

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING CHAPTER 23 – MISCELLANEOUS OFFENSES, CHAPTER 29 – SIGN STANDARDS AND PERMITS, AND CHAPTER 47 – LOCAL TRAFFIC REGULATIONS, OF THE CODE OF ORDINANCES; PROVIDING FOR PROPERTY MAINTENANCE REQUIREMENTS AND THE RIGHT TO INSPECT AND ABATE NONCOMPLIANT CONDITIONS, ASSESSMENT OF THE CITY’S COSTS RELATED TO ABATEMENT, COLLECTION OF COSTS, AND THE ABILITY TO APPEAL CITY’S DETERMINATION REGARDING NONCOMPLIANCE; AMENDING PROCEDURES RELATED TO THE ABATEMENT OF JUNK VEHICLES; PERMITTING THE USE OF CERTAIN MOVING SIGNS; PROHIBITING THE PARKING OF TRAILERS ON PUBLIC STREETS UNLESS OFFICIAL WORK IS BEING PERFORMED OR A DELIVERY IS BEING MADE AT THE LOCATION OF THE PARKED TRAILER; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE, SAVINGS CLAUSE AND AN OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.**

**Whereas**, the City of Kyle (the “City”) has an extensive regulation adopted and codified in its Code of Ordinances;

**Whereas**, on occasion, it is necessary to review and amend certain regulations contained in the City’s Code of Ordinances or to enact new regulations to the Code of Ordinances to better reflect the needs and changes within the City;

**Whereas**, amendments to the City’s Code of Ordinances can help facilitate and assist City staff with proper, consistent and more efficient enforcement of adopted regulations and better address concerns, requests or complaints of members of the community; and

**Whereas**, the City finds it is necessary for the benefit, health and welfare of its citizens to have regulations contained in the Code of Ordinances reviewed, amended, enacted and available that provide the City with the ability to better regulate, prevent and enforce issues and concerns occurring within the City;

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

**Section 1. Findings of Fact.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

**Section 2. Amendment of Section 23-118 - Right to inspect.** The City Code of Ordinances, Chapter 23 – Miscellaneous Offenses, Article V – Nuisances, Division 2 – Weeds and Offensive Conditions on Private Property, Section 23-118 is hereby amended in its entirety to read as follows:

**Sec. 23-118. – Right to Inspect.**

The City Manager or their designee, Building Official, Code Enforcement Officer or any duly sworn peace officer shall be authorized to inspect any property within the city, at any reasonable time, subject, however, to the restrictions against such inspection and entry of private residence for health inspection as are provided for in the laws of the state.

**Section 3. Amendment of Section 23-119 - Violations; notice; failure to abate.** The City Code of Ordinances, Chapter 23 – Miscellaneous Offenses, Article V – Nuisances, Division 2 – Weeds and Offensive Conditions on Private Property, Section 23-119 is hereby amended in its entirety to read as follows:

**Sec. 23-119. - Violations; notice; failure to abate.**

- (a) In the event the officer charged with enforcement of this article shall determine that a situation exists which immediately affects the health, safety and well-being of the general public and that immediate action is necessary, such officer may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to the owner or occupant of the property upon which such condition exists, as may be deemed appropriate and necessary.
- (b) In the event the officer charged with enforcement of this article shall determine that a situation constitutes a threat to the public health, safety and welfare, and the owner or occupant of the property is absent or fails to immediately remedy the violation, the city council may, at a regular session or at any emergency session called for the purpose of considering the issue, upon evidence heard, determine that an emergency exists and orders such action as may be required to protect the public health, safety and welfare. In such event, the city may prosecute an action in any court of competent jurisdiction to recover its costs.
- (c) In the event any owner or occupant shall fail to refuse to remedy any of the conditions prohibited by section 23-116 within seven (7) days after notice to abate the prohibited condition(s), the city may do such work or cause the same to be done, and pay therefor, and charge the expenses in doing or having such work done or improvements made, to the owners of the property by placing a lien on the property, whereupon such charge shall be a personal liability of such owner to the city. Such notice shall be in writing and:

- (1) served upon such owner and occupant in person by an officer or employee of the city;
- (2) or may be by letter addressed to such owner at the owner's address as recorded in the records of the appraisal district in which the property is located and occupants at their mailing address.

If personal service cannot be had, or the owner and occupant's address is unknown, then notice may be given by:

- (3) publishing a brief summary of such order at least once in the official newspaper of the city addressed "Sanitary Improvements, To Whom it may Concern," and such publication shall be deemed sufficient notice;
  - (4) by posting the notice on or near the front door of each building on the property to which the violation relates;  
or
  - (5) by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.
- (d) In the event that a violation of this article is occurring and is not observed by a Code Enforcement Officer, Police Officer, or designee charged in the enforcement of this chapter, a Citizen Complaint Form can be completed by the complainant serving as the affiant.
- (1) The Citizen Complaint Form is to be completed voluntarily, truthfully, and accurately by the complainant, signed and then submitted to Municipal Court.
  - (2) The Complainant shall agree to testify if the case proceeds to trial in Municipal Court.
  - (3) Any evidence of the violation such as photographs, audio or video recordings, or supporting documents shall be provided to Municipal Court along with the Citizen Complaint Form.

