

## CHAPTER 96: HEALTH AND SAFETY

### GENERAL PROVISIONS

#### Sec. 96.01 DEFINITIONS.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Abandoned Nuisance Vehicle** - is a motor vehicle that is at least 10 years old and is of a condition only to be demolished, crushed, or dismantled.

**Alley** – is an unnamed public right-of-way that is designed to serve as utility access or secondary means of pedestrian or vehicular access to the rear or side of those properties whose principal frontage is on some other street.

**Antique Vehicle** – is a passenger car or truck that is at least twenty-five (25) years old with a valid Antique plate issued by the Texas Department of Motor Vehicles affixed to the vehicle and the vehicle is used solely for exhibition, club activities, parades and other functions of public interest and the vehicle is not used for daily transportation except when routine maintenance is needed.

**Home Composting** – is the decomposition, land application and mulching of non-industrial organic material, such as grass clippings, leaves, brush, clean wood material or vegetative food material, generated by a homeowner, tenant of a single or multi-family residential or apartment complex, or a commercial or institutional complex where the composting, land application or mulching occurs on the dwelling property and the final product is utilized on the same property. Home composting includes neighborhood composting demonstration sites which generate less than 50 cubic yards of final product per year.

**Cultivated Agricultural Property** – property that has been granted an agricultural use designation by the Johnson County Central Appraisal District pursuant to the state property tax code and on which a crop is growing that is recognized by the county agricultural extension office or its successor designee as a viable crop for the Johnson County area.

**Degradable** - material that will undergo a process of deterioration or breaking-up by the action of natural forces such as air, light, water or microorganisms. Degradable materials include, but are not limited to food products, wood, paper, cloth, wool, gypsum, and certain plastics.

**Demolisher** - a person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

**Graffiti** – any unauthorized inscription, word, signature, symbol, design, or other marking of any sort that is etched, written, painted, drawn, or applied in any other way to any structure, building, tree, vehicle, or property of any sort, or to any portion or element thereof.

**Junk** – all worn-out, worthless, an discarded material, in general, including but not limited to old

iron or other metal, glass, paper, cordage, or other waste or discarded materials.

**Junked Vehicle** – a motor vehicle that is self-propelled and:

- (1) Displays an expired license plate or does not display a license plate; and
- (2) Is:
  - a. Wrecked, dismantled or partially dismantled, discarded or not capable of passing a state motor vehicle inspection; or
  - b. Inoperable and has remained inoperable for more than:
    1. Seventy-two (72) consecutive hours, if the vehicle is on public property; or
    2. Thirty (30) consecutive days, if the vehicle is on private property.

For purpose of this division, junked vehicle also includes:

- (1) An aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; and
- (2) A watercraft that does not have lawfully on board an unexpired certificate of number and is not a watercraft described by section 31.055, Texas Parks and Wildlife Code.

**Garagekeeper** - an owner or operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair or maintenance of a motor vehicle.

**Motor Vehicle** - a motor vehicle subject to registration under the Certificate of Title Act, V.T.C.A., Transportation Code § 501.001 et seq.

**Motor Vehicle Collector** – the owner of one or more antique or special interest vehicles who acquires, collects, or disposes of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

**Noxious and Invasive Plants** - any plant that has a serious potential to cause economical or ecological harm to the agriculture, horticulture, native plants, ecology or waterways of Texas. Noxious and invasive plants shall be those plants identified by the Texas Department of Agriculture as noxious or invasive and shall include, but not limited to, Golden Bamboo and other species of bamboo which are deemed to be invasive to adjoining properties.

**Nuisance** - a thing, act, occupation, condition or use of property which substantially interferes with the use and enjoyment of another's property or threatens the health, morals, safety, comfort, convenience, or welfare of the community.

**Person** – any natural person, association of persons, partnership, corporation, agent, or officer,

and shall also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors, administrators, parents, and guardians.

**Refuse** – all waste materials defined as garbage or rubbish by the IPMC.

**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.

**Tarpaulin (Tarp)** – a protective covering made of plastic, or other waterproof material used to overlay and protect items from moisture.

**Watercraft** - a vessel subject to registration under V.T.C.A., Parks and Wildlife Code § 31.01 et seq.

## **Sec. 96.02 NUISANCES ENUMERATED**

The following specific acts, conditions, and objects are declared to constitute a nuisance and are hereby prohibited and made unlawful within the jurisdiction of the City of Cleburne. The jurisdiction for the enforcement and abatement of nuisance violations shall include the corporate city limits of Cleburne and all areas within 5,000 feet of the corporate city limits of Cleburne:

- (1) Any public nuisance known at common law or equity;
- (2) Whatever renders air, food or drink unwholesome or is detrimental to health, safety and welfare of the public;
- (3) Noxious and unreasonable odors created by chemicals, decomposing organic matter, or confined animal feeding operations;
- (4) Throwing, placing, or depositing in any well, cistern, tank, fountain, spring, lake, waterway or any other place containing water, any substance or liquid that may pollute, poison, or render unwholesome the water therein;
- (5) Keeping, storing or maintaining a junked vehicle in violation of this code;
- (6) Obstruction of streets or sidewalks by trees, hedges, or shrubs defined in Section 99.07 of this code;
- (7) Keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;
- (8) Keeping, storing, or accumulating rubbish, including newspapers, refrigerators, stoves, furniture, tires, and cans, on premises unless the rubbish or object is completely enclosed in a building;

