

LITTER ABATEMENT

AN ORDINANCE PROVIDING FOR THE ABATEMENT OF LITTER AND OTHER UNSANITARY MATTER; PROVIDING FOR THE ADOPTION OF ARTICLE 4014 CODE OF CRIMINAL PROCEDURE, ARTICLE 4477-9a (TEXAS LITTER ABATEMENT ACT), AS AMENDED BY SENATE BILL 920 OF THE 70TH LEGISLATURE, CHAPTERS 341 SANITATION AND ENVIRONMENTAL QUALITY, AND CHAPTER 342, LOCAL REGULATION OF SANITATION FROM THE HEALTH AND SAFETY CODE FOR THE STATE OF TEXAS OR THE LATEST EDITIONS OF EACH; PROVIDING FOR DEFINITIONS; ESTABLISHING MINIMUM STANDARDS FOR WEEDS AND LITTER; PROVIDING RESPONSIBILITIES FOR OWNER, OCCUPANT OR AGENT FOR THE ABATEMENT OF THE NUISANCE; PROVIDING FOR NOTICE REQUIREMENTS; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HILLCREST VILLAGE, TEXAS DULY ASSEMBLED:

SECTION I

It shall be unlawful to store, leave, or accumulate or permit the storing, leaving, or accumulating of any household appliances, furniture, bedding, or other debris, litter, refuse, garbage, rubbish, or rubble, whether attended or not, upon any public or private property within the city limits of the City of Hillcrest Village, Texas for a period of time in excess of thirty (30) days, unless said materials are completely enclosed within a building.

SECTION II

The accumulation and storage of materials covered by this ordinance on public or private property shall constitute a nuisance and it shall be the duty of the owner of such materials and the duty of the owner of any private property, or lessee or other person in possession of private property, upon which such materials are located, to remove the same from such property or to have the same housed in a building where they will not be visible from the street or other private property.

SECTION III

Any person, firm, or corporation violating any provision of this Ordinance shall be guilty of a misdemeanor and each shall be deemed guilty of a separate offense for each day or portion thereof during which any violation hereof is committed, continued, or permitted, and upon conviction of any such violation shall be punishable by a fine not to exceed two hundred dollars (\$200.00).

Should a person, firm, or corporation continue to violate any of the provisions of this Ordinance, the City may enjoin or restrain said party through civil courts.

1. A person commits an offense under this section if that person disposes of or has disposed of trash, junk, garbage, refuse, rubbish, rubble or unsightly matter, or other solid wastes on a public highway, right-of-way, other public or private property within the city limits of the City of Hillcrest Village, Texas.
2. A law enforcement officer, code enforcement officer or health officer of this city or of a political subdivision of this state of the City of Hillcrest Village, Texas or of this State is authorized by law to regulate matters of sanitation.
3. A person commits an offense if that person throws or deposits on a highway a glass bottle, glass, a nail, a tack, wire, a can or any other substance likely to injure a person, animal, or vehicle on the highway.
4. A person who commits an offense under this section is, on conviction, subject to the penalties and procedures provided by Section 143 through 153, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes).

**SECTION IV
DEFINITIONS**

9. **Litter** – a disorderly accumulation of objects, carelessly discarded refuse, such as wastepaper, animal carcasses, discarded used bedding and furniture and rubble.
10. **Refuse** – is solid waste that includes garbage and rubbish. Refuse is improperly stored if all refuse from the premises is not stored in approved containers.
11. **Garbage** – is all putrescible waste, except body waste, including meat, vegetable, and fruit refuse and carcasses of small animals.

12. **Rubbish** – is mostly non-putrescible wastes including debris, tin cans, bottles, papers, grass and weed cuttings, paper boxes, short and light wood or building material, and tree limbs not exceeding three feet and a weight not to exceed fifty (50) pounds.
13. **Rubble** – is solid waste larger and heavier than rubbish. It is too large and/or too much to be stored in a standard refuse container. Rubble consists of old refrigerators, old furniture, tin, glass and other sharp objects, water heaters, old tires, metal, brushwood, large cardboard boxes, heavy yard trimmings, bed springs, old lumber or masonry materials larger, longer and/or heavier than rubbish (more than three (3) feet and heavier than fifty (50) pounds).