**Section 4. Amendment of Section 23-120 - Assessment of city's abatement cost; collections of costs; appeals.** The City Code of Ordinances, Chapter 23 – Miscellaneous Offenses, Article V – Nuisances, Division 2 – Weeds and

Offensive Conditions on Private Property, Section 23-120 is hereby amended in its entirety to read as follows:

**Sec. 23-120. - Assessment of city's abatement cost; collections of costs; appeals.**

In addition to the remedy provided in section 23-119 and cumulative thereto, the city manager or their designee, after giving the owner or occupant of the property seven (7) days' notice as required in section 23-119 (c), may cause any of the work or improvements mentioned in sections 23-116, 23-117 and 23-119 to be done at the expense of the city, on the account of the owner of the property on which such work or improvements are done, and cause all of the actual cost to the city to be assessed on the real estate or lot on account of which such expenses occurred; provided that the owner of any such real estate may appeal to the city council from the order of the city manager or designee by filing a written statement with the city manager or designee within ten (10) days after receipt of the notice provided for in section 23-119(c), stating that such real estate complied with and abated the prohibited condition(s) provided in section 23-116 before the expiration of the seven (7) day period. The city council shall set a date, within thirty (30) days from the date of the requested appeal, for hearing upon such appeal to determine whether the real estate complied with the provisions of section 23-116 before the expiration of such seven (7) day period. The authority of the city manager or designee to proceed to cause such work to be done shall not be suspended while an appeal from the order is pending, but if it shall be determined by the city council that the seven (7) day period, then no personal liability of the owner shall arise nor shall any lien be created against the premises upon which such abatement work was performed.

**Section 5. Amendment of Section 23-265 – Procedures for abatement.** The City Code of Ordinances, Chapter 23 – Miscellaneous Offenses, Article VIII – Junked, Wrecked, Abandoned Vehicles, Division 3 – Junked Vehicles, Section 23-265 is hereby amended in its entirety to read as follows:

**Sec. 23-265. - Procedures for abatement.**

- (a) The police department, when desiring to remove and dispose of junked vehicles from private property, public property or public rights-of-way, shall comply with the applicable procedures in this section.
- (b) A written notice stating the nature of the public nuisance on private property and that it must be removed and abated within ten (10) days after the date on which the notice was personally delivered or mailed, and further stating that any request for a hearing must be

made before the expiration of said ten (10) day period, shall be mailed, by certified mail with a five (5) day return receipt requested, to the last known registered owner of the junked vehicle, any lienholder of record and the owner or the occupant of the private premises whereupon such public nuisance exists. If the nuisance is located on a public right-of-way, notice shall be sent to the owner or the occupant of the property adjacent to the right-of-way. If the notice is returned undelivered by the United States Post Office, official action to abate such nuisance shall be continued to a date not earlier than the 11<sup>th</sup> day after the date of the return.

- (c) If the nuisance is not removed and abated and a hearing is not requested within the ten (10) day period provided, in addition to any other procedure authorized by this article, a complaint may also be filed in municipal court for the violation of maintaining a public nuisance; provided that such notice shall not be a requirement for any such complaint being filed in municipal court.
- (d) Once a vehicle has been removed under the provisions of this section, it shall not be reconstructed or made operable.
- (e) The vehicle must be removed or otherwise brought into compliance or a hearing with municipal court requested. If requested, the hearing will be held not earlier than the 11<sup>th</sup> day after the date of the service of the notice before the chief of police or their designee. If a hearing is requested by a person for whom notice is required under V.T.C.A., Transportation Code § 683.075(a)(3), the hearing shall be held not earlier than the 11<sup>th</sup> day after the date of the service of notice. At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable. If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include the vehicle's:
  - (1) Description;
  - (2) Vehicle identification number; and
  - (3) License plate number.
- (f) Should the chief of police or designee find that such vehicle is a public nuisance as defined herein, he shall request an order from the municipal court judge seeking abatement of such public nuisance. The Court order shall require the removal of the vehicle or part thereof from the public or private property or public right-of-way where it is situated, and such order shall include a

description of the vehicle and the correct identification number and license number of the vehicle, if available. Any aggrieved city officer, owner or lienholder may appeal any such decision of the chief of police or designee to the Municipal Court.

- (g) The procedures set out in this section shall not apply to:
  - (1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
  - (2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard; or
  - (3) An antique and special interest vehicle stored by a collector on his property; provided that the vehicle and outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery or other appropriate means.
- (h) The administration of the procedures of this section shall be carried out by regularly salaried, fulltime employees of the city, except that the removal of vehicles or parts thereof from property may be accomplished by any other duly authorized person, including authorized wrecker service operators acting at the direction of the city.