- (9) Allowing or permitting any carrion, filth, manure, or any other impure, unsanitary, or unwholesome matter of any kind to accumulate or remain on a premises;
- (10) Maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests;
- (11) Creating or maintaining an attractive nuisance, which may be detrimental to children whether in a building, on the premises, or upon an unoccupied lot. This includes any abandoned wells, shafts, basements, septic tanks, or excavations; abandoned refrigerators or motor vehicles; or any lumber, trash, debris, or vegetation which may prove a hazard for inquisitive minors;
- (12) Maintaining a property with excessive weed or plant growth;
- (13) All noxious and invasive plants;
- (14) Diseased or dead trees constituting a hazard to safety, health, or public welfare;
- (15) Maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard;
- (16) Overcrowding a dwelling with occupants;
- (17) Creating or maintaining a defective sidewalk on a public right of way;
- (18) A structure, basin chamber, pool or tank located indoors or outdoors containing an artificial body of water intended to be used for swimming, diving or recreational bathing, including spas or hot tubs, which becomes unfit to be used for the purpose intended;
- (19) Creating or maintaining on any property, a swimming pool, spa or hot tub that does not comply with the most currently adopted International Property Maintenance Code;
- (20) Maintaining a flea market in a manner that constitutes a fire hazard;
- (21) Filling or blocking a drainage easement, failing to maintain a drainage easement, maintaining a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation, or violating an agreement with the City to improve or maintain a drainage easement;
- (22) Drilling or operating a water well in violation of Chapter 36, Texas Water Code;
- (23) Discarding refuse on property that is not authorized for that activity;
- (24) The presence of ectoparasites, including bedbugs, lice, and mites, suspected to be disease carriers in a place in which sleeping accommodations are offered to the public;
- (25) A condition or place in a populous area that is a breeding place for flies;
- (26) Spoiled, diseased, decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;

- (27) A restaurant, food market, bakery, other place of business, or vehicle in which food is prepared, packed, stored, transported, sold, or served to the public and that is not constantly maintained in a sanitary condition;
- (28) Sewage, human excreta, wastewater, garbage, or other organic wastes deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in disease transmission to a person or between persons. Home composting in compliance with Rule 332.4 of the Texas Administrative code is permitted;
- (29) An object, place, or condition that is a possible and probable medium of disease transmission to or between humans;
- (30) A vehicle or container that is used to transport garbage, human excreta, or other organic material and that is defective and allows leakage or spilling of contents;
- (31) A collection of water in which mosquitoes are breeding or a collection of water that is a breeding area for mosquitoes that can transmit diseases regardless of the collection's location other than a location or property where activities meeting the definition of Section 11.002(12)(A), Water Code, occur;
- (32) Nuisance personal property as defined in Section 96.75 of this code.

**Sec. 96.03 TARPULIN USE.**

- (A) Tarpaulins used for covering a vehicle, boat, trailer or other item and visible from the public right of way shall not be torn, defective or worn and shall be fitted and manufactured for the vehicle or item covered.
- (B) It shall be unlawful for any person to utilize a tarpaulin, which is visible from the public right of way, on a building or structure for a period longer than thirty (30) days.
- (C) Tarpaulins may be used for temporary screening purposes but shall not remain in place longer than seventy-two (72) hours in any thirty (30) day period.

**Sec. 96.04 WATER POLLUTION GENERALLY.**

- (A) The City Council finds and determines that:
  - (1) The City operates and maintains a storm sewer system in the city, and the water from such storm system is discharged into the Brazos River Watershed;
  - (2) The City has been charged by the Texas Water Quality Board with the responsibility for abatement of water pollution in streams and watercourses within the jurisdiction of the City and the City finds it necessary to control such material and substances that will adversely affect the quality of effluent waters being discharged to the Brazos Watershed; and
  - (3) The City has determined that certain substances and materials are contributing pollutant to the Brazos River Watershed and other adequate means are available for the proper disposal of such materials and substances.

(B) The City Council finds that the following acts will adversely affect the quality of water in the storm drainage system and watercourses within the jurisdiction of the City, and it shall be unlawful for any person, firm, or corporation to commit any of the acts listed below:

