

ORDINANCE NO. 1536

AN ORDINANCE OF THE TOWN OF LITTLE ELM, TEXAS AMENDING VARIOUS SECTIONS WITHIN CHAPTER 46, OF THE CODE OF ORDINANCES FOF THE TOWN OF LITTLE ELM, TEXAS REVISING THE STANDARDS FOR ENVIRONMENT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Little Elm ("Town") is a home rule municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas and by its Charter adopted on May 1, 2001; and

WHEREAS, the Town Council of the Town of Little Elm deems it to be in the best interest of the citizens of the Town of Little Elm to protect their health, safety and welfare by amending the Animals Ordinance; and

WHEREAS, current local conditions require additional standards in regard to Nuisances and Vegetation and Public Trees; and

WHEREAS, after due deliberations and consideration of any other information and materials received at the open meeting, the Town Council has determined that the amendments set forth herein should be adopted and that such amendments are in the best interest of the public health, safety, and welfare of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS:

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. AMENDMENT AND ADOPTION. From and after the effective date of this ordinance, the various sections of Chapter 46 of the Code of Ordinances of the Town of Little Elm, Texas, are hereby amended to read as follows:

Chapter 46 - ENVIRONMENT^[1]

ARTICLE I. - IN GENERAL

Secs. 46-1—46-18. - Reserved.

ARTICLE II. - NUISANCES AND VEGETATION^[2]

Sec. 46-19. - Definitions.

For purposes of this article, the terms set forth below shall have the following meanings, and any words not herein defined shall be construed in the context used and by ordinary interpretation and not as a word of art:

Abate shall mean to eliminate or remedy by removal, repair, rehabilitation, or demolition.

Brush shall mean scrub vegetation or dense undergrowth.

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

Dump shall mean to dispose, discharge, place, deposit, throw, leave, sweep, scatter, unload, or toss on or into land or water.

Filth shall mean any matter in a putrescent state.

Garbage shall mean solid waste that is putrescible animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.

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

Includes and *including* are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.

Junk shall mean all worn out, worthless or discarded material, including but not limited to any of the following materials, or parts of said materials or any combination thereof: New or used iron, steel or nonferrous metallic scrap, brass or waste materials; used and/or inoperative household appliances, household electrical or plumbing fixtures, floor coverings and/or window coverings not currently in use; used lumber, brick, cement block, wire, tubing and pipe, tubs, drums, barrels, and/or roofing material not currently in use; air conditioning and heating equipment not currently in use; used vehicle components and parts not currently in use; used furniture other than that designed for outdoor use or that which would normally be considered as antique furniture; used and/or inoperative residential lawn care equipment and machinery not currently in use; used pallets, windows or doors not currently in use; new or used sheet metal, structural steel and/or chain not currently in use; used and/or inoperable vending machines,

radios and/or televisions, or other electronic devices not currently in use; and any other type of used and/or inoperable machinery or equipment not currently in use.

Matter shall mean that of which any physical object is composed.

Nuisance shall mean any condition, object, material or matter that is dangerous or detrimental to human life or health; or that renders the ground, the water, the air or food a hazard or likely to cause injury to human life or health, or that is offensive to the senses, or that threatens to become detrimental to the public health; and shall include but not be limited to: Any abandoned wells, shafts or basements, abandoned refrigerators, stagnant or unwholesome water, sinks, privies, filth, carrion, rubbish, junk, trash, debris or refuse, impure or unwholesome matter of any kind, any objectionable, unsightly, or unsanitary matter of whatever nature.

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

Open storage and display shall mean an accessory use for the storage and/or display of any material, equipment, or item(s) outside of or visible in an enclosed structure from a public right-of-way.

Owner shall mean any person or entity shown as the property owner on the latest property tax assessment rolls of the town or county, or any person having or claiming to have any legal or equitable interest in the property, or any person claiming, occupying or having supervision or control of any property, including any tenant of the property and any agent who is responsible for managing, leasing or operating the property.

Person shall mean any individual, firm, partnership, association, business, corporation, or any other entity recognized at law.

Property shall mean all land, occupied or unoccupied, and any improvements located on or within such land, including any building or other structure designed or used for residential, commercial, business, industrial, or religious purposes. The term shall also include a yard, ground, wall, driveway, fence, porch, steps or other structure appurtenant to the land.

Putrefaction shall mean decomposition of organic matter resulting in production of foul-smelling matter; or putrefied matter; or the condition of being putrefied.

Putrescible shall mean subject to putrefaction.

Refuse shall mean heterogeneous accumulation of worn out, used, broken, rejected or worthless materials, including but not limited to, garbage, rubbish, paper or litter, and other decayable or nondecayable matter.

Rubbish shall mean nondecayable waste from a public or private establishment or residence.

Town shall mean the Town of Little Elm, Texas.

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 outside use; items of salvage, such as scrap metal and wood; old barrels; old tires; tree and brush trimmings; and other miscellaneous wastes or rejected matter.

Vegetative growth shall mean any grass, weeds, shrubs, trees, brush, bushes, vines, or other plant material.

Waste or *litter* shall mean nondecable solid waste or decable waste as defined in V.T.C.A., Health and Safety Code § 365.011.

Weeds shall mean any vegetation that because of its height is objectionable, unsightly or unsanitary, excluding: Shrubs, bushes and trees, cultivated flowers, and cultivated crops.

(Ord. No. 1106, § 1, 8-7-2012)

Sec. 46-20. – Prohibited Open Storage and Display.

- (a) Open storage or display, outside of or visible in a residential structure from a public right-of-way, of household materials or commodities for sale or for storage purposes shall be prohibited, nor shall any motor vehicle or machinery storage other than that which is incidental to the use of a premise as herein provided or permitted, be stored by the owner, tenant, or person in control of a premise.
- (b) Prohibited items include but are not limited to any type of indoor furniture, makeshift patio furniture, dilapidated outdoor furniture, cooking grills, paint containers, oil containers, tools, machinery, food and beverage coolers, appliances, exercise equipment, cardboard boxes, plastic bags and containers, batteries, tires, wheels, vehicle parts and accessories, lawnmowers, stacks or piles of materials, stacks of stone and any type of masonry product.
 - (1) All of these items must be screened from public view.

Sec. 46-~~2021~~. - Prohibited accumulations, dumping, stagnant water, trash, and other unsightly or unsanitary matter declared a nuisance.