SECTION V

Rubble creates safety hazards for the health, safety, welfare, general well being of the citizens and general public and miscellaneous large waste provides harborage for snakes, rats and other vermin. Rubble is a breeding place for mosquitoes, creates a fire hazard to surrounding property owners and health hazards to the citizens of Hillcrest Village, Texas. Any property owner, agent or occupant who creates a hazard by dumping, placing, leaving, discarding or allowing litter, rubbish, or rubble to accumulate on private or public property shall be in violation of this ordinance and enforcement action will be proceeded against any property owner, agent or occupant who continues to violate this ordinance.

If the City of Hillcrest Village, Texas has to clean up the property or hire the cleanup out to a private contractor the City of Hillcrest Village, Texas may seek restitution by filing a lien on the property and placing a notice in the County Court Real Estate Tax Records to recover the cost of the cleanup.

SECTION VI

The City of Hillcrest Village, Texas hereby adopts Article 4014, Code of Criminal Procedure and Article 4477 – 9a (Texas Litter Abatement Act), as amended by Senate Bill 920 of the 70th Legislature, Chapter 341 Sanitation and Environmental Quality and Chapter 342 Local Regulation of Sanitation, or the latest editions, as an ordinance to control the health hazards created by weeds and litter.

SECTION VII PENALTIES CHAPTER 341 (Latest Edition)

SUBCHAPTER F. PENALTIES

341.091 Criminal Penalty of the Health and Safety Code for the State of Texas is as follows:

(a) A person commits an offense if the person violates this chapter or a rule adopted under this chapter. An offense under this section is a misdemeanor punishable by a fine of not less than \$10.00 or more than \$200.00.

(b) If it is shown on the trial of the defendant that the defendant has been convicted of an offense under this chapter within a year before the date on which the offense being tried occurred, the defendant shall be punished by a fine of not less than \$10.00 or more than \$1,000.00, confinement in jail for not more than 30 days, or both.

(c) Each day of a continuing violation is a separate offense.

341.092 Civil Penalty

(a) A person may not cause, suffer, allow, or permit a violation of this chapter or a rule adopted under this chapter.

(b) A person who violates this chapter or a rule adopted under this chapter shall be assessed a civil penalty of not less than \$10.00 or more than \$200.00 for each violation and for each day of a continuing violation.

(c) If it is shown on the trial of the defendant that the defendant has previously violated this section, the defendant shall be assessed a civil penalty of not less than \$10.00 or more than \$1,000.00 for each violation and for each day of a continuing violation.

(d) If it appears that a person has violated, is violating, or is threatening to violate this chapter or a rule adopted under this chapter, the department, a county, or a municipality may institute a civil suit in a district court for:

1. Injunctive relief to restrain the person from continuing the violation or threat of violation;
2. The assessment and recovery of a civil penalty; or
3. Both injunctive relief and a civil penalty.

**SECTION VIII
CHAPTER 342
(Latest Edition)**

CHAPTER 342. LOCAL REGULATION OF SANITATION (Latest Edition)

SUBCHAPTER A. MUNICIPAL REGULATION OF SANITATION

342.001 Municipal Power Concerning Stagnant Water and Other Unsanitary Conditions.

- (a) The governing body of a municipality may require the filling, draining, and regulating of any place in the municipality that is unwholesome, contains stagnant water, or is in any other condition that may produce disease.
- (b) The governing body of a municipality may require the inspection of all premises.
- (c) The governing body of a municipality may impose fines on the owner of the premises on which the stagnant water is found.

342.003 Municipal Power Concerning Filth, Carrion, and Other Unwholesome Matter

The governing body of a municipality may regulate the cleaning of a building, establishment, or ground from filth, carrion, or other impure or unwholesome matter.

342.004 Municipal Power Concerning Weeds and Other Unsanitary Matter

The governing body of a municipality may require the owner of a lot in the municipality to keep the lot free from weeds, rubbish, brush, and other objectionable, unsightly, or unsanitary matter.

342.005 Violation of Ordinance

The governing body of a municipality may punish an owner or occupant of the property in the municipality who violates an ordinance adopted under this subchapter.