- (1) Dumping of grass clippings, leaves, brush, or any debris to curb, gutter, storm inlet, storm drain, or watercourse is prohibited;
- (2) Allowing crankcase drainings, vehicle engine wash, or other oils, greases, or like material to drain to the storm system or watercourses;
- (3) Allowing liquid, semi-liquid, or chemical waste to be deposited in an area that will drain to the storm system or watercourses;
- (4) Allowing grease and sand traps from automotive centers, service stations, and vehicle wash operations to be connected to or to drain to the sanitary sewer, storm system, or watercourses;
- (5) Allowing effluent from vehicle wash operations of bus and truck lines operating more than two vehicles to be trapped and placed or drained to the sanitary sewer, storm system, or watercourses in violation of the City's Plumbing Code;
- (6) Allowing effluent from aircraft washing to be trapped and placed or drained to the sanitary sewer, storm system, or watercourses in violation of the City's Plumbing Code;
- (7) Allowing cooling tower, compressor, or boiler blowdown water that is not clean water to flow or drain to the storm system or watercourses;
- (8) Allowing water from nurseries to flow to streets or alleys to the extent that it causes standing water, damage to streets or alleys, or interference with the free passage of foot traffic;
- (9) Allowing animal pens from a kennel, animal hospital, parking house, poultry processing plant, or dairy to connect or drain to the sanitary sewer, storm system, or watercourses in violation of the City's Plumbing Code; and
- (10) Dumping ready-mixed concrete, mortar, and asphalt base material in or on any area that will drain to the storm system, watercourses, or streams.

**Sec. 96.05 LITTER.**

(A) It shall be unlawful for a person to place litter in a public receptacle or in an authorized private receptacle in such a manner as to allow the liter to be carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.

(B) It shall be unlawful for a person to throw or deposit, or caused to be thrown or deposited, any commercial or noncommercial handbill in or upon any sidewalk, street, or other public place.

(C) It shall be unlawful for a person to throw out, drop, or deposit, or cause to be thrown out, dropped, or deposited, from any aircraft any litter, handbill, or any other object upon any public or private property.

**Sec. 96.06 DEAD OR DISEASED BRUSH, VEGETATION AND TREES**

- (A) It shall be unlawful for a person permit dead or diseased brush, vegetation or trees to remain on a property. The City shall have the right to cause the removal of any dead or diseased brush, vegetation or tree on private property.
- (B) If a dead or diseased tree constitutes a hazard to life and/or property, or harbor insects or disease which constitute a potential threat to other trees within the jurisdiction of the City, the City may order the immediate removal of the tree or cause the tree to be removed and charge the cost of the removal to the property owner.
- (C) Compliance and notice will be in accordance with Section 96.32 and Section 96.33 of this code.

**Sec. 96.07 DEFECATING OR URINATING IN PUBLIC PLACES.**

It shall be unlawful for a person to defecate or urinate upon any street, alley, park, or any public grounds or upon any place visible from any public grounds.

**Sec. 96.08 SLEEPING IN PUBLIC PLACES.**

Except where specifically allowed by City ordinance, it shall be unlawful for a person to sleep upon public grounds. It shall be unlawful for a person to lay or sleep on any alley, street, or sidewalk.

**Sec. 96.09 LEAKING FLUIDS.**

It shall be unlawful for a person to allow any liquid, other than clean water, to be dropped, to fall, or to leak from any vehicle upon any street, alley, or other public way or upon the private property of any person without his effective consent.

**Sec. 96.10 SLAUGHTERING ANIMALS PROHIBITED.**

- (A) The slaughter or butcher of an animal or fowl must not be in public view.
- (B) To prevent odor and attraction of scavengers or pests, all waste material produced from the slaughter or butcher of an animals, fish or fowl (blood, hide, pelt, skin, feathers, entrails, scales, bones, feet, head, carcass, etc.) must be placed in sealable containers or double bagged in plastic bags of sufficient size and strength to contain the waste material.
- (C) Waste material from the slaughter or butcher of animals, fish or fowl shall not be stored in public view and shall be disposed of per City ordinance.

**Sec. 96.11 HAULING DEAD CARCASSES.**

It shall be unlawful to haul, carry, or transport any slaughtered or dead animals or meat on, along, or upon any street, alley, highway, park, or other public grounds within the jurisdiction of the City without having the same covered and protected from public view and screened from insects, germs, and dust.

**Secs. 96.12 – 96.29 RESERVED.**

**PROHIBITED CONDITIONS ON PRIVATE PREMISES**

**Sec. 96.30 CONDITIONS PROHIBITED.**

It shall be unlawful for a person, firm, or corporation owning, occupying, or having control of property within the jurisdiction of the City, whether occupied or unoccupied, to permit the following conditions on said property:

- (1) To allow graffiti that is visible from public view or any private property other than that on which the same exists;
- (2) To allow toilet facilities which are accessible to the public or employees in a business to become foul, nauseous or offensive, or neglect or fail to abate the foul, nauseous or offensive condition by cleaning, disinfecting or other proper action, as may be ordered by the City;
- (3) To allow, keep, or operate, or suffer or permit to exist, any slaughter house, butcher pen, or other place where animals, fowls, or birds are slaughtered or killed on any premises not zoned for such use;
- (4) To allow or to burn in the open air, leather, rags, or any other substance that emits an offensive, unhealthful, or annoying smell, smoke, or odor.

**Sec. 96.31 DUTY OF OWNER, OCCUPANT, AND THE LIKE.**

- (A) It is the duty of a person, firm, or corporation owning, occupying, or having control of property within the jurisdiction of the City to prevent or to remove, or cause to be removed, any of the conditions described in Sec. 96.02 through 96.30 of this chapter.
- (B) This section shall not apply to natural waterways maintained by the City.

