

ORDINANCE NO. 2014-04

AMENDMENT OF ORDINANCE NO. 2009-08 “AN ORDINANCE PROHIBITING THE EXCESSIVE GROWTH OF WEEDS, GRASS AND BRUSH ON PROPERTIES LOCATED WITHIN THE CITY, PROHIBITING THE ACCUMULATION OF RUBBISH ON A PROPERTY LOCATED WITHIN THE CITY, DECLARING SUCH CONDITIONS A PUBLIC NUISANCE, MAKING VIOLATION OF THE ORDINANCE AN OFFENSE (CLASS “C” MISDEMEANOR) PUNISHABLE BY A FINE NOT TO EXCEED \$500.00, AND/OR PROVIDING FOR ABATEMENT, ASSESSMENTS OF COSTS OF ABATEMENT AND THE CREATION OF A LIEN ON THE PROPERTY FOR SUCH COSTS” TO AMEND THE STANDARDS FOR WEEDS, GRASS, AND BRUSH WITH REGARD TO VACANT AND AGRICULTURAL PROPERTIES

WHEREAS, the unrestricted growth of weeds, grass, or brush, and the unrestricted accumulation of rubbish and trash upon premises located within the City poses a health hazard to the citizens of the City of Riesel and is injurious to the public by creating a habitat promoting the infestation of rodents, insects, and other pests, and creating a fire hazard; and

WHEREAS, a municipal regulation to address this problem is in the best interest of the health, safety and welfare of the citizens of the City of Riesel; and

WHEREAS, the City Council of the City of Riesel is empowered by Chapter 342 of the Health and Safety Code, *Vernon's Texas Codes Annotated*, to enact ordinances to address this problem; and

WHEREAS, the City Council enacted Ordinance # 99 on July 3, 1999, to address this problem and subsequently passed an amended ordinance # 2009-08; and

WHEREAS, the City Council now finds it prudent and in the best interest of the City to amend Ordinance No. 2009-08 to address areas that continue to create concerns to public health, safety and welfare, and the use and enjoyment of property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIESEL, TEXAS:

PART 1: The recitals set out above are made findings herein.

PART 2: Section II of Ordinance No. 2009-08 is amended to read as follows:

II.
STANDARDS: WEEDS

- 2.01 On vacant platted lots, either single or grouped, within the developed areas of the City, and on lots or tracts within the developed areas of the City that do not qualify as undeveloped vacant properties (vacant properties an acre or more in size), any growth of weeds or grass may not exceed a height of eighteen inches (18"). Such property must also be cleared of any brush.
- 2.02 On undeveloped vacant properties (lots/tracts in excess of an acre) in areas of the City which have not been fully developed, any growth of weeds or grass may not exceed a height of thirty-six inches (36") except as provided in subsection 2.08 below for agricultural property. However, weeds and grass must not exceed eighteen inches (18") within 20 feet of the property's boundary with an adjacent property owned by another and within 20 feet of the edge of any municipal street. Such property must also be cleared of any brush that is within 50 feet of the property's boundary with an adjacent property owned by another and within 25 feet of the edge of a municipal street.
- 2.03 On a lot or tract that has a residential structure upon it, any growth of weeds and grass may not exceed eighteen inches (18"). All brush must be cleared from such property.
- 2.04 Any right-of-way adjoining private property within the City must be maintained by the owner, occupant, lessee, or person in control of such adjoining private property. Any growth of weeds and grass may not exceed eighteen inches (18") in height and all brush must be cleared from such right-of-way.
- 2.05 It shall be an affirmative defense to any violation of 2.04 that the adjoining right-of-way had not been used by and is unusable by the owner, occupant, lessee, or person in control of the adjoining private property.
- 2.07 The term "*brush*" as used in this article shall mean undergrowth or wild growing plants and bushes that are not well maintained by the property owner or occupant and shall further include the cuttings or trimmings from trees, shrubs, or lawns and similar materials.
- 2.08 Agricultural property is land granted an agricultural exemption for property taxes. There is no height limit on weeds and grass on the interior of an agricultural property. However, perimeter requirements are hereby imposed along the boundary of the agricultural property with any lot or tract owned by another having a residential structure, church, or school upon it. Perimeter requirements are also hereby imposed along municipal streets. Along property boundaries of an agricultural property with any lot or tract owned by another having a residential structure, church, or school upon it, weeds and grass on an agricultural property may not exceed eighteen inches (18") within 20 feet of the boundary

line. Along municipal streets, weeds and grass on an agricultural property may not exceed eighteen inches (18") within 20 feet of the edge of the street. In addition, an agricultural property must be cleared of brush within 50 feet of the boundary line with any lot or tract owned by another having a residential structure, church, or school upon it and within 25 feet the edge of any municipal street.

