

ORDINANCE NO. 002-02

**AN ORDINANCE OF THE CITY OF DE LEON, TEXAS, AMENDING ORDINANCE NUMBER 005-94 OF THE CODE OF ORDINANCES OF THE CITY REGULATING NUISANCES; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING PROVISION OF ORDINANCES; PROVIDING AN OPEN MEETINGS CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR RELATED MATTERS.**

Whereas, the city has previously adopted Ordinance No. 005-94 that regulates certain nuisances, and

Whereas, there is a need to amend Ordinance No. 005-94 to add certain definitions, prohibit littering, and provide for the abatement of tall grass and weeds.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DE LEON, TEXAS, THAT:**

**Section 1.** That Ordinance number 005-94 is hereby amended at Section 1.3 so as to add the following new definitions to such section:

**Screening Fence.** Shall mean a barrier at least six feet in height and not exceeding eight feet in height of stone, brick, or block, uniformly colored wood or other permanent material which forms a visual barrier of equal character, density and design.

**Side Yard.** Shall mean the area behind an imaginary line extending perpendicularly from the front corner of the residential structure to the side lot line, extending to an imaginary line perpendicular to the side lot line which touches the back corner of the residential structure closest to the side lot line at which point the rear yard begins.

**Street or Highway.** Shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for the purpose of vehicular traffic.

**Trailer.** Shall mean every vehicle with or without power including a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle.

**Trash and Debris.** Shall mean all manner of refuse including, but not limited to: mounds of dirt, piles of leaves, grass and weed clippings; paper trash; useless fragments of building material; rubble; furniture other than furniture designed for outdoor use; useless household items and appliances; items of salvage, such as scrap metal and wood; old barrels; automotive parts; parts of vehicles; old tires; objects that hold water for an extended time; tree and brush trimmings and other miscellaneous wastes or rejected matter.

**Undeveloped Property.** Shall mean any property that has not been improved by the

installation of a building, home or other structural improvements.

**Vector.** Shall mean an animal or insect that transmits a disease-producing organism.

**Vehicle.** Shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

**Section 2.** That Ordinance No 005-94 is here by amended at Section 2.2 by adding new subsections (a), (b) and (c) such subsections to read as follows:

**(a) Accumulation of Recyclables.** A person commits an offense if the person owns or is in control of property and accumulates or allows the accumulation of recyclables on such property in a manner that:

Breeds or allows the harborage of vectors; or  
Creates an unreasonable and noxious odor in a public place.

**(b) Littering.** Every owner, lessee, occupant or other person in charge of any private property, whether such property is occupied, unoccupied, vacant, developed or undeveloped, within the city, shall:

Not allow litter, refuse or junk to accumulate or be thrown, deposited or left upon such property, except in a receptacle designed to contain litter in a manner so as not to allow it to be blown, carried, scattered or deposited by wind or animal upon any right-of-way, public property or private property.

Keep the sidewalk and right-of-way in front of and adjacent to the property and any alley or right-of-way behind the property free of litter, refuse and junk.

**(c) Depositing litter.** No person shall throw, deposit, drop, sweep or place any litter or junk into or unto any privately or publicly owned property, park, sidewalk, driveway, right-of-way or other place which is not a receptacle designed to contain litter in a manner so as not to allow it to be blown, carried, scattered or deposited by wind or animal elsewhere.

**Section 3.** That Ordinance No. 005-94 is hereby amended at Section 2.4 subsection (c) by adding the following notice procedures:

**Service of Notice.** The notice required by this ordinance may be given in any of the following methods:

Personally to the owner in writing; or

By letter addressed to the owner at the owner's post office address; or

If personal service cannot be obtained and the owners post office address is unknown:

By Publication at least twice within ten days;

By Posting the notice on or near the front door or each building on the property to which the violation relates.

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.

The notices provided above will be presumed to have been received as of the date personal service was given personally to the owner. For mailed notice, it will be presumed to have been received three days after it was mailed. For notice by publication, it will be presumed received on the last date that the last notice was published in the official newspaper. Notice by posting will be presumed received ten days after the notice was posted.

The building official in the notice of violation provided above, may inform the owner by certified mail, return receipt requested, 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, that 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 a notice under this section occurs within the one-year period, and the Building Official has not been informed in writing by the owner of an ownership change, then the city without further notice may take any action permitted by this ordinance and assess the expenses to the owner or against the property.

**Section 4.** That Ordinance No. 005-94 is hereby amended at Section 2.7 Limitation on Height of Grass and Weeds to provide for the abatement of weeds and grass in excess of 48 inches in height by adding the following language to the end of such section:

"The Building Official may abate without notice, weeds or grass that have grown to a height of 48 inches or higher and that are an immediate danger to the health, life or safety of any person. The Building Official shall give notice to the property owner not later than ten days after the weeds or grass are abated in a manner provided by Section 2.4 (c). The notice shall provide an identification of the property; (a legal description is not necessary), a description of the violations that have occurred on the property; a statement that the city abated the weeds or grass and an explanation of the property owners right to request an administrative hearing about the city's abatement of weeds or grass.

The City Council shall conduct an administrative hearing on the abatement of weeds or grass under this section if not later than the 30<sup>th</sup> day after the date of the abatement of weeds or grass, the property owner files with the Building Official a written request for a hearing. An administrative hearing conducted under this section shall be conducted no later than the 20<sup>th</sup> 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 city's abatement of the weeds or grass. The City Council's decision in such administrative hearing shall be final and dispositive of the dispute.

The Building Official is authorized to assess expenses and create liens to recover the city's expenses under this section."

**Section 5.** That Ordinance No. 005-94 is hereby amended at Section 3.1 Penalties so as to add the following language at the end of such section:

"The provision of notice is not a condition precedent to the prosecution of an offense alleged to have occurred. Failure to provide the notice specified by this ordinance shall not be a defense to the prosecution of an offense alleged to have occurred."

**Section 6. Repeal of Conflicting Ordinances.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**Section 7. Severability.** Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance 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 8. Open Meetings.** That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

**Section 9. Effective Date.** This ordinance shall take effect immediately upon its adoption by the City Council and publication as required by the Local Government Code.


**PASSED AND APPROVED** on first reading this 26th day of FEBRUARY, 2002.

**FINALLY PASSED AND APPROVED** this 12th day of MARCH, 2002.

The City of De Leon, Texas

  
John R. Adcock, Mayor

Attest:

  
Gail Neely, City Secretary