**Sec. 96.32 COMPLIANCE.**

It shall be unlawful for any person, firm, or corporation to maintain any property within the jurisdiction of the City, in violation of Sec. 96.02 through 96.30 of this chapter. When the City is made aware of a violation of this section, the City may, simultaneously and without limitation, pursue one or more of the following remedies:

- (1) Work with the violator to resolve the matter;

- (2) Issue a citation before or after taking action or providing notice to abate the violation; or
- (3) Pursue the abatement of the violation by following the procedures set forth in this chapter.

**Sec. 96.33 ABATEMENT OF PROHIBITED CONDITIONS.**

(A) If the owner of property within the jurisdiction of the City does not comply with Sec. 96.31 of this chapter, the City may give notice to the owner in accordance with to remove the violation on the property within a fixed period of time.

(B) The notice must be given:

(1) Personally to the owner in writing;

(2) By letter, sent certified mail, return receipt requested, 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:

(a) By publication at least once;

(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.

(C) If the City mails a notice in accordance with Subsection (B)(2), 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.

(D) If the owner of property within the jurisdiction of the City does not remove the violation on the property within seven (7) days of notice of a violation, the City may abate the violation or make the improvements required and pay for the abatement and/or work and charge the expenses to the owner of the property.

**Sec. 96.34 NOTICE FOR ABATING CONTINUING VIOLATIONS.**

(A) In a notice provided under Sec. 96.33 of this chapter, the City may inform the owner by regular mail and a posting on the property, or by personal delivery of the notice, that if the owner commits another violation of this chapter of the same kind or nature on or before the first anniversary of the date of the notice, the City, without further notice, may abate the violation at the owner's expense and assess the expense against the property.

(B) If a violation covered by a notice under this section occurs within the one-year period and the City has not been informed in writing by the owner of an ownership change, then the City, without notice, may take any action permitted by Sec. 96.33(D) of this chapter and assess its expenses as provided by Sec. 96.35 of this chapter.

**Sec. 96.35 ASSESSMENT OF EXPENSES – LIEN.**

(A) The City may assess the expenses incurred under Sec. 96.33(D) against the real property on which the work is done or improvements made.

(B) The City shall first send a notice of the expenses to the owner of the property on which the work is done or improvements made. The notice must:

- (1) Identify the property on which the work was done or improvements made;
- (2) Describe the violation that existed on the property;
- (3) A statement that the City abated the violation;
- (4) A statement of the amount of the City's expenses for the work done or improvements made. Expenses shall include a nuisance abatement fee of \$100;
- (5) A statement advising the owner of the right to request a hearing on the validity of the expenses for the work done or improvements made; and
- (6) A statement that if the owner fails or refuses to pay the expenses within thirty days after the first day of the month following the month in which the work was done or the improvements were made, the City shall obtain a lien against the property by filing with the county clerk of Johnson County a notice of lien and statement of expenses.

(C) The owner of the property shall be entitled to a hearing before the city manager or his designee to review the validity of the expenses if the owner requests a hearing by filing a written request with the city manager within ten days of the owner's receipt of the notice of the expenses.

(D) If the owner of the property properly requests a hearing, the city manager or his designee shall conduct a hearing within ten days of receipt of the request. At the hearing, the city manager or his designee shall allow the owner of the property, city staff, and any other person that the city manager or his designee determines may have testimony that will assist in reviewing the validity of the expenses to testify. The city manager or his designee may affirm or modify the expenses based on the evidence presented at the hearing.

(E) If no hearing is requested, or a hearing is held and the expenses are determined to be valid after the hearing, the owner shall pay the expenses within 30 days after the first day of the month following the month in which the work was done or the improvements were made.

(F) If the owner fails or refuses to pay the expenses as required by subsection (E), the City shall have a lien on the property upon the filing of a notice of lien and statement of expenses with the county clerk of Johnson County. The lien attaches upon the filing of the notice of lien and statement of expenses with the county clerk. A notice of lien and statement of expenses must state the name of the owner, if known, and the legal description of the property. A signature on a notice of lien and statement of expenses may be a facsimile signature as defined in Section 618.002, Texas Government Code.

(G) The lien obtained by the City is security for the expenditures made and interest accruing at the annual rate of ten (10) percent on the amount due from the date of payment by the city. Expenditures shall include an administrative fee of \$100 plus nuisance abatement fee, court/record filing fees, and other actual expenses for each abatement performed on each individual lot or parcel of land. The lien is inferior only to tax liens and liens for street improvements.

(H) The governing body of the City may bring a suit for foreclosure in the name of the City to recover the expenditures and interest due. The original notice of lien and statement of expenses or a certified copy of the same is prima facie proof of the expenses incurred by the City in doing the work or making the improvements.

(I) The assessment of expenses and enforcement of a lien under this section is in addition to the City's remedy of issuing a citation or prosecuting for an offense under Sec. 96.32 of this chapter or Sec. 96.99 of this chapter.

(J) The City may foreclose a lien on property under this section in a proceeding relating to the property brought under Subchapter E, Chapter 33, Texas Tax Code, pursuant to Section 342.007, Texas Health and Safety Code.

**Sec. 96.36 ADDITIONAL AUTHORITY TO ABATE DANGEROUS WEEDS.**

(A) The City may immediately abate, without notice, weeds that:

- (1) have grown higher than 48 inches; and
- (2) are an immediate danger to the health, life, or safety of any person.

