

ORDINANCE NO. 2007-31

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENDING SECTIONS 9-7-2 through 9-7-3, PROVIDING FOR MODIFICATIONS TO THE NUISANCE NOTICE AND LIEN SECTIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Sections 9-7-2 through 9-7-3 of Article 7: Nuisances of Chapter IX, General Regulations, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

...

§ 9-7-2 DEFINITIONS.

As used in this Article the following terms shall have the following meanings, to wit:

ABATE. To eliminate by removal, repair, rehabilitation, or demolition.

DEPOSIT. Any divestiture of possession whether such divestiture of possession is actual or constructive.

NOTICE shall mean:

- (1) Personal notice to the owner in writing, or
- (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 or the owner's address is unknown, then, notice shall be:
 - (a) by publication at least once; or
 - (b) by posting the notice on or near the front door of each building on the property to which the violation relates; or

(c) by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.

(4) If a notice to a property owner is returned by the United States Postal Service as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.

NOXIOUS MATTER. Any matter which is or is not subject to the process of oxidation and shall include, without limitation, filth; carrion; impure or unwholesome substances; weeds, grass, or similar vegetation in excess of 18 inches; refuse; rubbish; brush; and any other substance which would be objectionable, unsightly, or unsanitary to a reasonable person.

PERMIT TO REMAIN. Failure to remove on a permanent basis within the time required by law as specified by any notice to abate noxious matter that is provided for herein.

PREMISES. All privately owned property, including vacant land or a building designed or used for residential, commercial, business, industrial, or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps, other structure appurtenant to the property, or easily accessible easements, alleys, and rights of way.

PREMISES OF ANOTHER. Property over which a person has no right of care, control, or custody. Property under the care, control, or custody of the State of Texas or any of its political subdivisions shall always constitute "premises of another."

REFUSE. Garbage, rubbish, paper, and other decayable and non-decayable waste, including vegetable matter and animal and fish carcasses.

RUBBISH. Non-decayable waste from a public or private establishment or residence.

WEEDS. All rank and uncultivated vegetable growth or matter that:

- (A) has grown to more than 18 inches in height; or
- (B) may create an unsanitary condition or become a harborage for rodents, vermin, or other disease-carrying pests, regardless of the height of the weeds.

§ 9-7-3 CORRECTION BY CITY; LIEN.

(A) That the provisions of this Section shall be cumulative of any criminal penalties or civil remedies provided for herein.

(B) Upon a determination that noxious matter exists upon a premises, the owner of the premises shall be given notice to abate such noxious matter within seven days after the receipt of such notice. Should the owner of the premises fail to comply with such notice of abatement within seven days, the city may:

- a. do the work or make the improvements required, and
- b. pay for the work done or improvements made and charge the expenses to the owner of the property.

(C) The city in the notice of violation may inform the owner (1) by mail and a posting on the property or (2) 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 city without further notice may correct the violation at the owners expense and assess the expense against the premises.

(D) After the work has been completed and paid for by the city, a statement of expenses incurred by the city to abate such conditions and administrative fees as prescribed by separate ordinance shall be mailed to the owner of the property. The owner of the property shall pay for work and administrative fees within thirty (30) days of the date of mailing thereof.

(E) In the event that the amount shown on the said statement for the work and administrative fees has not been paid within thirty (30) days of mailing, the city shall assess expenses incurred under this Section as follows:

- (1) The Mayor or City Manager shall file a statement of such expenses and administrative fees incurred, giving the amount of such expenses, date on which the work was done or improvements made, state the name of the owner (if known) and the legal description of the property. The statement shall be filed with the County Clerk, and the city shall have a privileged lien on such lot or real estate upon which the work was done or improvements made to secure the expenditures so made, in accordance with the provisions of Tex. Health & Safety Code §342.006 et seq. This lien shall be second only to tax liens and liens for street improvements; and the amount shall bear 10% interest per annum on the amount due from the date of payment by the city.
- (2) It is further provided that for any such expenditures and interest, suit may be instituted and recovery and foreclosure of the lien may be had in the name of the city, and the statement of expenses and administrative fees so made, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements.

(F) The remedy provided by the assessment and foreclosure of lien is in addition to any criminal penalties or other civil remedies provided for herein.

(G) The city may foreclose a lien on property established herein in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code, as amended or hereinafter amended.

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II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

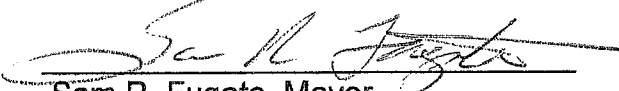
THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the 19th day of ~~October~~ ^{November}, 2007.

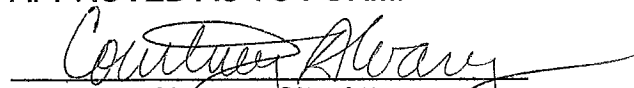
PASSED AND APPROVED on this the 10th day of December, 2007.


Sam R. Fugate, Mayor

ATTEST:


Edna Lopez, City Secretary

APPROVED AS TO FORM:


Courtney Alvarez, City Attorney

EFFECTIVE DATE: December 26, 2007