

ORDINANCE NO. 34 A

JUNK VEHICLES AND LITTER ABATEMENT

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

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

That the following rules and regulations shall apply to all persons, firms or corporations accumulating and storing abandoned, wrecked or junked vehicles, household appliances and other debris, litter, refuse, garbage, rubbish, or rubble that creates a safety hazard to the health, safety, welfare and general well-being of the citizens of Hillcrest Village, Texas

**SECTION I**

It shall be unlawful to park, store, leave, or accumulate or to permit the parking, storing, leaving, or accumulating of any licensed or unlicensed motor vehicle of any kind, or part thereof, which is in a rusted, wrecked, junked, partially dismantled, inoperative, or abandoned condition, whether attended or not, upon any public or private property within the city limits of the City of Hillcrest Village, Texas for a period of time in excess of thirty (30) days, unless such vehicle or parts thereof are completely enclosed within a building or are stored in connection with a regularly used car lot or junkyard area lawfully established in the city.

## SECTION II

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

## SECTION III

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

## SECTION IV - DEFINITIONS

1. **Junk vehicle** – means a motor vehicle or motor driven vehicle as defined in Section 1, Chapter 42, General Laws, Acts of the 41<sup>st</sup> Legislature, 2<sup>nd</sup> called Session 1929 (Article 6701 d – 11. Vernon's Texas Civil Statutes).
  - (a) is inoperative, does not have lawfully affixed to it both an unexpired license plate and a valid motor vehicle safety inspection certificate, and that is wrecked, dismantled, partially dismantled or discarded, or
  - (b) remains inoperable for a continuous period of more than 120 days.

2. **Demolisher** – means 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.
3. **Garage-keeper** – means 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.
4. **Motor Vehicle** – means a motor vehicle subject to registration under the Certificate of Title Act (Article 6687 – 1, Vernon’s Texas Civil Statutes), except that for the purpose of Sections 5.02 and 5.04 of this Act, “Motor Vehicle” includes motorboat, outboard motor, or vessel subject to registration under Chapter 31, Texas Park and Wildlife Code.
5. **Antique Auto** – means a passenger car or truck that was manufactured in 1925 or before or a passenger car or truck that is at least 35 years old.
6. **Special Interest Vehicle** – means a motor vehicle of any age that has not been altered or modified from original manufacturer’s specifications.
7. **Collector** – means the owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve, and maintain an antique or special interest vehicle for historic interest.
8. **Litter** – a disorderly accumulation of objects, carelessly discarded refuse, such as wastepaper, animal carcasses, discarded used bedding and furniture and rubble.
9. **Refuse** – is solid waste that includes garbage and rubbish. Refuse is improperly stored if all refuse from the premises is not stored in approved containers.
10. **Garbage** – is all putrescible waste, except body waste, including meat, vegetable, and fruit refuse and carcasses of small animals.
11. **Rubbish** – is mostly non-putrescible wastes including debris, tin cans, bottles, papers, grass and weed cuttings, paper boxes, short and light wood or building material, and tree limbs not exceeding three feet and a weight not to exceed fifty (50) pounds.
12. **Rubble** – is solid waste larger and heavier than rubbish. It is too large and/or too much to be stored in a standard refuse container. Rubble consists of old refrigerators, old furniture, tin, glass and other sharp objects, water heaters, old tires, metal, brushwood, large cardboard boxes, heavy yard trimmings, bed springs, old lumber or masonry materials larger, longer and/or heavier than rubbish (more than three (3) feet and heavier than fifty (50) pounds).

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

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

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

## **SECTION V – PENALTIES CHAPTER 341**

### **SUBCHAPTER F. PENALTIES**

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

- (a) A person commits an offense if the person violates this chapter or a rule adopted under this chapter. An offense under this section is a misdemeanor punishable by a fine of not less than \$10.00 or more than \$200.00.
- (b) If it is shown on the trial of the defendant that the defendant has been convicted of an offense under this chapter within a year before the date on which the offense being tried occurred, the defendant shall be punished by a fine of not less than \$10.00 or more than \$1,000.00, confinement in jail for not more than 30 days, or both.
- (c) Each day of a continuing violation is a separate offense.