(B) Not later than the 10th day after the date the City abates weeds under this section, the City shall give notice to the owner of the property from which the weeds were abated in the manner required by Sec. 96.33 of this chapter.

(C) The notice shall contain:

- (1) an identification, which is not required to be a legal description, of the property;
- (2) a description of the violation of the ordinance that occurred on the property;
- (3) a statement that the City abated the weeds; and
- (4) an explanation of the property owner's right to request an administrative hearing about the City's abatement of the weeds.

(D) The City shall conduct an administrative hearing on the abatement of the weeds under this section if, not later than the 30<sup>th</sup> day after the date of the abatement of the weeds, the owner of the property files a written request for a hearing with the city manager.

(E) An administrative hearing conducted under this section shall be conducted by the city manager or his designee not later than the 20<sup>th</sup> day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the City's abatement of the weeds.

(F) The City may assess expenses and create liens under this section as it assesses expenses and creates liens under Sec. 96.35 of this chapter. A lien created under this section is subject to the same conditions as a lien created under Sec. 96.35 of this chapter.

(G) The authority of the City under this section is in addition to the authority granted in Sec. 96.33 of this chapter.

**Sec. 96.37 MAINTENANCE OF UNIMPROVED PROPERTY.**

- (A) With the exception of cultivated crops, trees or brush, a person, firm, or corporation owning, occupying, or controlling unimproved property shall not allow weeds or plants to grow to a height greater than eight (8) inches within fifty (50) feet of a roadway, sidewalk or an adjacent property with an improvement. Noxious weeds shall be prohibited on unimproved property.
- (B) A person, firm, or corporation owning, occupying, or controlling unimproved property shall not allow brush or shrubs to grow within ten (10) feet of a curb line, edge of a roadway or adjacent property with an improvement. Limbs on trees within the ten (10) foot barrier of an adjacent property line must be pruned to a height of eight (8) feet above the ground.
- (C) A person, firm, or corporation owning, occupying, or controlling cultivated agricultural property within the jurisdiction of the City used for growing crops must maintain the property as follows:
  - (1) crops may not be allowed to grow in an area within ten (10) feet of a curb line, edge of a roadway, sidewalk or an adjacent property under different ownership;
  - (2) when a property is not actively growing cultivated crops, all vegetation must be harvested, cut, baled, shredded or plowed to comply with subsection (A).

- (D) A person, firm, or corporation owning, occupying, or controlling cultivated agricultural property shall not:
- (1) allow vegetation between the growing crop and an adjacent property with a structure or improvement to grow to a height greater than eight (8) inches;
  - (2) allow the growing crop to interfere with visibility, access, or maintenance at any intersection of public thoroughfares within the jurisdiction of the City; or
  - (3) allow the vegetation around the perimeter of the property, which is not a part of the growing crop, to grow to a height greater than eight (8) inches.

**Secs. 96.38 – 96.44 RESERVED.**

**JUNKED VEHICLES**

**Sec. 96.45 JUNKED VEHICLES.**

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 municipalities; and
- (7) is a public nuisance.

**Sec. 96.46 AUTHORITY TO ABATE NUISANCE.**

The City, acting through the city manager or his representative, is authorized to abate and remove a junked vehicle or part of a junked vehicle from private or public property or a public right-of-way as a public nuisance in accordance with the junked vehicle regulations in this chapter.

**Sec. 96.47 RIGHT OF ENTRY.**

The city manager or his representative may enter upon private property to examine vehicles or parts thereof, obtain information as to the identity of the vehicles, and to remove or cause the removal of a vehicle or parts thereof declared to be a junked vehicle to accomplish the purposes of this ordinance.

**Sec. 96.48 MUNICIPAL COURT AUTHORITY.**

The municipal court of the City shall have authority to take all actions necessary to enforce the abatement procedures for junked vehicles and to issue all orders necessary to enforce the provisions in this chapter concerning junked vehicles. The judge of the municipal court of the City shall conduct all hearings necessary for the application and enforcement of this division.

**Sec. 96.49 NOTICE OF VIOLATION.**

(A) Prior to any action being taken to abate and remove a junked vehicle, a notice must be personally delivered, sent by certified mail with a five-day return requested, or delivered by the United States Postal Service with signature confirmation service 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:
  - (a) The property on which the nuisance is located; or
  - (b) If the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.

(B) Notice Requirements:

- (1) describe the nature of the nuisance;
- (2) state that the nuisance must be abated and removed not later than the 10th day after the date on which the notice was personally delivered or mailed;
- (3) state that the addressee is entitled to a public hearing if a request for a public hearing is made before that 10-day period expires; and
- (4) state that in the event that no request for hearing is received before the expiration of the 10-day period or that the persons entitled to notice fail to attend a requested hearing, it shall be conclusively presumed the vehicle is a junked vehicle as defined under state law and this chapter.

(C) If a person who receives a notice under this section desires a hearing, the person must file a request for hearing in writing with the municipal court not later than the 10<sup>th</sup> day after the date on which the notice was personally delivered or mailed. The request for hearing must include:

- (1) the name of the person filing the request;
- (2) a description of the nuisance; and

(3) state that a hearing is requested under this division or section.

