrubs, vines, brush and ground cover plants that, due to lack of trimming, pruning and shaping, have become unsightly to persons of ordinary sensibilities;
- (2) Dead trees, shrubs, vines, brush or ground cover; and
- (3) Trees that represent a safety hazard due to disease or damage.

Weeds shall mean uncultivated or cultivated vegetation, including grass, having a height in excess of twelve (12) inches.

Any word not herein defined shall be construed in the context used in ordinary interpretations.

**Sec. 8.02.001 Enumeration**

The following are hereby declared and deemed to be public nuisances and may be abated as herein provided:

- (1) All diseased animals running at large.
- (2) All ponds or pools of stagnant water.
- (3) Accumulations of refuse.
- (4) The pollution of any well used for drinking purposes.
- (5) All noxious weeds and other rank growth in excess of twelve (12) inches in height upon private property.
- (6) Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds, except under such conditions as allowed by the city council for the public good.
- (7) All trees, hedges, shrubs, signs, billboards, or other obstructions which prevent persons from having a clear view of traffic approaching.
- (8) Whatever is injurious to health or offensive to the senses of a person of ordinary sensibilities or an obstruction to free use of property so as to essentially interfere with the comfortable enjoyment of life or property.

**Sec. 8.02.002 Unlawful to create or maintain**

The creation or maintenance of a nuisance is prohibited, and whenever any public nuisance as defined in section 8.02.001 above is found upon any private property, the code enforcement official may order the removal or abatement of such nuisance and may serve or cause to be served upon the owner, occupant, or person in charge of the property on which said nuisance [exists] a written notice by delivering or offering to deliver a copy of such notice to such person, requiring the removal or abatement of the nuisance within a reasonable specified time after the service of such notice. (1996 Code, sec. 7.702)

**Sec. 8.02.003 Abandoned airtight containers**

No person may leave outside of any building any icebox, refrigerator, or any other container designed to be airtight, if such container has a door equipped with a catch or lock which may not be released from the inside. (1996 Code, art. 7.800)

State law reference--Regulation of abandoned refrigerators, freezers, and similar containers, V.T.C.A., Health and Safety Code, sec. 756.011 et seq.

**Sec. 8.02.004 Tires**

- a) It shall be unlawful to store tires of any kind on private property unless stored indoors, example, garage, storage shed, or lean to.
- b) Tires found in easement will be the considered a nuisance violation, Article 6.04 Trash, Rubbish, Tall Grass and Weeds, enforced by the code enforcement official.
- c) Notification of violation will be sent by a certified letter with return receipt. Violators will be given ten (10) days to remove tires. Second notification will be copied and sent to the municipal court for processing.

**Sec. 8.02.005 Service of notice**

The notice to abate shall be served by code enforcement official upon the named person or persons. In the event personal service cannot be made, service may be by certified mail. (1996 Code, sec. 7.703)

SECTION 2: If any provisions, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances and to this end all provisions of this ordinance are declared to be severable.

SECTION 3: All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

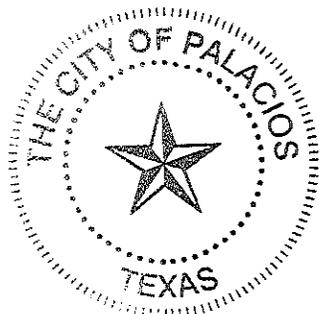
SECTION 4: Any person who shall violate any provision or provisions of this ordinance shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than \$2,000.00 for each violation. Each day in which any violation shall occur or continue shall constitute a separate offense.

SECTION 5: This Ordinance shall become effective after its approval and adoption upon second and final reading and its publication pursuant to law.

PASSED AND APPROVED on first reading this 11<sup>th</sup> day of October, 2016.

PASSED, APPROVED AND ADOPTED on second and final reading this 25<sup>th</sup> day of October, 2016.

CITY OF PALACIOS, TEXAS



A handwritten signature in black ink that reads "Glen Smith".

GLEN SMITH, Mayor

ATTEST:

A handwritten signature in black ink, appearing to read "Lizela Flores".

ANGELA FLORES, City Secretary

APPROVED AS TO FORM:

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RANDALL B. STRONG, City Attorney

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