- (a) It is unlawful and declared a nuisance for an owner of property within the corporate limits of the town to permit or allow any stagnant or unwholesome water, sinks, refuse, filth, carrion, weeds, rubbish, brush, trash, debris, junk, garbage, impure or unwholesome matter of any kind, or objectionable or unsightly matter of whatever nature to accumulate or remain upon such property or within any public easement on or across such property or upon any adjacent public street or alley right-of-way between the property line of such property and where the paved surface of the street or alley begins.
- (b) It shall be unlawful and declared a nuisance for any person to dump, or permit to be dumped, upon or along any drain, gutter, alley, sidewalk, street, park, right-of-way, vacant land, body of water, or any other public or private property within the town, any unwholesome water, refuse, rubbish, trash, debris, filth, carrion, weeds, brush, junk, garbage, impure or unwholesome matter of any kind, or other objectionable or unsightly matter of whatever kind.
- (c) It shall be the duty of the owner of property within the town to keep the sidewalks in front of such property free and clear of all such matter described in subsections (a) and (b), and to fill up, drain, or regrade any such property which shall have stagnant water thereon, and

to cleanse and disinfect any such property from refuse, rubbish, trash, filth, carrion, or objectionable, unsightly or unsanitary matter of any kind, or other impure or unwholesome matter of any kind.

(Ord. No. 1106, § 1, 8-7-2012)

Sec. 46-~~2122~~. - Weeds, brush, and other objectionable matter.

- (a) It shall be unlawful and declared a nuisance for an owner of any property within the town to permit weeds, grass, or any objectionable or unsightly matter, to accumulate or grow to a height greater than 12 inches upon such property within 150 feet of any property line of such property which abuts any street right-of-way, alley, utility easement, subdivided property, or any buildings or other structures.

Exceptions:

- (1) Hay which is being cultivated on property that has been granted an agricultural property tax exemption on the most recent tax roll as certified by the Denton County Appraisal District.
 - (2) Regularly cultivated row crops; provided such crops shall not be allowed to grow within the right-of-way, or easement; nor shall they be allowed to obstruct the necessary view to and from adjacent rights-of-way.
 - (3) Within ten feet of any property line where the property is zoned agricultural.
 - (4) Landscaping that is maintained and in compliance with section 106-102 of the town's Code of Ordinances titled, Xeriscaping.
 - (5) Open space land located on or adjacent to the floodplain (riparian buffers, creeks, USACE easements, or other designated shorelines) may be left in its natural state to help filter runoff, prevent erosion, increase vegetation and shade, improve water quality, and other conservation benefits, subject to discretionary review and approval by the town manager or his/her designee. The extent, to which these areas are maintained, whether owned privately, by an HOA, or by a governmental entity, shall be determined on a case by case basis by town staff. Operations, environmental benefits, cost of maintenance, accessibility, proximity to floodplain and water, public use of the property, threat of fire, aesthetic factors, and other variables may be considered by staff.
- (b) It shall be the duty of an owner of property within the town to keep the area from the property line of the owner's property to the curb line adjacent to it or if there is no curb line, then to the centerline of any adjacent unpaved street or the edge of the pavement of such street of any condition or matter deemed a nuisance.
- (c) **Edging: It shall be the duty of an owner, occupant, or person in control of property within the town to prevent and remove all grass, weeds, or any other vegetative growth from growing on or over the surface of any sidewalk, street, curb, alley way, or other public property of the town.**

(Ord. No. 1106, § 1, 8-7-2012; Ord. No. 1213, § 2, 4-15-2014)

Sec. 46-~~2223~~. - Inspections.

- (a) For the purpose of ascertaining whether violations of this article exist, the fire marshal of the town, or the fire marshal's designee, is authorized to enter property at a reasonable time to inspect, investigate, or abate a nuisance or other violation of this article or to enforce this article, in accordance with law. In connection therewith, the fire marshal must exhibit proper identification to the owner of the property or other appropriate person.
- (b) If an inspection or investigation of property is sought from an owner of property but is refused, the fire marshal, or his respective designees, as the case may be, shall have every recourse provided by law, including an injunction to secure entry. If the owner of property cannot be identified or located, the fire marshal, or his designee, may enter the property to the extent allowed by law. The fire marshal is hereby designated as a code enforcement official of the town to be issued a search warrant as authorized by Vernon's Ann. C.C.P. art. 18.05, as the same may be amended or superseded.

(Ord. No. 1106, § 1, 8-7-2012)

Sec. 46-~~2324~~. - Duty of owner to cut and remove weeds, brush, and unsightly matter.

It shall be the duty of an owner of property to drain and/or fill any such property or portion thereof which is unwholesome, contains stagnant water, or in any other condition that may produce disease. It shall be the duty of an owner of property to cut and remove all weeds, brush, vegetative growth, and other objectionable or unsightly matter as often as may be necessary to comply with section 46-21, and to use every precaution to prevent the same from occurring, growing, or accumulating on such property.

(Ord. No. 1106, § 1, 8-7-2012)

Sec. 46-~~2425~~. - Notice of violation and to abate; failure to comply; correction by town.

- (a) If property within the town is in violation of this article, the town's fire marshal, or his duly appointed designee or representative, shall give notice, in accordance with this section, to an owner of property that such property is in violation of this article and the nature of the violation.
- (b) If the owner of property for which such notice has been given does not comply with the terms of this article and the demand for compliance as set forth in the notice within seven days of the notice of a violation, the town may:
 - (1) Do or cause to be done the work or make or cause to be made the improvements required to obtain compliance with this article; and
 - (2) Pay for the work done or improvements made and charge the expenses to the owner of the property. The town shall be entitled to reimbursement of all such expenses. All such expenses incurred in doing or in having such work done shall be a charge to, and a personal liability of, such owner.
- (c) The notice must be given:
 - (1) Personally to the owner in writing;

- (2) 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
- (3) If personal service cannot be obtained by:
 - a. Publication at least once;
 - b. Posting the notice on or near the front door of the primary building on the property to which the violation relates; or
 - c. Posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.
- (d) If notice is mailed to the owner of property in accordance with subsection (b) of this section, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered. If notice is returned for reason other than "refused" or "unclaimed" then notice shall be made as stated in subsection (c)(3) of this section.
- (e) In a notice provided under this section, the town may inform the owner of property by regular mail and a posting on the property, or by personally delivering the notice, 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 town, without further notice may correct the violation at the owner's expense and assess the expense against the property. If the violation covered by a notice under this subsection occurs within the one-year period, and the town has not been informed in writing by the owner of an ownership change, then the town without notice may take any action permitted by subsections (b)(1) and (b)(2) of this section and assess its expenses as provided by section 46-26.

(Ord. No. 1106, § 1, 8-7-2012)

Sec. 46-~~25~~26. - Additional authority to abate nuisance.

- (a) The town may abate, without notice, weeds that:
 - (1) Have grown higher than 24 inches; or
 - (2) Are an immediate danger to the health, life or safety of any person.
- (b) Not later than the tenth day after the date the town abates weeds under this section; the town shall give notice to the property owner in the manner required by section 46-24. The notice shall contain:
 - (1) An identification, which is not required to be a legal description, of the property;
 - (2) A description of the violations of this article that occurred on the property;
 - (3) A statement that the town abated the weeds; and
 - (4) An explanation of the property owner's right to request an administrative hearing about the town's abatement of the weeds.
- (c) The town shall conduct an administrative hearing before municipal courts on the abatement of weeds under this section if, not later than the 30th day after the date of the

abatement of the weeds, the property owner files with the town a written request for a hearing.