(D) If the post office address of the last known registered owner of the nuisance is unknown, notice under this section may be placed on the nuisance or, if the owner is located, personally delivered.

(E) If the notice sent under this section 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.

**Sec. 96.50 HEARING.**

(A) If a hearing is requested under Sec. 96.49 of this chapter, a public hearing, to be conducted by the municipal court judge, shall be held in the municipal court of the City to determine whether a public nuisance exists.

(B) The hearing shall not be held prior to the 11th day after the date on which the notice under Sec. 96.44 of this chapter was personally delivered or mailed.

(C) At a hearing under this section, any interested person may present evidence. The municipal court judge shall consider all relevant evidence presented at the hearing to determine whether the alleged nuisance meets the definition of junked vehicle under this chapter.

(D) At a hearing under this section, the alleged nuisance is presumed to be inoperable, unless demonstrated otherwise by the owner or other interested person.

(E) If the municipal court finds that the alleged nuisance is not a junked vehicle, the municipal court judge shall make a written order that there is not cause for abatement at the time of the order. An order that there is not cause for abatement at the time of the order does not bar a future action for abatement of the same motor vehicle, aircraft, or watercraft as a junked vehicle.

(F) If the municipal court judge finds that the alleged nuisance is a junked vehicle, the municipal court judge shall make a written order that the motor vehicle, aircraft, watercraft, or part thereof be abated or removed in accordance with the provisions of this chapter concerning junked vehicles.

(G) If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include:

(1) for a motor vehicle, the vehicle's:

(a) description;

(b) vehicle identification number; and

(c) license plate number;

- (2) for an aircraft, the aircraft's:
  - (a) description; and
  - (b) federal aircraft identification number as described by Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; and
- (3) for a watercraft, the watercraft's:
  - (a) description; and
  - (b) identification number as set forth in the watercraft's certificate of number.

**Sec. 96.51 INAPPLICABILITY OF REGULATIONS.**

The provisions of this chapter concerning junked vehicles do not apply to a vehicle or vehicle part:

- (1) that is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
- (2) that is 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; and
  - (b) not a health hazard; and
  - (c) screened from ordinary public view by approved means, including a fence, rapidly growing trees, or shrubbery.

**Sec. 96.52 ABATEMENT OF NUISANCE.**

Upon the expiration of the ten (10) day notice period without a request for hearing being filed or upon receipt of a written order from the municipal court after a hearing required by Sec. 96.50 of this chapter, the city manager or his representative may cause the junked vehicle or part of the junked vehicle to be abated by removal and disposal as provided for in Sec. 96.54 of this chapter by any authorized person.

**Sec. 96.53 RELOCATION OF JUNKED VEHICLES.**

The relocation of the junked vehicle or part of a junked vehicle that is a public nuisance to another location within the jurisdiction of the City, after a proceeding for the abatement and

removal of the public nuisance has commenced, has no effect on the proceeding if the junked vehicle or part of a junked vehicle constitutes a public nuisance at the new location.

**Sec. 96.54 JUNKED VEHICLE DISPOSAL.**

A junked vehicle removed by the City pursuant to this division shall be removed to a scrapyard, a motor vehicle demolisher, or a suitable site operated by a municipality or county.

**Sec. 96.55 JUNKED VEHICLES NOT TO BE MADE OPERABLE AFTER REMOVAL.**

After any junked vehicle has been removed under the authority in Sec. 96.52 of this chapter, it shall not be reconstructed or made operable again.

**Sec. 96.56 NOTICE TO DEPARTMENT OF TRANSPORTATION.**

Not later than the fifth day after the date of removal of a junked vehicle pursuant to this chapter, notice identifying the junked vehicle or part of the junked vehicle removed must be given to the state department of transportation.

**Sec. 96.57 RIGHT OF REMOVAL FROM STREETS PRESERVED.**

Nothing in this chapter shall affect a law authorizing the immediate removal of a vehicle left on public property that is an obstruction of traffic.

**Sec. 96.58 OFFENSE.**

(A) A person commits an offense if the person maintains a public nuisance described by Sec. 96.45 of this chapter. Each day that a person maintains the public nuisance shall be a separate offense.

(B) An offense under this section is a Class C misdemeanor punishable by a fine as set forth in Sec. 10.99 of this code.

(C) The court shall order abatement and removal of the nuisance upon conviction for an offense under this section.

**Secs. 96.59 – 96.64 RESERVED.**

**RESIDENTIAL PROPERTY STANDARDS**

**Sec. 96.65 OUTSIDE STORAGE PROHIBITED.**

(A) It shall be unlawful for a person to openly store any item prohibited in subsection (B) in an area within the front yard or side yard that is visible a public right-of-way or public

easement for more than 24 hours on any property within a residentially zoned district or on property used primarily for residential purposes, including multifamily property.