The requirements of this subsection 2.08 do not apply to a property annexed into the city after 1980 if an agricultural operation as defined by the Texas Agriculture Code was operating on the property at the time of the annexation and continues to be an agricultural operation

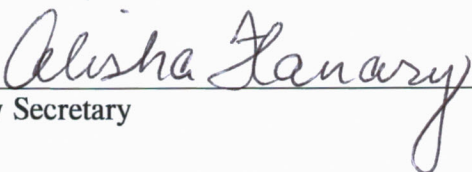
PART 3: The amendment made by this Ordinance to Ordinance No. 2009-08 shall be effective from and after its passage and publication as provided by law, and IT IS ACCORDINGLY SO ORDAINED.

PASSED AND APPROVED this the 11th day of November, 2014.



Mayor

ATTEST:



City Secretary



ORDINANCE NO. 2009-08

FIRST AMENDMENT OF AN ORDINANCE PROHIBITING THE EXCESSIVE GROWTH OF WEEDS, GRASS AND BRUSH ON PROPERTIES LOCATED WITHIN THE CITY, PROHIBITING THE ACCUMULATION OF RUBBISH ON A PROPERTY LOCATED WITHIN THE CITY, DECLARING SUCH CONDITIONS A PUBLIC NUISANCE, MAKING VIOLATION OF THE ORDINANCE AN OFFENSE (CLASS "C" MISDEMEANOR) PUNISHABLE BY A FINE NOT TO EXCEED \$500.00, AND/OR PROVIDING FOR ABATEMENT, ASSESSMENTS OF COSTS OF ABATEMENT AND THE CREATION OF A LIEN ON THE PROPERTY FOR SUCH COSTS

WHEREAS, the unrestricted growth of weeds, grass, or brush, and the unrestricted accumulation of rubbish and trash upon premises located within the City poses a health hazard to the citizens of the City of Riesel and is injurious to the public by creating a habitat promoting the infestation of rodents, insects, and other pests, and creating a fire hazard; and

WHEREAS, a municipal regulation to address this problem is in the best interest of the health, safety and welfare of the citizens of the City of Riesel; and

WHEREAS, the City Council of the City of Riesel is empowered by Chapter 342 of the Health and Safety Code, *Vernon's Texas Codes Annotated*, to enact ordinances to address this problem; and

WHEREAS, the City Council enacted Ordinance # 99 on July 3rd 1999, to address this problem; and

WHEREAS, the City Council now finds it prudent and in the best interest of the City to amend that Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIESEL, TEXAS:

I.

DECLARATION OF NUISANCE

- 1.01 No owner, lessee or occupant, or any person in charge of any premises located within the City, shall allow weeds, grass, or brush to grow or accumulate on the premises in excess of the standards provided in this Ordinance.
- 1.02 No owner, lessee or occupant, or any person in charge of any premises located within the City, shall allow the accumulation of rubbish on the premises in violation of the standards provided in this Ordinance.
- 1.03 A condition on a property which is in violation of the standards of this Ordinance is declared a public nuisance.

II.

