

ORDINANCE NO. 7050 - A

AN ORDINANCE FOR THE PROTECTION OF THE GENERAL PUBLIC BY PROHIBITING PUBLIC NUISANCES WITHIN THE CITY LIMITS; PROVIDING PERTINENT DEFINITIONS; PROVIDING PROCEDURES FOR THE CITY TO ABATE PUBLIC NUISANCES AND TO RECOVER COSTS THEREFORE, PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR THE DISPENSEMENT OF THE REQUIREMENT FOR READING THIS ORDINANCE ON THREE (3) SEPARATE DAYS; AND PROVIDING FOR PUBLICATION BY CAPTION ONLY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NOLANVILLE, TEXAS:

Art. I	Definitions, § 1-1--1-10
Art. II	In General, § 2-1-2-10
Art. III	Specific Nuisances, § 3-1-3-20
Art. IV	Notice, Remedies and Penalties, § 4-1--4-10
Art. V	Junk Vehicles, § 5-1--5-30
Art. VI	Adoption, Secs. 6-1--6-4

ARTICLE I. DEFINITIONS

**Sec. 1-1. Definitions.**

As used in this article, the following words, terms, and phrases shall be defined as follows:

*Abandoned* shall mean to cease the care or maintenance thereof, or to intentionally leave behind.

*Abate* shall mean to eliminate or cure by removal, repair, rehabilitation, or demolition.

*Approved receptacle* shall also mean a container that is composed of durable material and designed to prevent the discharge of its contents and to make its contents inaccessible to animals, vermin, or other pests.

*Brush* shall mean any low woody vegetation, dense undergrowth, decaying scrub vegetation or the dead remains of such.

*Building* shall mean a structure built for the support, shelter, or enclosure of a person, chattel, machine, equipment, or other movable property.

*Building official* shall mean the designated authority charged with the administration and enforcement of codes, or his authorized representative.

*Easement*, for the purpose of this chapter, shall mean a grant by a property owner to the public or other entity for the use of a defined strip of land, for such purpose as the installation, maintenance, and/or repair of utility lines, or other public services whose ownership and care of the land encompassed by such easement is maintained by the property owner.

*Junk* shall mean used iron, metal, furniture, tires, appliances, and other similar items openly stored, discarded, or abandoned on property or premises.

**State law reference**—Authority of Type A general-law municipality to define and abate nuisances, V.T.C.A., Local Government Code § 217.002 et seq.

*Litter* shall mean any garbage, refuse, rubbish, or junk as defined herein, and all other waste material which creates a nuisance or potential danger to public health, safety, and welfare if not deposited in an approved receptacle.

*Occupant* shall mean any person living or sleeping in a building or having possession of a space within a building.

*Open storage* shall mean the open storage or placement of an item on any premise or property which is not entirely enclosed by a building and is visible from any public street or right-of-way.

*Owner* shall mean any person, agent, firm, partnership, corporation, association, family, group, occupant, owner's agent, property manager, lessee, renter, or tenant. It also includes the singular and plural.

*Person* shall mean any individual, firm, partnership, corporation, association, family, group, occupant, owner's agent, property manager, lessee, renter, or tenant. It also includes the singular and plural.

*Personal or movable property* shall include every species of property, except real property as defined in this section.

*Premises* shall mean a lot, plot, or parcel of land including the buildings or structures thereon. The term includes a yard, ground, walk, driveway, fence, porch, steps, or other structures appurtenant to the property.

*Property* shall mean any premise, personal or real property.

*Public nuisance* shall mean the allowance of, or the maintaining of, an unlawful condition, act, or use of any property or premise affecting the public's life, health, safety, or general welfare within the city limits.

*Public place, property, or right-of-way* shall mean any place to which the public or substantial group of the public has access and includes, but is not limited to, streets, alleys, parkways, sidewalks, highways and common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

*Real or immovable property* shall include land and whatever is erected or growing upon or affixed to land.

*Refuse* shall mean all solid waste (except body waste), including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.



*Undeveloped property* shall mean any lot or parcel of land without a structure or building or without the installation of site improvements.

*Weeds* shall mean any herbage or vegetation, but excludes cultivated shrubs, bushes, trees, flowers, and crops.