- (B) Open visible storage of the following items is prohibited:
- (1) Merchandise for sale;
  - (2) Building materials;
  - (3) Trash bags;
  - (4) Inventory or supplies for a business;
  - (5) Chemicals and supplies;
  - (6) Firewood;
  - (7) Furniture, barbeque grills, smokers, ice chests, and pet kennels;
  - (8) Appliances and other items not designed or intended for outdoor use;
  - (9) Lawnmowers and other lawn care equipment;
  - (10) Tools;
  - (11) Boxes, bins, barrels, and buckets;
  - (12) Motor vehicle parts and accessories; including, but not limited to, engines, transmissions, electrical equipment, suspension parts, tires, hubcaps, and other motor vehicle parts; and
  - (13) Unattended motor vehicles stored on jack stands or otherwise lifted from the ground or surface.
- (C) With the exception of firewood for personal use and activities identified in Section 96.67, outdoor storage of degradable material is prohibited.
- (D) Outdoor storage of firewood and non-degradable material is permitted if the material is not visible from a public right-of-way or public easement and materials are arranged into storage piles that do not create a health, safety, fire, egress or access hazard and the storage piles are:
- (1) six (6) feet or less in width;
  - (2) six (6) feet or less in height;
  - (3) twenty-five (25) feet or less in length;
  - (4) three (3) or more feet from any fence or adjoining property line;
  - (5) three (3) or more feet from an adjacent storage pile;
  - (6) three (3) or more feet from a shrub, bush, brush or the base of a tree; and
  - (7) three (3) or more feet from structures.
- (E) Outdoor storage of material does not include outdoor furniture, fixtures or recreational items.

- (F) Areas around and under outdoor storage of material shall be kept free and clear of accumulation of grass, weeds, brush or other uncultivated vegetation.

**Sec. 96.66 PRECLUSION.**

Nothing in Sec. 96.65 of this chapter shall preclude the City from enforcing any nuisance, health and safety, or fire code violations that are screened from public view or exist anywhere on a property.

**Sec. 96.67 AFFIRMATIVE DEFENSES TO PROSECUTION.**

It is an affirmative defense to prosecution for a violation of Sec. 96.65 of this chapter for items or materials which:

- (1) are stored to conduct a properly permitted garage sale;
- (2) are necessary for properly permitted construction or demolition work performed on the property. Materials stored for work not requiring a building permit shall be stored no longer than ten consecutive days within any six-month period;
- (3) are routinely used, are not damaged or inoperable and are not visible from a public right-of-way or public easement;
- (4) are a barbecue grill or smoker and is actively being used or is mounted to an attached trailer which is licensed and is capable of being operated on a public roadway. A smoker or grill on a trailer shall be stored on an improved surface.

**Secs. 96.68—96.74 RESERVED.**

**NUISANCE PERSONAL PROPERTY**

**Sec. 96.75 CERTAIN PERSONAL PROPERTY DECLARED A NUISANCE.**

(A) Any personal property left unattended in or upon any public street, alley, sidewalk, park, or other public property within the jurisdiction of the City for more than forty-eight (48) hours is hereby declared a nuisance.

(B) Any personal property or obstruction placed, left standing, erected, or lying in violation of any ordinance of the City is hereby declared a nuisance.

(C) Any personal property or obstruction placed, left standing, erected, or lying on private property without consent of the owner, occupant, or person otherwise in control of the premises on which the same is located is hereby declared to be a nuisance.

**Sec. 96.76 NOTICE AND ABATEMENT OF NUISANCE PERSONAL PROPERTY ON PRIVATE PROPERTY.**

(A) When personal property is discovered on private property in violation of subsections (B) or (C) of Sec. 96.75 of this chapter, the code enforcement officer shall give notice

of the nuisance by mailing notice of the violation to the record owner of the property where the nuisance is located at the address recorded in the appraisal district records for the Appraisal District in which the property is located.

(B) The notice under subsection (A) shall:

(1) describe the nuisance;

(2) advise that if the nuisance is not removed within forty-eight (48) hours of the delivery of the notice the City will abate the nuisance; and

(3) advise that the notice is considered delivered three days after the date the notice was mailed.

(C) A notice under this section is considered delivered three days after the notice is placed in the United States Mail addressed as required by subsection (B).

(D) If a nuisance remains on private property forty-eight (48) hours after the notice under this section is delivered, the City shall have authority to enter the private property where the nuisance is located and abate the nuisance.

(E) Upon abatement of the nuisance, the nuisance personal property shall be disposed of by delivering the personal property to the City's Waste Management Department or to an entity with which the City contracts for waste management services.

**Sec. 96.77 NOTICE AND ABATEMENT OF NUISANCE PERSONAL PROPERTY ON PUBLIC PROPERTY.**

(A) When personal property is discovered on public property in violation of subsection (A) of Sec. 96.75 of this chapter, the code enforcement officer shall give notice of the nuisance by posting notice of the violation on the nuisance personal property or by posting the notice of the violation on a stake in a place as close as practicable to the nuisance personal property.

(B) The notice under subsection (A) shall:

(1) describe the nuisance;

(2) state the date the notice was posted; and

(3) advise that if the nuisance is not removed within forty-eight (48) hours of the date the notice is posted the City will abate the nuisance.

(C) If nuisance personal property remains on public property forty-eight (48) hours after the notice under this section is posted, the City shall have authority to abate the nuisance.

(D) Upon abatement of the nuisance, the nuisance personal property shall be disposed of by delivering the personal property to the City's Waste Management Department or to an entity with which the City contracts for waste management services.