STANDARDS: WEEDS

- 2.01 On platted lots, either single or grouped, within the developed residential or commercial areas of the City, and on lots or tracts that do not qualify as undeveloped vacant properties (vacant lots without a structure on them), any growth of weeds or grass may not exceed a height of twelve inches (12"). Such property must also be cleared of any brush.
- 2.02 On undeveloped vacant properties of more than an acre in size in areas of the City which have not been fully developed, any growth of weeds or grass may not exceed a height of eighteen inches (18"). Undeveloped vacant properties of less than one acre will be governed by the same standards as set forth in 2.01 above. Any properties located within the city limits that are appraised and taxed as agricultural property are exempt from this section.
- 2.03 On residential and or commercial properties which have significant vegetation other than weeds or grass and which will not create a nuisance if left in their natural state, any growth of weeds or grass may be left in a natural state.
- 2.04 On a lot or property that has a residential or commercial structure (other than farm structures) upon it, any growth of weeds and grass may not exceed twelve inches (12"). All brush piles must be cleared from such property within a reasonable amount of time to be communicated in writing by the City, said time being based on the size of the undertaking being required and extenuating circumstances that may exist. The amount of time given shall not be less than 10 days or more than 30 days, unless a burn ban is in effect for the City as addressed in the City's Outdoor Burning Ordinance, in which case the period may be extended to a date not less than 10 days or more than 30 days after the burn ban has been lifted. The extension of time during a burn ban does NOT apply to a brush pile located

within 50 feet of a building or structure, as burning within such proximity to a building or structure is not allowed under the City's Outdoor Burning Ordinance in the first instance.

- 2.05 Any right-of-way adjoining private property within the City must be maintained by the owner, occupant, lessee, or person in control of such adjoining private property. Any growth of weeds and grass may not exceed twelve inches (12") in height and all brush piles must be cleared from such right-of-way.
- 2.06 It shall be an affirmative defense to any violation of 2.05 that the adjoining right-of-way had not been used by and is unusable by the owner, occupant, lessee, or person in control of the adjoining private property.
- 2.07 The term "*Brush*" as used in this article shall mean undergrowth or wild growing plants and bushes that are not well maintained by the property owner or occupant and shall further include the cuttings or trimmings from trees, shrubs, or lawns and similar materials. "Brush Piles" refers to brush that has been cut and/ or cleared, but is piled-up on the property instead of being properly disposed.

III.

STANDARDS: RUBBISH

- 3.01 Accumulation of rubbish shall not be created or allowed to exist upon a premises located within the City, except for temporary accumulations generated at the premises and accumulated for the purpose of removal from the premises and lawful disposal thereof. The temporary period of time allowed that such accumulation of rubbish may be maintained pending disposal shall be twenty (20) days. However, where an accumulation of rubbish is of a nature or to an extent which is reasonably calculated to create an immediate fire hazard or significant risk of immediate injury to the health of the citizens of the City, such temporary period of lawful accumulation for purposes of removal and disposal shall not exceed five (5) days.
- 3.02 The term "*rubbish*" as used in this article shall mean garbage and other waste materials and refuse, including decayable and non-decayable waste and any other impure, unwholesome, unsanitary, or unsightly matter. The term shall include all worn out, worthless and discarded material, including unusable lumber, old iron or other metal, glass, or similar junked or discarded materials, including discarded appliances, furniture, tires or automobile parts.

IV.

VIOLATION AN OFFENSE/PENALTY

- 4.01 In accordance with the authority granted by Section 342.005 of the Health & Safety Code, violation of Section II and/or III of this Ordinance is hereby made an offense (Class "C" Misdemeanor) punishable by a fine not to exceed \$500.00.
- 4.02 Except in situations where abatement is necessary to protect against an immediate threat to public health and safety, the owner, lessee, occupant, or other person in charge of the property shall generally be issued a citation for a first offense, without resort to the abatement procedures discussed below. If the person fails to abate the condition on the property within 10 days after receiving a citation, a notice of violation may be issued, and the abatement procedure may be initiated and carried out as set forth in Section V below.
- 4.03 Each day of violation constitutes a separate offense.

V.

NOTICE AND ABATEMENT

- 5.01 If the owner, lessee, or occupant, or any other person in charge of the premises located within the City, does not comply with this Ordinance within ten (10) days of notice of a violation of this Ordinance, the City of Riesel may:
- (1) do the work or make the improvements required to bring the premises into compliance; and/or
 - (2) pay for the work done or improvements made and charge the expenses to the owner of the premises.
- 5.02 The notice of the violation referred to in §5.01 above must be given at least ten (10) days prior to the City taking action to bring the premises into compliance with this Ordinance. Any such notice must be given:
- (1) personally to the owner in writing; Delivered by a Police Officer
 - (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 post office address is unknown:
 - (A) by publication at least once;

- (B) by posting the notice on or near the front door of each building on the premises 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, if the property contains no buildings.