**Section 6. Amendment of Section 29-9 – Prohibited Signs.** The City Code of Ordinances, Chapter 29 – Sign Standards and Permits, Section 29-9 – Prohibited Signs, Part 1, is hereby amended in its entirety to read as follows:

**Sec. 29-9. - Prohibited signs.**

The following signs are prohibited from installation, construction, repair, alteration, location or relocation within the city, except as otherwise permitted in this chapter:

- (1) Signs with flashing lights or revolving beacon lights. For purposes of this ordinance, an electronically controlled changeable-copy sign is not considered a flashing sign unless it directly falls under the definition of “flashing” as defined in this chapter.

**Section 7. Amendment of Section 47-39 – Parking other than noncommercial vehicles in residential areas.** The City Code of Ordinances, Chapter 47 – Local Traffic Regulations, Article II – Parking, Division – Noncommercial Vehicles, Section 47-39 is hereby amended in its entirety to read as follows:

**Sec. 47-39. - Parking other than noncommercial vehicles in residential areas.**

- (a) Except as provided in subsection (a)(1), (2), or (3) of this section, no person shall park or leave standing any trailers, utility trailers, recreational vehicles, campers, boats, watercraft, snowmobiles, OHVs, structures, equipment, or apparatuses on a city street, road or public right-of-way within a residential district in the city. This does not apply to trash, recycling, compost receptacles used or regulated by the city or other contracted disposal service when placed overnight. Exceptions to paragraph(a) are granted for the following:
  - (1) Actively loading or unloading the recreational vehicle, trailer, utility trailer, camper, or boat.
  - (2) Structures, equipment, and apparatuses may be left standing on the right-of-way temporarily for purposes such as loading/unloading and movement onto private property, and:
    - a. Not to exceed 24 hours regardless of whether the property is moved to a different location within the public right-of-way.
    - b. Remains contiguous/abutted to the curb of the residence (not further than 18 inches).
    - c. Does not obstruct traffic or create any safety hazards to motorists, pedestrians, etc.
    - d. Reoccurrence of the specific property left on the public right-of-way does not exceed once per 30 days.
    - e. It shall not be a defense that the trailers, utility trailers, campers, boats, snowmobiles, OHVs, or other recreational vehicles, have been moved to a different location within the public right-of-way.

- (b) No person shall park or leave standing any trailers, utility trailers, campers, boats, snowmobiles, OHVs, other recreational vehicles, structures, equipment, or apparatuses within the city limits in such a manner to impede a safe traffic flow.
- (c) It shall be prima facie evidence that any property left in the public right-of-way is abandoned if it is not a motor vehicle or trailer as defined in this division.
- (d) Structures, equipment and apparatuses will be considered abandoned property if not removed after 48 hours. The city maintains the authority to remove such property and may do so if said property is not removed within 48 hours. If said structures, equipment or apparatuses are obstructing traffic or creating a hazard, it shall be removed immediately. If said structure, equipment and apparatuses are not properly registered, an order shall be submitted to municipal court for the disposition of the property.
- (e) The entirety of this division shall not apply to city, state, county or contracted individuals or companies by the same while performing services of official capacity, i.e. vehicles being used to provide any municipal service such as the installation, repair or maintenance of any public street, asset or property, collection of garbage, grounds keeping, etc.; and vehicles being used to install, repair or maintain any public service or utility such as telephone, electricity, cable television, gas, water or sewer lines.
- (f) All costs associated with property removal shall be borne by the owner, operator, person in control of the property or other person responsible for the property.

**Section 8. Amendment of Ordinances.** The City Code of Ordinances, Chapters 23, 29 and 47 are hereby amended to the extent of any conflict or inconsistency herewith only and all ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other code or ordinance of the city, the terms and provisions of this Ordinance shall govern.

**Section 9. Savings Clause.** All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any ordinances affecting public nuisances, enforcement, abatement, parking, signs and screening that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.



**Section 10. Effective Date.** This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the *Tex. Loc. Gov't. Code*.

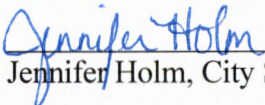
**Section 11. Open Meetings.** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

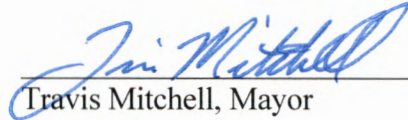
**PASSED AND APPROVED** on First Reading this 1<sup>st</sup> day of September, 2020.

**FINALLY PASSED AND APPROVED** on this 15th day of September, 2020.

**ATTEST:**

**THE CITY OF KYLE, TEXAS**

  
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Jennifer Holm, City Secretary

  
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Travis Mitchell, Mayor