**Sec. 96.78 EXCEPTIONS.**

These regulations concerning nuisance personal property shall not apply to:

- (1) motor vehicles;
- (2) property that the possession, use, sale manufacture, transportation, repair, or delivery of which is prohibited by law;
- (3) property which is regulated by the Cleburne Police Department; or
- (4) weapons, as defined in the Texas Penal Code.

**Secs. 96.79—96.98 RESERVED.**

**Sec. 96.99 PENALTY.**

It is an offense for a person, firm, or corporation to violate, disobey, omit, neglect, refuse to comply with, or resist the enforcement of any of the provisions of this chapter. Each day that a violation is permitted to exist shall constitute a separate offense. An offense under this section is a Class C misdemeanor. Any offense for which no other penalty is set forth in this chapter shall be subject to the penalty set forth in Sec. 10.99 of this code.”

**CHAPTER 99: STREETS AND SIDEWALKS**

**GENERAL PROVISIONS**

**Sec. 99.05 PROPERTY OWNERS TO MAINTAIN SIDEWALKS.**

It shall be the duty and obligation of all owners, occupants and users of real property abutting upon streets within the jurisdiction of the City, at their own cost and expense, to maintain and keep the sidewalks (and paving laid thereon) bordering their property at curb grade and level and free of depressions, excavations, elevations, inequalities, obstacles, obstructions, or encroachments, natural or artificial, above or below ground-level, or which overlap, impinge, upon or appropriate any part of the sidewalk area or the space eight feet above it; and to allow no oils, grease, ice, snow, or water to collect or remain thereon; and generally and in every manner, to keep such sidewalks in a safe and adequate condition, free from defects, so that they are easily accessible to and may be free and safely used by the public for travel by foot.

**Sec. 99.06 OBSTRUCTIONS PROHIBITED.**

(A) It shall be unlawful for any person, firm, company, or corporation to obstruct or cause to be obstructed any street, avenue, alley, or sidewalk within the jurisdiction of the City with vehicles, boxes, lumber, timber, firewood, brush, posts, awnings, signs, or other substances or materials, in any manner whatsoever.

(B) Upon finding an obstruction prohibited by this section, a police officer, code enforcement officer, or other employee of the City may remove the obstruction or cause the obstruction to be removed from the street, avenue, alley, or sidewalk and dispose of the obstruction.

**Sec. 99.07 OBSTRUCTION BY TREES, HEDGES, OR SHRUBS.**

- (A) Any condition maintained in violation of this section is hereby deemed a public nuisance, and, in addition to any other remedy or enforcement option available under the law, the City may pursue the abatement of the condition as provided under Chapter 96 of this code.
- (B) It shall be unlawful for any person, firm, company, or corporation to allow a tree, tree limb, or tree branch to be lower than fourteen (14) feet above the surface of any street, avenue, or alley within the jurisdiction of the City.
- (C) It shall be unlawful for any person, firm, company, or corporation to allow a tree, tree limb, or tree branch to be lower than eight (8) feet above the surface of any sidewalk within the jurisdiction of the City.
- (D) Property owners shall maintain a driver's line of sight zone parallel to the roadway for a horizontal distance of fifteen (15) feet from the edge of the roadway and a vertical clearance that extends from three (3) feet above the surface of the roadway to eight (8) feet above the curb line. Trees growing in the driver's line of sight zone shall be at least ten (10) feet from other trees in the driver's line of sight zone.
- (E) Property owners shall maintain a driver's line of sight zone at all corners of street-to-street intersections. The driver's line of sight zone shall be in the shape of a horizontal triangle created by measuring 25 feet from the intersection in perpendicular directions along the curb line or edge of the roadway. The driver's line of sight zone shall have a vertical clearance that extends from three (3) feet above the surface of the roadway to eight (8) feet above the curb line.

**Sec. 99.08 DISPLAY OF GOODS, WARES, AND MERCHANDISE ON SIDEWALKS.**

It shall be unlawful for any merchant, trader, broker, or other person to use more than one-third ( $\frac{1}{3}$ ) of any sidewalk within the jurisdiction of the City for the display of goods, wares, or merchandise, provided such merchant, trader, broker, or other person shall remove all merchandise from such sidewalk each night.

**Sec. 99.09 AWNINGS OVER SIDEWALKS.**

- (A) It shall be unlawful for any person, firm, company, or corporation to suspend or put up any awning within the jurisdiction of the City:
  - (1) less than 7 feet above any sidewalk; or
  - (2) within 18 inches of the any curb line.

(B) It shall be unlawful for any person, firm, company, or corporation to hang any sign on an awning that hangs below the lowest fixed portion of the awning.

**Secs. 99.11—99.19 RESERVED.”**

**Sec. 99.99 PENALTY.**

It is an offense for a person, firm, company, or corporation to violate, disobey, omit, neglect, or refuse to comply with or resist the enforcement of any of the provisions of this chapter. Each day that a violation is permitted to exist shall constitute a separate offense. An offense under this section is a Class C misdemeanor. Any offense for which no other penalty is set forth in this chapter shall be subject to the penalty set forth in §10.99 of this code.