- (d) An administrative hearing conducted under this section shall be conducted not later than the 20th 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 town's abatement of the weeds.
- (e) The town may assess expenses and create liens under this section as it assesses expenses and creates liens under section 46-26. A lien created under this section is subject to the same conditions as a lien created under section 46-26.
- (f) The authority granted the town by this section is in addition to the authority granted by section 46-24.

(Ord. No. 1106, § 1, 8-7-2012)

Sec. 46-~~26~~27. - Assessment of expenses; lien.

- (a) Any and all expenses incurred by the town under or pursuant to this article may be assessed against the property on which the work is done or improvements made in addition to a \$20.00 administrative fee.
- (b) In order to obtain a lien against the property, the town's mayor, municipal health officer, or municipal official designated by the mayor, must file a statement of expenses with the county clerk of the county in which the town is located. The lien statement shall be filed in the real property records of the said county. The lien statement must state the name of the owner, if known, and the legal description of the property. The lien attaches upon the filing of the lien statement with the county clerk.
- (c) The lien obtained by the town is security for the expenditures made and interest accruing at the rate of ten percent on the amount due from the date of payment by the town.
- (d) The town shall charge a \$150.00 administrative fee for expenses incurred associated with the filing and release of the lien.
- (e) The lien is inferior only to:
 - (1) Tax liens; and
 - (2) Liens for street improvements.
- (f) The town attorney may bring a suit for foreclosure in the name of the town to recover the expenditures and interest due.
- (g) The town attorney may foreclose a lien on property under this section in a proceeding relating to the property brought under V.T.C.A., Tax Code ch. 33, subch. E, as amended or superseded.
- (h) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the town in doing or causing to be done the work or making or causing to be made the improvements.
- (i) The remedy provided by this section is in addition to any fines or civil penalties that may be assessed.

(Ord. No. 1106, § 1, 8-7-2012)

Sec. 46-27. - Enforcement.

The provisions of this article shall be enforced by the fire marshal or the fire marshal's duly appointed representative, and it shall be unlawful for any person to interfere with or hinder any such person in the exercise of that person's duties under this article.

(Ord. No. 1106, § 1, 8-7-2012)

Sec. 46-~~28~~29. - Violation; penalty for failure to comply.

- (a) It shall be unlawful for any person to violate any provision of this article, and after any period of notice which may be required hereunder, any such violation shall be punishable, upon conviction, by a fine in an amount not to exceed \$2,000.00. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur. This section shall be in addition to and cumulative of the provisions for abatement of a nuisance by the town and charging the cost of same against the owner of the property.
- (b) Notwithstanding the foregoing, any violation of any provision of this article which constitutes an immediate danger or threat to the health, safety and welfare of the public may be enjoined in a suit brought by the town for such purpose.
- (c) Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this article.

(Ord. No. 1106, § 1, 8-7-2012)

Secs. 46-~~29~~30—46-59. - Reserved.

ARTICLE III. - JUNKED AND ABANDONED VEHICLES^[3]

DIVISION 1. - GENERALLY

Sec. 46-60. - Definitions.

The following terms used in this article shall be defined as follows:

Abandoned motor vehicle: A motor vehicle that:

- (1) Is inoperable, is more than five years old, and has been left unattended on public property for more than 48 hours; or
- (2) Has remained illegally on public property for more than 48 hours; or

- (3) Has remained on private property without the consent of the owner or person in charge of the property for more than 48 hours; or
- (4) Has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours; or
- (5) Has been left unattended for more than 24 hours on the right-of-way of a turnpike project constructed and maintained by the Texas Turnpike Authority Division of the Texas Department of Transportation or a controlled access highway; or
- (6) Is considered an abandoned motor vehicle under V.T.C.A., Transportation Code § 644.153(r).

Antique vehicle: A passenger car or truck that is at least 25 years old.

Junked vehicle: A vehicle that is self-propelled and:

- (1) Displays a motor vehicle registration certificate that is at least 30 days expired/invalid, or does not display a motor vehicle registration; or
- (2) Is:
 - a. Wrecked, dismantled, or partially dismantled, or discarded; or
 - b. Inoperable and has remained inoperable for more than:
 1. Seventy-two consecutive hours, if the vehicle is on public property; or
 2. Thirty consecutive days, if the vehicle is on private property.

Motor vehicle: A vehicle that is subject to registration under V.T.C.A. Transportation Code, ch. 501, as amended or superseded.

Motor vehicle collector: A person who:

- (1) Owns one or more antique or special interest vehicles; and
- (2) Acquires, collects, or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Outboard motor: An outboard motor subject to registration under V.T.C.A., Parks and Wildlife Code, ch. 31, as amended or superseded.

Special interest vehicle: A motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

Watercraft: A vessel subject to registration under V.T.C.A., Parks and Wildlife Code ch. 31, as amended or superseded.

(Ord. No. 778, § 1, 7-11-2006; Ord. No. 1153, § 2, 6-18-2013; Ord. No. 1281, § 2, 6-2-2015)

Secs. 46-61—46-70. - Reserved.

DIVISION 2. - JUNKED VEHICLES

Sec. 46-71. - Public nuisance.

A junked vehicle, including a part of a junked vehicle that is visible at any time of the year from a public place or public right-of-way:

- (1) Is detrimental to the safety and welfare of the public;
- (2) Tends to reduce the value of private property;
- (3) Invites vandalism;
- (4) Creates a fire hazard;
- (5) Is an attractive nuisance creating a hazard to the health and safety of minors;
- (6) Produces urban blight adverse to the maintenance and continuing development of the town; and
- (7) Is a public nuisance.

(Ord. No. 778, § 2.A., 7-11-2006)

Sec. 46-72. - Offense.

- (a) A person commits an offense if the person maintains a public nuisance described by section 46-71 of this article.
- (b) An offense under this division is a misdemeanor punishable by a fine not to exceed \$200.00.

(Ord. No. 778, § 2.B., 7-11-2006)

Sec. 46-73. - Procedure for disposition of junked vehicle.

The procedure for the abatement and removal of a junked vehicle or part thereof as a public nuisance from private property, public property, or public right-of-way shall be as follows:

- (1) *Notice.* After a determination is made by the code enforcement officer of the town, or the officer's designee, or other appropriate town employee (each such person being a regularly salaried, full time employee of the town) that a particular vehicle is a junked vehicle, or after an order is issued by the municipal court pursuant to section 46-91 of this article, there shall be provided not less than ten days notice of the nature of the nuisance.
 - a. Such notice must be personally delivered or sent by certified mail with a five-day return requested to:
 1. The last known registered owner of the nuisance;
 2. Each lienholder of record of the nuisance; and
 3. The owner or occupant of:
 - i. the property on which the nuisance is located; or

- ii. if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.

If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, personally delivered. If the notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

b. The notice must state that:

1. The nuisance must be abated and removed not later than the tenth day after the date on which the notice was personally delivered or mailed;
2. Any request for a hearing must be made before that ten-day period expires;
3. If the vehicle is not removed and abated within the said ten-day period, a public hearing will be held on the abatement and removal (which hearing, if requested by a person for whom notice is required under subsection (1)a.3. shall not be earlier than the 11th day after the date of the service of the notice); and
4. The date, time and place of the hearing (if known at the time the notice is sent).