**State law reference(s)**--Authority of city to prohibit conditions, V.T.C.A. Health and Safety Code, § 342.004.

**Secs. 1-2--1-10. Reserved.**

## **ARTICLE II. IN GENERAL**

### **Sec. 2-1. Declaration of public nuisance.**

A person shall not cause, permit, or allow a public nuisance under this chapter on any lot or parcel of land, premise, or any public place within the city limits.

**Secs. 2-2--2-10. Reserved.**

## **ARTICLE III. SPECIFIC NUISANCES**

### **Section 3-1. High weeds, grass, or brush.**

A. Generally: It shall be unlawful for any owner, occupant, or person in control of any lot, parcel of land, or premise within the city limits to allow the accumulation of high weeds, grass, or brush to exist in excess of the standards provided herein. Such violation is considered a health and fire hazard and, as such, is hereby declared to be a public nuisance.

#### **B. Height limitations.**

1. Property two (2) acres or less. Any accumulation of weeds, grass, or brush on any developed lot, parcel of land, or premise that does not qualify as section 2. below shall not exceed a height of more than twelve (12) inches.
2. Undeveloped property over two (2) acres. Any accumulation of weeds, grass, or brush on any undeveloped property of more than two (2) acres shall not exceed a height of more than twelve (12) inches within fifty (50) feet adjacent to and along any dedicated public street or right-of-way or adjacent to any lot that is occupied by a residence or business.
  - a. Exception to 2: Property that has a significant vegetation other than weeds or grass, unusually steep slopes, or other terrain features which inhibit mowing or development, and which will not create problems if left in their natural state, may be left in their natural state.

C. Property adjoining public rights-of-way. Any private property adjoining a public right-of-way 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 shall not exceed twelve (12) inches in height, and all brush must be cleared from such right-of-way.

**Sec. 3-2. Dangerous weeds over 48 inches high.**

A. The city may abate, without notice, weeds that have grown higher than 48 inches and are an immediate danger to the life, health, or safety of any person. After such abatement, notice shall be given as follows:

1. Not later than the 10 th day after the date the city abates weeds under this section, the city shall give notice to the property owner in the manner required by section 4-2.

a. The notice shall contain:

(i) an identification, which is not required to be a legal description, of the property;

(ii) a description of the violation(s) of the ordinance that occurred on the property;

(iii) a statement that the city abated the weeds; and

(iv) an explanation of the property owner's right to request an administrative hearing about the city's abatement of the weeds.

b. The city shall conduct an administrative hearing before the building official on the abatement of weeds under this section if, not later than the 30 th day after the date of the abatement of the weeds, the property owner files with the building official's office a written request for a hearing.

c. An administrative hearing conducted under this section shall be conducted not later than the 20 th 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.

d. The city may assess expenses and create liens under this section as it assesses expenses and creates liens under sections 4-4 and 4-5.

e. This authority granted by this section is in addition to the authority in sections 4-1 and 4-2.

**State law reference**-Additional authority to abate dangerous weeds, V.C.T.A. Health & Safety Code, § 342.008.

**Sec. 3-3. Accumulation of litter, trash, or rubbish.**



It shall be unlawful for any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the city limits to allow the accumulation of any litter, trash, or rubbish. All litter shall be kept in an approved receptacle designed to contain litter in a manner so as not to allow it to be blown, carried, or deposited by the wind upon any private or public property or any right-of-way. Such violation is considered a health and fire hazard and, as such, is hereby declared to be a public nuisance.

**State law reference**-Municipal power concerning filth, carrion, and other unwholesome matter, V.C.T.A. Health & Safety Code, § 342.003.

#### **Sec. 3-4. Littering by depositing or dumping.**

No person shall throw, deposit, drop, sweep, or place any litter or junk into or on any private or public property, right-of-way, street, sidewalk, or other place. All litter shall be disposed of in an approved receptacle designed to contain litter.

#### **Sec. 3-5. Allowing stagnant water to accumulate.**

It shall be unlawful for any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the city limits to allow holes, containers, or other various receptacles that contain stagnant water that may produce disease to exist on such lot, parcel of land, or premises. The building official may require an inspection of the premises and may require the filling, draining, and regulating of the unsanitary condition.