If a notice is returned by the United States Postal Service as “refused” or “unclaimed,” the notice shall be considered valid and delivered.

- 5.03 The notice must state the nature of the violation and notify the owner that unless the owner brings the premises into compliance with the Ordinance within ten (10) days, the City, or its designee, may enter onto the premises and undertake such needed work--charging the expense to the property owner. Said notice will also inform the owner of the fact that a lien will be imposed on the property for payment of all such expenses.

If the City Council so desires, the City, in the notice of violation, may inform the owner by regular mail and posting on the property, 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 date of the notice, the City, without further notice, may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by such a notice 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 in this Article V, and assess its expenses as provided in §5.04 below.

- 5.04 The expenses of remedial work undertaken by the City or paid for by the City shall be assessed against the property owner at a regular or special called City Council meeting. To obtain a lien against the property, the Mayor or the person designated by the Mayor, will file a statement of expenses with the County Clerk of McLennan County, Texas. The statement to be filed must include the name of the owner, if known, and the legal description of the property. Pursuant to §342.007, Health and Safety Code, the lien attaches when filed.
- 5.05 The lien will serve as security for the payment of the expenditures made by the City, and interest accruing at the rate of ten percent (10%) on the amount due from the date of payment or incurrence by the City. This lien is inferior only to:
- (1) tax liens; and
 - (2) liens for street improvements.
- 5.06 Pursuant to §342.007(e) of the Health and Safety Code, the City Council may bring suit for foreclosure of the lien in the name of the City to recover the expenditures and interest due. According to subsection (f) of that same section of the Health and Safety Code, a statement

of expenses or a certified copy of the statement of expenses is prima facie proof of the expenses incurred by the City in doing work or making the improvements.

VI.

DANGEROUS WEEDS: ABATEMENT WITHOUT NOTICE

- 6.01 The City may abate, without notice, weeds that:
- (1) have grown higher than forty-eight inches (48"); and
 - (2) are an immediate danger to the health, life, or safety of any person.
- 6.02 Not later than the tenth (10th) day after the date that the City abates the weeds under this provision, the City shall give notice to the property owner in the manner required by §5.02 above. The notice shall contain:
- (1) an identification, which is not required to be a legal description, of the property;
 - (2) a description of the violations of the Ordinance that occurred on the property; (example: photos)
 - (3) a statement that the municipality abated the weeds; and
 - (4) an explanation of the property owner's right to request an administrative hearing about the municipality's abatement of the weeds.
- 6.03 If the property owner files a written request for a hearing within thirty (30) days after the date of the abatement of the weeds, the City shall conduct an administrative hearing on the subject of the abatement of the weeds. Such administrative hearing shall be conducted not later than the twentieth (20th) day after the date a request for hearing is filed. The owner may testify or present any witnesses or written information relating to the municipality's abatement of the weeds.
- 6.04 The City may assess expenses and create liens under this Article in the same manner as it assesses expenses and creates liens under Article V of this Ordinance. The lien created under this Article is subject to the same conditions as the lien created under Article V of this Ordinance.

VII.

CONFLICTING ORDINANCES REPEALED

- 7.01 This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Riesel providing for the condemnation of substandard buildings or structures, and providing for the evacuation, repair, and/or demolition of substandard buildings, and shall not operate to repeal or affect any such ordinance or ordinances except insofar as the provisions of such ordinances are inconsistent or in conflict with the provisions of this Ordinance, in which instance or instances such conflicting provisions in said other ordinance or ordinances shall be and are hereby repealed. All other ordinances in conflict with the Ordinance are repealed.

VIII.

SEVERABILITY CLAUSE

- 8.01 If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unlawful, such decision shall not affect the validity of the remaining portions of this Ordinance, and all the remainder of this Ordinance not so declared to be invalid shall continue to be in full force and effect. The City Council of the City of Riesel, Texas, hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

This Ordinance shall be effective from and after its passage and publication as provided by law, and IT IS ACCORDINGLY SO ORDAINED.

PASSED AND APPROVED this the 11th day of August, 2009.



Dave Ross - Mayor

ATTEST:



Beth Nolan - City Secretary