(2) *Hearing.*

- a. If the junked vehicle is not removed and abated within the prescribed time period, the municipal court judge of the town shall hold a public hearing on the abatement and removal of the junked vehicle. At the hearing, the municipal court judge shall hear and consider all relevant evidence, objections or protests and shall receive testimony from owners, witnesses, city personnel and interested persons relative to such alleged public nuisance. The hearing may be continued from time to time.
- b. At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.
- c. Following the hearing, the municipal court judge shall consider all evidence and determine whether the vehicle or any part thereof, constitutes a public nuisance as alleged. If the municipal court judge finds that a public nuisance does exist and that there is sufficient cause to abate the nuisance, and that the notice requirements provided in this article have been met, the municipal court judge shall make a written order setting forth the judge's findings and ordering that the nuisance be abated.
- d. If the information is available at the location of the nuisance, the order requiring removal of the nuisance must include the vehicle's:
 1. Description;
 2. Vehicle identification number; and
 3. License plate number.

In addition, the order must state that the vehicle will be disposed of in accordance with the Texas Transportation Code.

- e. The relocation of a junked vehicle that is a public nuisance to another location within the corporate limits of the town after a proceeding for the abatement and removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

(3) *Abatement of nuisance.*

- a. In the event the municipal court judge orders abatement of the nuisance, the town or any duly authorized person may abate such public nuisance by removal and disposal of the junked vehicle.
- b. Not later than the fifth day after the date of the removal, notice identifying the vehicle or part of the vehicle must be given to the Texas Department of Transportation.

(Ord. No. 778, § 2.C., 7-11-2006)

Sec. 46.74. - Junked vehicles not to be reconstructed or made operable after removal.

After any junked vehicle has been removed under the authority of this article, it shall not be reconstructed or made operable again.

(Ord. No. 778, § 2.D., 7-11-2006)

Sec. 46-75. - Disposal of junked vehicles.

Any junked vehicle taken into custody by the town or any duly authorized person pursuant to this article shall be disposed of in accordance with applicable provisions of V.T.C.A., Transportation Code ch. 683, as amended or superseded.

(Ord. No. 778, § 2.E., 7-11-2006)

Sec. 46-76. - Application.

The provisions of this division of this article shall not apply to a vehicle or vehicle part that is:

- (1) Completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
- (2) Stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
 - a. Maintained in an orderly manner;
 - b. Not a health hazard; and
 - c. Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery. For purposes hereof, a car cover is not an appropriate means to screen a vehicle or vehicle part.

(Ord. No. 778, § 2.F., 7-11-2006)

Sec. 46-77. - Enforcement.

- (a) Any regularly salaried, full-time town employee is authorized to enforce this article. Such employee may issue a warning or a citation before issuing a notice.
- (b) Upon conviction on a citation issued under this article, the municipal court judge shall order that the vehicle be abated and removed within a prescribed period of time, subject to the terms and provisions of this article.
- (c) The enforcement remedies authorized under this article shall not be deemed exclusive, and the town reserves the right to seek any enforcement remedy available at law, in equity, or otherwise. The failure of the town to seek enforcement of this article by any means provided for hereunder shall not foreclose the enforcement of this article by any other means.

(Ord. No. 778, § 2.G., 7-11-2006)

Secs. 46-78—46-88. - Reserved.

DIVISION 3. - ABANDONED VEHICLES

Sec. 46-89. - Taking into custody.

The police department of the town may take into custody an abandoned motor vehicle, watercraft, or outboard motor found on public or private property. The police department may use its own personnel, equipment, and facilities or, when specifically authorized by the town council, contract for other personnel, equipment, and facilities, to remove, preserve, store, send notice regarding, and dispose of an abandoned motor vehicle, watercraft or outboard motor it takes into custody.

(Ord. No. 778, § 3.A., 7-11-2006)

Sec. 46-90. - Notice.

The police department shall send notice of abandonment of a vehicle, watercraft, or outboard motor taken into custody to:

- (1) The last known registered owner of each motor vehicle, watercraft, or outboard motor (i) taken into custody by the police department, or (ii) for which a garagekeeper's report is received pursuant to V.T.C.A., Transportation Code § 683.031, as amended or superseded; and
- (2) Each lienholder recorded under V.T.C.A, Transportation Code, ch. 501 (as amended or superseded) for the motor vehicle or under V.T.C.A., Parks and Wildlife Code ch. 31, (as amended or superseded), for the watercraft or outboard motor.

(Ord. No. 778, § 3.B., 7-11-2006)

Sec. 46-91. - Contents of notice.

The notice under section 46-90 of this division must:

- (1) Be sent by certified mail not later than the tenth day after the date the police department:
 - a. Takes the abandoned motor vehicle, watercraft, or outboard motor into custody; or
 - b. Receives the garagekeeper's report under V.T.C.A., Transportation Code § 683.031;
- (2) Specify the year, make, model, and identification number of the abandoned motor vehicle, watercraft, or outboard motor;
- (3) Give the location of the facility where the abandoned motor vehicle, watercraft, or outboard motor is being held;
- (4) Inform the owner and lienholder of the right to claim the abandoned motor vehicle, watercraft, or outboard motor not later than the 20th day after the date of the notice on payment of:
 - a. Towing, preservation, and storage charges; or
 - b. Garagekeeper's charges and fees under V.T.C.A., Transportation Code, § 683.032, and if the vehicle is a commercial motor vehicle impounded under V.T.C.A., Transportation Code § 644.153(a) (as amended or superseded), the delinquent administrative penalties and costs; and
- (5) State that failure of the owner or lienholder to claim the abandoned motor vehicle, watercraft, or outboard motor during the period specified by subsection (4)b. is:
 - a. A waiver by that person of all right, title, and interest in the item; and
 - b. Consent to the sale of the item at a public auction.

(Ord. No. 778, § 3.C., 7-11-2006)

Sec. 46-92. - Notice by publication.

Notice by publication in one newspaper of general circulation in the town is sufficient notice under this division if:

- (1) The identity of the last registered owner cannot be determined;
- (2) The registration has no address for the owner; or
- (3) The determination with reasonable certainty of the identity and address of all lienholders is impossible.

Notice by publication (i) must be published in the same period that is required by section 46-91 of this division for notice by certified mail and contain all of the information required by that section, and (ii) may contain a list of more than one abandoned motor vehicle, watercraft, or outboard motor.

(Ord. No. 778, § 3.D., 7-11-2006)

Sec. 46-93. - Storage fees.

The police department or the agent of the police department that takes into custody an abandoned motor vehicle, watercraft, or outboard motor is entitled to reasonable storage fees:

- (1) For not more than ten days, beginning on the day the item is taken into custody and ending on the day the required notice is mailed; and
- (2) Beginning on the day after the day the police department mails notice and ending on the day accrued charges are paid and the vehicle, watercraft, or outboard motor is removed.