**State law reference**-Municipal power concerning stagnant water and other unsanitary conditions, V.C.T.A. Health & Safety Code, § 342.001.

#### **Sec. 3-6. Allowing unsanitary conditions.**

It shall be unlawful for any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the city limits to allow any unwholesome unsanitary condition that may produce disease to exist on such lot, parcel of land, or premise. The building official may require an inspection of the premises and may require the filling, draining, and regulating of the unsanitary condition.

**State law reference**-Municipal power concerning stagnant water and other unsanitary conditions, V.C.T.A. Health & Safety Code, § 342.001.

#### **Sec. 3-7. Care of premises.**

A. It shall be unlawful for any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the city limits to utilize such property for the open storage of any of the following:

1. Abandoned vehicles. Abandoned vehicles such as motor or non-motorized vehicles, boats, trailers, and similar items and parts thereof.
2. Abandoned appliances. Abandoned domestic or non-domestic appliances and parts thereof.

3. Supplies and materials. The open storage of building materials, building rubbish, tires, or any accumulation of any other product or supplies.

(a) Note: It is not the intent of this section to prohibit the storage of building materials associated with a city-permitted construction project.

4. Vegetation. The open storage of dead trees, limbs, brush, or weeds.

B. It shall be the duty and responsibility of every such owner, lessee, occupant, or person in control of any lot, parcel of land, or premise to keep such property clean and to prevent a public nuisance.

C. Exception: Any of the above- listed items that are screened from public view and which will not cause health or sanitary nuisances are exempt.

**Secs. 3-8--3-20. Reserved.**

#### **ARTICLE IV. NOTICE, REMEDIES, AND PENALTIES**

##### **Sec. 4-1. Notice of violation.**

Any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the city limits having on it any of the nuisances described in sections I through III shall be required to remove, abate, or cure such nuisance within seven (7) days from the date of the written notice from the building official or his authorized representative.

##### **Sec. 4-2. Notice to property owner.**

A. In addition to section 4-1 above, the city may remove, abate, or cure such nuisance after seven (7) days from the date of the notice of violation given to the property owner and charge all expenses incurred by the city, including administrative fees, to such owner as prescribed in section 4-6. Such notice shall be given to the property owner as follows:

1. personally to the owner in writing; or

2. by letter (regular mail) 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; 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, if the property contains no buildings.

B. If the city mails a notice to a property owner in accordance with subsection 2 above, 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.

**State law reference**-Work or improvements by municipality; notice, V.C.T.A. Health & Safety Code, § 342.006.

#### **Sec. 4-3. Repeat of same violation.**

The city may inform the owner by regular mail and a 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 (12 months) of the date of 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 a notice under this subsection 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 section 4-6 below.

**State law reference**-Work or improvements by municipality; notice, V.C.T.A. Health & Safety Code, § 342.006.

#### **Sec. 4-4. City authorized to abate.**

If the owner of any lot, parcel of land, premise, or any other property fails to comply with the notice given by sections 4-2 and/or 4-3 above, within seven (7) days of the date of such notice, the city may enter the property and remove, abate, or cure such nuisance.

**State law reference**-Work or improvements by municipality; notice, V.C.T.A. Health & Safety Code, § 342.006.

#### **Sec. 4-5. Same-Lien on property.**

If the city abates a nuisance under sections I through III, the owner of such property shall be notified by regular mail of the expenses thereof. If such charges are not paid within thirty (30) days of the date of such notice, the building official or his designated representative shall cause to be filed with the county clerk documentation of such expenses sufficient to establish a lien against the property on which the nuisance was abated.

**State law reference**-Assessment of expenses, lien, V.C.T.A. Health & Safety Code, § 342.007.

#### **Sec. 4-6. Remedies, expenses, and citation.**

Any person who violates this article shall be subject either to abatement restitution or penal fine(s) or both, or any other relief provided by law.

A. Abatement restitution: Any property owner notified by the provisions of sections 4-2 and 4-3 above of a violation of this article and who fails to abate such nuisance within the time specified shall be required to pay to the city all expenses incurred to abate the nuisance per sections 4-4 and 4-5, plus an administrative fee of one hundred dollars (\$100.00).