**SECTION X
NOTICE REQUIREMENTS**

342.006 Work on Improvements by Municipality Notice

(a) If the owner of property in the municipality does not comply with a municipal ordinance or requirement under this chapter within 10 days of notice of a violation, the municipality may:

1. Do the work or make the improvements required; and
2. Pay for the work done or improvements made and charge the expenses to the owner of the property.

(b) The notice must be given:

1. Personally to the owner in writing; or
2. By letter addressed to the owner at the post office address; or

3. If personal service cannot be obtained or the owner's post office address is unknown:

(A) by publication at least twice within 10 consecutive days;

(B) by posting the notice on or near the front door of each building on the property to which the violation relates; or

(C) by posting the notice on a placard attached to a stake driven into the ground on the property to which the violations relate, if the property contains no buildings.

342.007 Assessment of Expenses; Lien

(a) The governing body of a municipality may assess expenses incurred under Section 342.006 against the real estate on which the work is done or improvements made.

(b) To obtain a lien against the property, the mayor, municipal health authority, or other municipal official designated by the mayor must file a statement of expenses with the county clerk of the county in which the municipality is located.

(c) The lien obtained by the municipality's governing body is security for the expenditures made and interest accruing at the rate of **10 percent** on the amount due from the date of payment by the municipality, plus any legal or administrative cost associated.

(d) The lien is inferior only to:

1. Tax liens; and

2. Liens for street improvements

(e) The governing body of the municipality may bring a suit for foreclosure in the name of the municipality to recover the expenditures, interest due, and additional costs.

(f) 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 improvements.

(g) The remedy provided by this section is in addition to the remedy provided by Section 342.005.

(h) The department is a necessary and indispensable party in a suit brought by a county or municipality under this section.

(i) On the department's request, the attorney general shall institute and conduct a suit in the name of the state for injunctive relief, to recover a civil penalty, or for both injunctive relief and civil penalty.

(j) The suit may be brought in Travis County, in the county in which the defendant resides, or in the county in which the violation or threat of violation occurs.

(k) In a suit under this section to enjoin a violation or threat of violation of this chapter or a rule adopted under this chapter, the court shall grant the state, county, or municipality, without bond or other undertaking, any injunction that the facts may warrant, including temporary restraining orders, temporary injunctions after notice and hearing, and permanent injunction.

(l) Civil penalties recovered in a suit brought under this section by a county or municipality shall be equally divided between:

1. The state; and
2. The county or municipality that first brought the suit.

NOTE: The revised law substitutes "municipality" for "incorporated city, town, or village" and for "corporation" for the reason stated in revisor's note (1) under section 342.001

Chapter 217.022 Nuisance

The governing body of the municipality shall prevent to the extent practicable any nuisance within the limits of the municipality and shall have each nuisance removed at the expense of the person who is responsible for the nuisance or who owns the property on which the nuisance exists.

SECTION XI

It is the intent of this ordinance to correct blatant and hazardous health and safety problems that affect primarily the occupant's neighbor. The purpose of this ordinance is not to harass landowners who might commit a technical violation, but do not harm their neighbors or the general public.

SECTION XII SAVINGS CLAUSE

That the terms and provisions of this ordinance shall be deemed to be severable and that if the validity of any section, subsection, sentence, clause, or phrase of this ordinance should be declared to be invalid, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance.

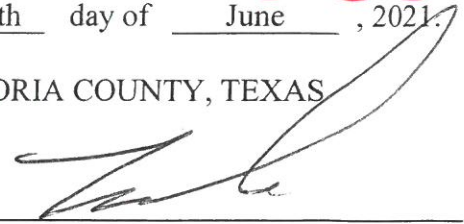
SECTION XIII EFFECTIVE DATE

This ordinance shall become effective and in full force on the date it is approved and adopted by the City Council of the City of Hillcrest Village, Texas and signed by the City Council and the Mayor and attested to by the City Secretary.

COPY

PASSED, APPROVED and ADOPTED this 14th day of June, 2021.

CITY OF HILLCREST VILLAGE, BRAZORIA COUNTY, TEXAS



Tom Wilson,
Mayor

ATTEST:

Rashelle Casas
Rashelle Casas, City Secretary