(Ord. No. 778, § 3.E., 7-11-2006)

Sec. 46-94. - Auction or use of abandoned items; waiver of rights.

(a) If an abandoned motor vehicle, watercraft, or outboard motor is not claimed under sections 46-90 and 46-91 of this division:

- (1) The owner or lienholder:
 - a. Waives all rights and interests in the item; and
 - b. Consents to the sale of the item by public auction or the transfer of the item, if a watercraft, as provided in V.T.C.A., Transportation Code, § 683.014(d), (as amended or superseded); and
- (2) The police department may sell the item at a public auction, transfer the item, if a watercraft, as provided in V.T.C.A., Transportation Code § 683.014(d), (as amended or superseded), or use the item as provided by section 46-96 of this division.

(b) Proper notice of the auction shall be given. A garagekeeper who has a garagekeeper's lien shall be notified of the time and place of the auction.

(c) The purchase of an abandoned motor vehicle, watercraft, or outboard motor:

- (1) Takes title free and clear of all liens and claims of ownership;
- (2) Shall receive a sales receipt from the police department; and
- (3) Is entitled to register the motor vehicle, watercraft, or outboard motor and receive a certificate of title.

(Ord. No. 778, § 3.F., 7-11-2006)

Sec. 46-95. - Auction proceeds.

(a) The police department is entitled to reimbursement from the proceeds of sale of an abandoned motor vehicle, watercraft, or outboard motor for:

- (1) The cost of the auction;
- (2) Towing, preservation, and storage fees resulting from the taking into custody; and
- (3) The cost of notice or publication as required by sections 46-90, 46-91 and 46-92 of this division.

- (b) After deducting the reimbursement allowed under subsection (a) of this section, the proceeds of the sale shall be held for 90 days for the owner or lienholder of the item.
- (c) After the 90-day period provided in subsection (b) of this section, proceeds unclaimed by the owner or lienholder shall be deposited in an account that may be used for the payment of auction, towing, preservation, storage, and notice and publication fees resulting from taking other vehicles, watercraft, or outboard motors into custody if the proceeds from the sale of the other items are insufficient to meet those fees.
- (d) The city may transfer funds in excess of \$1,000.00 from the account described in subsection (c) of this section to the town's general revenue account to be used by the police department.

(Ord. No. 778, § 3.G., 7-11-2006)

Sec. 46-96. - Police department use of certain abandoned motor vehicles.

- (a) The police department may use an abandoned motor vehicle, watercraft, or outboard motor for department purposes if the item is not claimed as provided for in this article.
- (b) If the police department discontinues the use of an abandoned motor vehicle, watercraft, or outboard motor, the department shall auction the item.
- (c) This section does not apply to a vehicle on which there is a garagekeeper's lien.

(Ord. No. 778, § 3.H., 7-11-2006)

Sec. 46-97. - Disposal of vehicle abandoned in storage facility.

- (a) The police department shall take into custody an abandoned vehicle left in a storage facility (as described in V.T.C.A., Transportation Code § 683.031, as amended or superseded) that has not been claimed in the period provided by notice required under sections 46-90 and 46-91 of this division.
- (b) The police department may use such a vehicle as authorized by section 46-96 of this division or sell the vehicle at auction as provided by section 46-94 of this division. If the vehicle is sold, the proceeds of the sale shall first be applied to a garagekeeper's charges for providing notice regarding the vehicle and for service, towing, impoundment, storage, and repair of the vehicle.
- (c) As compensation for expenses incurred in taking the vehicle into custody and selling it, the police department shall retain:
 - (1) Two percent of the gross proceeds of the sale of the vehicle; or
 - (2) All the proceeds if the gross proceeds of the sale are less than \$10.00.
- (d) Surplus proceeds from the sale shall be distributed as provided by section 46-95 of this division.
- (e) If the police department does not take the vehicle into custody before the 31st day after the date the vehicle was reported abandoned under V.T.C.A., Transportation Code § 683.031, (as amended or superseded), the police department may not take the vehicle into

custody, and the storage facility may dispose of the vehicle as set forth in V.T.C.A., Transportation Code § 683.034(e), (as amended or superseded).

(Ord. No. 778, § 3.I., 7-11-2006)

Sec. 46-98. - Demolition of abandoned motor vehicles.

The procedures for handling the demolition of an abandoned motor vehicle shall be in accordance with V.T.C.A., Transportation Code, ch. 683, subch. D, as amended or superseded.

(Ord. No. 778, § 3.J., 7-11-2006)

Secs. 46-99—46-109. - Reserved.

ARTICLE IV. - SANITATION

Sec. 46-110. - Bulk courtesy drop site.

There is established within the town a bulk courtesy drop site for the use and disposal by residents of the town of bulk items as provided for in this article.

(Ord. No. 866, § 2, 11-6-2007)

Sec. 46-111. - Rules and regulations.

- (a) Only residents of the Town of Little Elm may use the bulk courtesy drop site for disposal of bulk items.
- (b) Contractors doing business within the town or owners of commercial or business establishments within the town may not use the bulk courtesy drop site for disposal of commercial waste or other waste from business related activities. This restriction specifically includes waste from construction or rehabilitation related activities.

(Ord. No. 866, § 2, 11-6-2007)

Sec. 46-112. - Prohibited items.

The following items are prohibited from being disposed at the bulk courtesy drop site:

- (1) *Household hazardous waste*, including but not limited to: Oil, paint, chemicals;
- (2) *White goods*: Refrigerators, freezers, air conditioners; and
- (3) *Other items*, including but not limited to: Tires and batteries.

(Ord. No. 866, § 2, 11-6-2007)

Sec. 46-113. - Penalty.

- (a) Any person violating any provision of this article, upon conviction, shall be deemed guilty of a misdemeanor and fined in an amount not to exceed \$2,000.00.
- (b) Unless otherwise specifically set forth herein allegation and evidence of culpable mental state are not required for the proof of an offense of this article.

(Ord. No. 866, § 2, 11-6-2007)

Secs. 46-114—46-140. - Reserved.

ARTICLE V. - PUBLIC TREES

Sec. 46-141. - Tree care.

There is hereby created and established a tree care program to provide full power and authority over the care of all trees, plants, and shrubs located within public rights-of-way, parks, and public places; and to aid in the proper growth of a landscape program to enhance the beauty of the town.

(Ord. No. 1068, § 2, 9-6-2011)

Sec. 46-142. - Maintenance responsibility.

- (a) The development services director and/or his designees shall have the responsibility to plant, prune, maintain, and remove trees, plants, and shrubs within the public right-of-way of all streets, alleys, avenues, lanes, squares, parks, and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest and disease.
- (b) Every owner of any tree or shrub overhanging any street or right-of-way within the town shall, in accordance to industry pruning guidelines, prune the branches so that such branches shall not severely obstruct the light from any street lamp or obstruct the view of any street intersection; will not obstruct the passage of pedestrians on sidewalks; will not obstruct vision of traffic signs; and will not obstruct the view of any street or alley intersection. If the property owner fails to do so, the development services director and/or his designee shall give ten days notice to the property owners to take action, otherwise the development services director shall have the right to remove or prune any tree or shrub on private property which threatens the safety of those who may use a town street or town street or town park. A fee shall be assessed for this service on an hourly basis. Fees will be based on the current hourly wages of town maintenance workers.