B. Penal fine: The city may issue a citation or summons to any owner, lessee, occupant, or person in charge of property within the city limits who violates an ordinance in sections I through III. An individual receiving a citation or summons who is convicted of violating any provision of this article shall be guilty of a Class C misdemeanor, punishable by a fine of not less than one hundred dollars (\$100.00) nor more than two thousand dollars (\$2,000.00). Each day the violation continues shall be considered a separate offense. Such remedy under this section is in addition to the abatement restitution.

**Sec. 4-7. Immediate citation for depositing or dumping.**

The building official, his designated representative, code enforcement officer, or police officer shall immediately issue a citation or summons to any person observed littering, as defined in section 3-4.

**State law reference**-Violation of ordinance, V.C.T.A. Health & Safety Code, § 342.005.

**Secs. 4-8--4-20. Reserved.**

**ARTICLE V. JUNK VEHICLES \***

**Sec. 5-1. Definitions.**

Whenever the following terms are used in this article, they shall have the meanings respectively ascribed to them in this section:

Antique vehicle shall mean a passenger car or truck that is at least thirty- five (35) years old.

Demolisher shall mean 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.

Junked vehicle, as defined in Texas Transportation Code §683.071, shall mean a vehicle that is self-propelled and:

A. does not have lawfully attached to it:

1. an unexpired license plate; or
2. a valid motor vehicle inspection certificate; or

B. is wrecked, dismantled, or partially dismantled, or discarded; or

C. is inoperable and has remained inoperable for more than:

1. 72 consecutive hours, if the vehicle is on public property; or
2. 30 consecutive days, if the vehicle is on private property.

Motor vehicle collector shall mean a person who owns one or more antique or special interest vehicles and acquires, collects, or disposes of an antique or special interest vehicle or part of them



for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Special interest vehicle shall mean a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.

**State law reference(s)**-Definitions, V.C.T.A. Transportation Code, Subchapter E, § 683.071.

### **Sec. 5-2. Declaration of nuisance.**

A junked vehicle, including a part of a junk vehicle, that is visible from a public place or public right-of-way:

- A. is detrimental to the safety and welfare of the public;
- B. tends to reduce the value of private property;
- C. invites vandalism;
- D. creates a fire hazard;
- E. is an attractive nuisance creating a hazard to the health and safety of minors;
- F. produces urban blight adverse to the maintenance and continuing development of the city; and
- G. is a public nuisance.

**State law reference(s)**-Junked vehicle declared to be a public nuisance, V.C.T.A. Transportation Code, Subchapter E, § 683.072.

### **Sec. 5-3. Exception.**

The following vehicles and vehicle parts are exempt from the provisions of this article:

- A. A vehicle that is completely enclosed within a building in a lawful manner and is not visible from the street or other public or private property; or
- B. A vehicle 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 and the outdoor storage area are:
  - 1. maintained in an orderly manner;
  - 2. that do not constitute a health hazard; and
  - 3. are screened from ordinary public view by appropriate means, including a fence,

rapidly growing trees or shrubbery.

**State law reference**-Inapplicability of subchapter, V.C.T.A. Transportation Code, Subchapter E, § 683.077.

#### **Sec. 5-4. Abatement requirements.**

A. The city shall abate and remove from private or public property or public right-of-way any junked vehicle or part of a junked vehicle which is a public nuisance.

B. Procedures to abate:

1. A public hearing as set forth in section 5-7 shall be required before removal of the public nuisance.
2. A junked vehicle shall not be allowed to be reconstructed or made operable after removal by the city.
3. Notice shall be sent to the Texas Department of Transportation no later than the fifth day of removal.

C. The municipal court may issue necessary orders to enforce the order from the building official to remove the public nuisance.

D. Procedures for abatement and removal of the public nuisance shall be administered by the building official or his designated representative and may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance.