### 341.092 Civil Penalty

- (a) A person may not cause, suffer, allow, or permit a violation of this chapter or a rule adopted under this chapter.
- (b) A person who violates this chapter or a rule adopted under this chapter shall be assessed a civil penalty of not less than \$10.00 or more than \$200.00 for

each violation and for each day of a continuing violation.

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

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

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

## **SECTION VI – CHAPTER 342**

### **CHAPTER 342. LOCAL REGULATION OF SANITATION**

#### **SUBCHAPTER A. MUNICIPAL REGULATION OF SANITATION**

##### **342.001 Municipal Power Concerning Stagnant Water and Other Unsanitary Conditions.**

(a) The governing body of a municipality may require the filling, draining, and regulating of any place in the municipality that is unwholesome, contains stagnant water, or is in any other condition that may produce disease.

(b) The governing body of a municipality may require the inspection of all premises.

(c) The governing body of a municipality may impose fines on the owner of the premises on which the stagnant water is found.

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

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

##### **342.004 Municipal Power Concerning Weeds and Other Unsanitary Matter**

The governing body of a municipality may require the owner of a lot in the municipality to

keep the lot free from weeds, rubbish, brush, and other objectionable, unsightly, or unsanitary matter.

#### 342.005 Violation of Ordinance

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

### **SECTION VII – NOTICE REQUIREMENTS**

#### 342.006 Work on Improvements by Municipality Notice

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

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

(b) The notice must be given:

1. Personally to the owner in writing;
2. By letter addressed to the owner at the post office address; or
3. If personal service cannot be obtained or the owner's post office address is unknown:
  - (A) by publication at least twice within 10 consecutive days;
  - (B) by posting the notice on or near the front door of each building on the property to which the violation relates; or
  - (C) by posting the notice on a placard attached to a stake driven into the ground on the property to which the violations relate, if the property contains no buildings.

#### 342.007 Assessment of Expenses; Lien

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

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

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

(d) The lien is inferior only to:

1. Tax liens; and
2. Liens for street improvements

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

(f) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the municipality in doing the work or making improvements.

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

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

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

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

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

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

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

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

Chapter 217.022 Nuisance

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

**SECTION VIII – SAVINGS CLAUSE**

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

**SECTION IX – EFFECTIVE DATE**

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

PASSED, APPROVED and ADOPTED this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

CITY OF HILLCREST VILLAGE, TEXAS

\_\_\_\_\_  
Jim Hawkins

\_\_\_\_\_  
Terrell Franzen

\_\_\_\_\_  
Claron Salter

\_\_\_\_\_  
Ken Kuykendall

\_\_\_\_\_  
Debbie Meyer

\_\_\_\_\_  
C W Vowell, Mayor

ATTEST:

\_\_\_\_\_  
Stacy Zills, City Secretary

Vernon Civil Statutes 4477-9a Texas Litter Abatement Act

Article V

Abandoned Motor Vehicle

Junk Vehicle

Motor Vehicle

Definitions

Section 5.01.(2)      **“Abandoned motor vehicle”** means a motor vehicle that is inoperable and more than five years old and left unattended on public property for more than 48 hours, or a motor vehicle that has remained illegally on public property for a period of more than 48 hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than 48 hours, or a motor vehicle left unattended on the right-of-way of a designated county, state, or federal highway within this state for more than 48 hours or for more than 12 hours on a turnpike project constructed and maintained by the Texas Turnpike Authority.

Section 5.01.(5)      **“Junked vehicle”** means a motor vehicle as defined in Section 1, Chapter 42, General Laws, Acts of the 41<sup>st</sup> Legislature, 2<sup>nd</sup> called Session 1929 (Article 6701 d – 11. Vernon’s Texas Civil Statutes).

(A)                    That is inoperative; and

(B)                    That does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle safety inspection certificate; that is wrecked, dismantled, partially dismantled, or discarded; or that remains inoperable for a continuous period of more than 45 days.

Section 5.01.(7)      **“Motor vehicle”** means a motor vehicle subject to registration under the Certificate of Title Act (Article 6687–1, Vernon’s Texas Civil Statutes), except that for the purpose of Sections 5.02, 5.03, and 5.04 of this Act, “motor vehicle” includes motorboat, outboard motor, or vessel subject to registration under Chapter 31, Texas Park and Wildlife Code.