(Ord. No. 1068, § 2, 9-6-2011)

Sec. 46-143. - Care of public trees.

- (a) No person shall remove, destroy, or cause the removal or destruction of a tree on town property or in any town park without first having obtained written permission for such removal or destruction from the development services department.
- (b) It shall be unlawful for any person, firm, or corporation to attach any cable, wire, rope, sign, or any object to any town tree, plant, or shrub without written permission from the development services director.

(Ord. No. 1068, § 2, 9-6-2011)

Secs. 46-144—46-170. - Reserved.

ARTICLE VI. - LIQUID WASTE

DIVISION 1. - LIQUID WASTE GENERATION, TRANSPORTATION AND DISPOSAL

Sec. 46-171. - Applicability and prohibitions.

- (a) This article shall apply to all nondomestic users of the publicly owned treatment works (POTW), as defined in section 46-172 of this article.
- (b) Grease traps or grease interceptors shall not be required for residential users.
- (c) Facilities generating fats, oils, or greases as a result of food manufacturing, processing, preparation, or food service shall install, use and maintain appropriate grease traps or interceptors as required in this article. These facilities include, but are not limited to, restaurants, food manufacturers, food processors, hospitals, hotels and motels, prisons, nursing homes and any other facility preparing, serving or otherwise making any foodstuff available for consumption.
- (d) No user may intentionally or unintentionally allow the direct or indirect discharge of any petroleum oil, nonbiodegradable cutting oil, mineral oil, or any fats, oils or greases of animal or vegetable origin into the POTW system in such amounts as to cause interference with the collection and treatment system, or as to cause pollutants to pass through the treatment works into the environment.

(Ord. No. 1127, § 2, 12-18-2012)

Sec. 46-172. - Definitions.

Act. Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

Approved. Accepted as satisfactory under the terms of this article and given formal and official sanction by the regulatory authority.

BOD. The value of the five-day test for biochemical oxygen demand, as described in the latest edition of "Standard Methods for the Examination of Water and Wastewater."

COD. The value of the test for chemical oxygen demand, as described in the latest edition of "Standard Methods for the Examination of Water and Wastewater."

Director. The director of the department designated by the town manager to enforce and administer this article.

Disposal. The discharge, deposit, injection, dumping, spilling, leaking or placing of any solid or semi-solid grease trap waste, and/or grit trap waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Disposal site. A permitted site or part of a site at which grease trap waste, or grit trap waste, is processed, treated and/or intentionally placed into or on any land and at which said waste will remain after closure.

Disposer. A person who receives, stores, retains, processes or disposes of liquid waste.

EPA. The United States Environmental Protection Agency.

Fats, oils, and greases (FOG). Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases".

Full-service grocery. A grocery store which may include, but is not limited to a deli, bakery or meat market.

Generator. A person who causes, creates, generates, or otherwise produces liquid waste.

Grease trap or interceptor. A watertight receptacle designed and constructed to intercept and prevent the passage of greasy, fatty liquid, semi-liquid, and/or solid wastes generated from commercial operations into the POTW to which the receptacle is directly or indirectly connected.

Grease trap waste. Greasy, fatty liquid, semi-liquid and/or solid wastes removed from commercial operations by a grease trap.

Hazardous materials. Any matter which is or may be reasonably expected to be dangerous to human health, the environment or property, and shall include but not be limited to those substances defined as hazardous materials or material by federal or state agencies.

Indirect discharge or discharge. The introduction of pollutants into a POTW from any nondomestic source.

Interference. A discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, or is a cause of a violation of the town's TPDES permit.

Liquid waste. Waterborne solids, liquids and gaseous substances derived from a grease trap, described as a grease trap waste.

Manager. The person conducting, supervising, managing or representing the activities of a generator, transporter or disposer.

Manifest system. A system consisting of a five-part trip ticket used to document the generation, transportation and disposal of liquid waste.

Owner. The person who owns a facility or part of a facility.

Permit. The formal written document issued to a person by the regulatory authority for the collection of grease trap waste.

Permittee. Person granted a permit under this article.

Person. An individual, corporation (including a government corporation) organization, government, governmental subdivision or agency, federal agency, state, political subdivision of a state, interstate agency or body, business or business trust, partnership, association, firm, company, joint stock company, commission or any other legal entity.

pH. The measure of the relative acidity or alkalinity of water and is defined as the negative logarithm (base 10) of the hydrogen ion concentration.

POTW or publicly owned treatment works. A treatment works which is owned by a state or municipality as defined by section 502(4) of the Clean Water Act. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes all sewers, pipes and other conveyances that convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. For purposes of this article, the terms "sanitary sewer system" and "POTW" may be used interchangeably.

Regulatory authority. Any municipal officer or department of the town appointed by the town manager to administer this article.

Special wastes. Any waste or combination of wastes that, because of its quantity, concentration, physical or chemical characteristics or biological properties, required special handling and disposal to protect the human health or the environment.

Spill. The accidental or intentional loss or unauthorized discharge of grease trap waste, grit trap waste or other waste material.

State regulatory authority. The state's agencies which have the authority to adopt and enforce any rules necessary to carry out its powers and duties under the laws of Texas.

Tank. A device, designed to contain an accumulation of grease trap waste which is constructed primarily of non-earthen materials (e.g., concrete, steel, plastic) to provide structural support for the containment.

TCEQ. The Texas Commission on Environmental Quality, and its predecessor and successor agencies.

Toxic waste. Any liquid, semi-liquid or solid material which has the ability to chemically produce injury once it reaches a susceptible site in or on the body.

Transporter. A person who is registered with and authorized by the TCEQ to transport sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste or grease trap waste in accordance with 30 Texas Administrative Code section 312.142.

Trip ticket. The shipping document originated and signed by the transporter which contains the information required by the regulatory authority.

TSS. The value of the test for total suspended solids, as described in the latest edition of "Standard Methods for the Examination of Water and Wastewater."

User. Any person, including those located outside the jurisdictional limits of the town, who contributes, causes or permits the contribution or discharge of wastewater into the POTW, including persons who contribute such wastewater from mobile sources.

Vehicle. A mobile device in which or by which liquid waste may be transported upon a public street or highway.

(Ord. No. 1127, § 2, 12-18-2012)

Sec. 46-173. - Permit required.