E. Any person authorized by the city may enter private property to remove the nuisance.

#### **Sec. 5-5. Relocation of a junked vehicle.**

The relocation of a junked vehicle that is a public nuisance to another location within the city limits after a proceeding for the abatement and removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

**State law reference**-Authority to abate nuisance, procedures, V.C.T.A. Transportation Code, Subchapter E, § 683.074.

#### **Sec. 5-6. Notice to abate.**

A. The procedures for the abatement and removal of a public nuisance under this article shall provide not less than ten (10) days notice of the nature of the violation and must be sent by certified mail with a five-day return requested to:

1. the last known registered owner of the nuisance;
2. each lien holder 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 in a public right-of-way, the property adjacent to the right-of-way.

B. The notice must state:

1. the nuisance must be abated and removed not later than the tenth (10<sup>th</sup>) day after the date on which the notice was mailed; and

2. any request for a hearing must be made before the ten (10) day period expires.

C. If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, hand delivered.

D. If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the eleventh (11<sup>th</sup>) day after the date of the return.

**State law reference**-Notice, V.C.T.A. Transportation Code, Subchapter E, § 683.075.

#### **Sec. 5-7. Hearing.**

A. If a person for whom notice was sent requests an administrative hearing, or if a hearing is required by the city for abatement, such hearing shall be held before the building official as follows:

1. If a hearing is requested by a person for whom notice is required under section 5-6 A.3. above, the hearing shall be held not earlier than the eleventh (11<sup>th</sup>) day after the date of the service of notice.

2. If the notice is delivered but the person for whom notice is required does not request a hearing, the city may conduct an abatement hearing not earlier than the eleventh (11<sup>th</sup>) day after the date of the notice.

3. If the notice is returned undelivered, then the hearing date shall be set not earlier than the eleventh (11<sup>th</sup>) day after the date of the return of the undelivered letter.

B. At the hearing the junked motor vehicle is presumed to be inoperable, unless demonstrated otherwise by the owner.

C. Any order requiring the removal of a vehicle or vehicle part must include the vehicle's description, identification number, and license number of the vehicle if the information is available at the location of the nuisance.

**State law reference**-Hearing, V.C.T.A. Transportation Code, Subchapter E, § 683.076.

**Sec. 5-8. Voluntary abatement.**

If, within ten (10) days after receipt of notice to abate the nuisance as provided in this article, the owner of the vehicle shall give his written permission to the building official or his authorized representative for the removal of the junked motor vehicle from the premises, the giving of such permission shall be considered compliance with the provisions of this article.

**Sec. 5-9. Disposal of junked vehicles; remedies.**

A. A junked vehicle or vehicle part shall be disposed of by removal to a scrapyard, motor vehicle demolisher, or any suitable site operated by the city for processing as scrap or salvage.

B. Any individual who fails to timely abate a nuisance may be required to pay the city restitution for the city's cost in removing, abating, or curing such nuisance, plus an administrative fee of one hundred dollars (\$100.00).

C. Any vehicle or vehicle part, after removal by this article, shall not be reconstructed or made operable.

**State law reference**-Junked vehicle disposal, V.C.T.A. Transportation Code, Subchapter E, § 683.078.

**Sec. 5-10. Obstructions to traffic.**

Nothing in this article shall affect a law or ordinance authorizing the immediate removal, as an obstruction to traffic, of a vehicle left on public property.

**Sec. 5-11. Criminal penalties.**

A person who commits an offense under section 5-2 is, on conviction, subject to a fine as prescribed in section 4-6. On conviction, the court shall order removal and abatement of the nuisance.

**Secs. 5-12--5-20. Reserved.**

**ARTICLE VI ADOPTION**

**Sec. 6-1.** That Ordinance Number 7050 of the City of Nolanville, and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Sec. 6-2.** That nothing in this ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes or action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance: nor shall any suit or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**Sec. 6-3** That if any article, section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining



portions of this ordinance. In the event any part or provision of this ordinance is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions hereof, which are determined to be legal; and it shall be presumed that this ordinance would have passed without such illegal or invalid parts or provisions.

**Sec. 6-4** That the City Secretary shall certify to the adoption of this ordinance, and cause the same to be published as required by law; and this ordinance shall take effect and be in force from and after its approval as required by law.

PASSED, ADOPTED AND APPROVED ON THE 18TH DAY OF JULY, 2002.

ATTESTED;

Stephanie West  
City Secretary

Scott M. Carter  
MAYOR, CITY OF NOLANVILLE, TEXAS