- (a) A person commits an offense if he operates or causes to be operated a vehicle for the purpose of transporting liquid waste without an applicable permit. A permit shall be issued for transportation of the liquid waste and the regulatory authority shall designate on the permit the liquid waste authorized for transportation in the vehicle. A separate vehicle permit number is issued for each vehicle operated.
- (b) A person who desires to obtain a permit shall make application on a form provided by the regulatory authority.
- (c) A permit is not transferrable.
- (d) A permit issued by the Town of Little Elm excludes the hauling of materials that are hazardous in nature.
- (e) Each applicant shall specify the disposal site or sites to be used for the authorized disposal of liquid wastes. The regulatory authority shall be immediately notified of additional disposal sites used during the permit period.
- (f) Waste materials to be recycled for other commercial uses, such as, but not limited to waste cooking oil, are not required to be manifested or permitted under this chapter, but shall be stored, collected and transported in and through the town in conditions that are sanitary, free from odors and which will not adversely affect the environment.

(Ord. No. 1127, § 2, 12-18-2012)

Sec. 46-174. - Fee and display of permit.

- (a) The regulatory authority shall not issue a permit to an applicant until the appropriate established fee is paid. A person shall pay a fee for each vehicle operated by the person as set forth in the development services comprehensive fee schedule, and as may be amended. Each permit shall be renewed annually.
- (b) Each permit holder shall cause to be displayed on each side of each vehicle in a color contrasting with the background in three-inch letters or larger the business name, TCEQ or other applicable state regulatory authority registration number and authorization sticker.
- (c) Each permit holder shall cause to be displayed on the rear of each vehicle the approval authority's registration sticker.

(Ord. No. 1127, § 2, 12-18-2012)

Sec. 46-175. - Liquid waste vehicles—Maintenance.

A liquid waste hauler shall:

- (1) Maintain hoses, tanks, valves, pumps, cylinders, diaphragms, pipes, connections, and other appurtenances on a vehicle in good repair and free from leaks.
- (2) Provide a safety plug or cap for each valve of a tank.
- (3) Provide a clean exterior and cause the vehicle to be odor-free at the beginning of each work day.
- (4) Pass the state regulatory agency's safety inspection.

(Ord. No. 1127, § 2, 12-18-2012)

Sec. 46-176. - Responsibilities of a liquid waste transporter.

- (a) Before accepting a load of liquid waste for transportation, a liquid waste transporter shall determine the nature of the material to be transported and that his equipment is sufficient to properly handle the job without spillage, leaks or release of toxic or harmful gases, fumes, liquids or other substances. Upon delivery of the waste to the disposer, the transporter shall inform the disposer of the nature of the waste.
- (b) A transporter with a Town of Little Elm liquid waste transporter permit shall not transport materials that are hazardous as defined in section 46-172 in vehicles permitted by the town for transporting liquid waste.
- (c) A transporter holding a Town of Little Elm permit shall use a disposal site permitted and approved by the town, state or federal government.
- (d) A manifest system, consisting of a five-part trip ticket is used to document the generation, transportation and disposal of all applicable liquid waste generated in the Town of Little Elm and shall be used as follows:
 - (1) A transporter will complete one trip ticket for each location serviced.
 - (2) One part of the trip ticket shall have the generator and transporter information completed and shall be given to the generator at the time of waste collection.
 - (3) The remaining four parts of the trip ticket shall have all required information completely filled out and signed by the appropriate party before distribution of the trip ticket.
 - (4) One part of the trip ticket shall go to the receiving facility.
 - (5) One part of the trip ticket shall go to the transporter, who shall retain a copy of all trip tickets showing the collection and disposition of the waste.
 - (6) One part of the trip ticket shall be returned by the transporter to the person who generated the waste within 15 days after the waste is received at the disposal or processing facility.
 - (7) One part of the trip ticket shall go to the Town of Little Elm Health Services Department and shall be provided within 30 days of the disposal.

- (8) A copy of all trip tickets shall be maintained for a period of two years and shall be made available for inspection by the regulatory authority.
- (e) A transporter or any person cleaning or servicing a grease trap or grit trap shall remove the entire contents of the collection device. Skimming the surface layer of waste material, partial cleaning of the trap or use of any method which does not remove the entire contents of the collection device is prohibited.
- (f) Any person wishing to make use of a mobile treatment process or of an on-site process to clean or service grease traps shall demonstrate the process to the satisfaction of the regulatory authority. Included with the demonstration shall be a written explanation of the treatment process. Any costs to the town associated with the demonstration such as, but not limited to, sampling and analysis shall be recovered.
- (g) A transporter shall allow the director and his or her designee to inspect vehicles registered under a permit upon their request.

(Ord. No. 1127, § 2, 12-18-2012)

Sec. 46-177. - Accumulation of liquid waste.

A person commits an offense if he allows liquid waste that emits noxious or offensive odors or is unsanitary or injurious to public health to accumulate upon property under his control.

(Ord. No. 1127, § 2, 12-18-2012)

Sec. 46-178. - Disposal of liquid waste.

- (a) A person commits an offense if he unloads or offers for sale or exchange liquid waste, except at a place permitted by the town, state or federal government.
- (b) A person commits an offense if he deposits or discharges liquid waste at any site not approved for the disposal of such material.

(Ord. No. 1127, § 2, 12-18-2012)

Sec. 46-179. - Responsibilities of liquid waste generator.

- (a) A generator of liquid waste shall have all liquid waste material picked up from his premises by a liquid waste transporter who holds a valid permit from the town and the liquid waste shall be transported to an approved site for disposal.
- (b) A generator of liquid waste shall not have hazardous materials or liquid waste in combination with hazardous materials removed from his premises by a liquid waste hauler operating under a permit.
- (c) A generator shall sign the trip ticket from the transporter when a load is picked up by the transporter and shall keep a copy of all trip tickets for a period of two years. The regulatory authority may inspect these records during normal business hours.
- (d) A generator shall:

- (1) Install or provide collection device of size and type specified by regulatory authority. If the director determines that a collection device is insufficient in size or design, he or she may require the generator to upgrade their collection device.
- (2) Supervise the servicing of the generator's liquid and generator's liquid waste facilities, and shall ensure that they are completely emptied by the transporter during such servicing.
- (3) Maintain collection devices in continuous, proper operation.
- (4) Report spills and accidents involving collection device to regulatory authority immediately or through emergency dispatch after business hours.
- (5) Clean up all spills and accidents immediately and have material disposed of by permitted transporter by proper means.

(Ord. No. 1127, § 2, 12-18-2012)

Sec. 46-180. - Schedule of service required for generators.

- (a) All food manufacturers, meat markets, full-service groceries and full-service restaurants shall pump their interceptor at a minimum of once every 90 days.
- (b) All other facilities, including child care centers, schools and groceries with pre-packaged foods and minimal food preparation as determined by the director or his or her designee shall pump their interceptor at a minimum of once semi-annually.
- (c) The director and/or his or her designee may require more frequent pumping upon assessment or at his or her discretion.
- (d) The director may change the frequency required upon formal written request.

(Ord. No. 1127, § 2, 12-18-2012)

Sec. 46-181. - Responsibilities of disposers.

- (a) A liquid waste disposer commits an offense if he allows accumulation of liquid waste on his premises so that rainfall could carry the material to storm sewers or adjacent property or create a noxious odor or potential health hazard.
- (b) A liquid waste disposer shall:
 - (1) Obtain and maintain compliance with all licenses and/or permits required by local, state or federal law.
 - (2) Accept waste only from a permitted transporter.
 - (3) Maintain trip ticket copies as required by TCEQ or other applicable state regulatory authority.
 - (4) Accept only those classes of wastes authorized by license or permit.
 - (5) Make available all records required to be kept for inspection by the regulatory authority during normal business hours.

(Ord. No. 1127, § 2, 12-18-2012)

Sec. 46-182. - Denial, suspension, revocation of permit.

- (a) The regulatory authority may deny a permit if it is determined that an applicant is not qualified under this article and may suspend or revoke a permit if it is determined that a permittee:
- (1) Is not qualified under this article.
 - (2) Has violated a provision of this article.
 - (3) Has failed to pay a required fee.
 - (4) Has failed to comply with maintenance requirements.
 - (5) Has failed to deliver trip tickets to the regulatory authority.
 - (6) The applicant, a partner of the applicant, a principal in the applicant's business, or applicant's manager or operator has:
 - a. Within the five years preceding the date of the application been convicted of a misdemeanor that is punishable by confinement and/or by a fine exceeding \$500.00, and which relates directly to the duty or responsibility in operating a liquid waste transportation business; or
 - b. Been convicted of a felony which relates directly to the duty or responsibility in operating a liquid waste transportation business.
 - (7) The applicant fails to provide evidence of liability insurance or self-insurance.
 - (8) The application contains a false statement of a material fact.
- (b) After suspension under this section, a permittee may file a request for re-instatement of the permit. When the regulatory authority determines that the permittee is again qualified, all violations have been corrected, precautions have been taken to prevent future violations, and all required fees have been paid, he shall re-instate the permit.
- (c) The regulatory authority may revoke for a period of one year or less all permits held by a liquid waste transporter if the transporter or an employee of the transporter violates any of the provisions of this article, or applicable provisions of the Town Code or state law.
- (d) A permittee whose permit is suspended or revoked shall not collect, transport, or dispose of any waste materials within the jurisdiction of the regulatory authority.
- (e) Any denial, revocation, or suspension of a permit by the town shall be reported to the state regulatory authority. The town shall also report any violation notices or illegal operations to said department.

Any applicant aggrieved by the action of the regulatory authority with reference to the revocation of a permit as provided in section 46-182 of this article shall have the right to appeal to the director of development services. Such appeal shall be taken by filing with the director of development services, within 14 days after notice of the action complained of has been delivered in person or mailed to such person's address given in the application, a written statement setting forth fully the grounds for the appeal. The director of development services shall set a time and place for a hearing on such appeal and notice of such hearing

shall be given to the appellant for notice of hearing on revocation. The decision and order of the director of development services on such appeal shall be final and conclusive.

(Ord. No. 1127, § 2, 12-18-2012)

Sec. 46-183. - Right of entry.

- (a) The town's representative(s) shall have the right to enter the premises of any person to determine whether that person is in compliance with all requirements of this article. Persons shall allow inspecting or monitoring personnel ready access to all parts of the premises for the purposes of inspection, monitoring, records examination and copying, and the performance of any additional duties. Any information concerning a requirement under this article shall be made readily available upon request.
- (b) Where security measures are in force which requires proper identification and clearance before entry into the premises, that person shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the town's representative will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (c) The town's representatives shall have the right to set up on any person's property such devices as are necessary to conduct monitoring of any person's operations.
- (d) Unreasonable delays in allowing inspections or monitoring personnel access to any person's premises shall be a violation of this article.

(Ord. No. 1127, § 2, 12-18-2012)

Sec. 46-184. - Abatement by town.

- (a) In the event that an owner shall fail to comply with this article, the director or designee may notify such owner by letter addressed to such owner at such owner's post office address, or by publication as many as two times within ten consecutive days in a local newspaper, if personal service may not be had on the owner, or the owner's address is not known. The notification shall contain in brief terms the condition or conditions which exist on such owner's premises which fail to comply with this article. At the expiration of ten days after the final date of publication, the town may enter upon such premises and may do such work as necessary, or cause the same to be done, to abate the unlawful condition of the premises in order that the premises may comply with the requirements of this article. A statement of the cost incurred by the town to abate such condition shall be mailed to the owner of the premises and such statement shall be paid within 30 days of the date of the mailing of the statement of costs.
- (b) In the event that an owner shall have an emergency condition, the director or his designee may enter upon such premises and may do such work as necessary, or cause the same to be done, to abate the condition in order that the premises may comply with the requirements of this article. For the purposes of this section, "emergency condition" shall be defined as any condition or conditions which are or reasonably could be considered an immediate threat to the health, safety or welfare of the citizens of the town or to the environment. A statement of the cost incurred by the town to abate such condition shall be

mailed to the owner of the premises and such statement shall be paid within 30 days of the date of the mailing of the statement of costs.

- (c) Any person found to be guilty of violating provisions of this article shall become liable to the town for any expense, loss or damage incurred by the town for reason of appropriate cleanup and proper disposal of said waste materials. Additionally, an administrative fee equal to one-half of assessed cleanup costs shall be levied by the town against the guilty party.

(Ord. No. 1127, § 2, 12-18-2012)

Sec. 46-185. - Punishment for violations; other remedies.

- (a) Any person, firm or corporation who violates any provision of this article or violates any requirement established is guilty of a misdemeanor and upon conviction is punishable by a fine of up to \$2,000.00 for each act of violation and for each day of violation.
- (b) Any person, firm or corporation, who obstructs, impedes or interferes with a representative of the town or with a representative of a town department, is guilty of a misdemeanor and upon conviction is punishable by a fine of up to \$2,000.00 for each act of violation and for each day of violation.
- (c) In addition to proceeding under authority of subsections (a) and (b) of this section, the town is entitled to pursue all criminal and civil remedies to which it is entitled under authority of statutes or other ordinances against a person, firm, or corporation that remains in violation of this article.
- (d) The regulatory authority may cause to be impounded a vehicle which is being operated in violation of this article, and may authorize the holding of the vehicle until the violation is corrected. The regulatory authority may also revoke the permit for the improperly operated vehicle. If a vehicle is impounded or if a permit is revoked an appeal may be filed by the transporter pursuant to section 46-182.
- (e) In addition to prohibiting certain conduct by any person, it is the intent of this article to hold a corporation or association legally responsible for prohibited conduct performed by an agent acting in behalf of a corporation or association and within the scope of his office or employment.

(Ord. No. 1127, § 2, 12-18-2012)

Sec. 46-186. - Administrative liability.

- (a) No officer, agent or employee of the town shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such person's duties under this article.
- (b) Any suit brought against any officer, agent or employee of the town as a result of any act required or permitted in this discharge of such duties under this article shall be defended by the town attorney until the final determination of the proceedings therein.

(Ord. No. 1127, § 2, 12-18-2012)

Secs. 46-187—46-210. - Reserved.

