

Request for City Council for the City of Ingleside, Texas

- Subject:** An Ordinance to Amend Chapter 30, Article III, Sec 30-90, Sec 30-91, Sec 30-94, and Sec 30-95 to include definitions and enforcement for excessive outdoor storage
- Submitted By:** Carey Dietrich, Interim Building Official/Code Enforcement
Eric Koenig, Code Enforcement Officer
- For The Agenda:** April 25, 2017
- Agenda Wording:** CONSIDERATION AND ACTION OF AN ORDINANCE AMENDING CHAPTER 30 ARTICLE III –WEEDS, TRASH, RUBBISH, DEBRIS, GREEN WASTE, STAGNANT WATER, SEC. 30-90. – DEFINITIONS, SEC. 30-91. - PROHIBITED ACCUMULATIONS ON PRIVATE PROPERTY, SEC. 30-94. - PENALTY FOR VIOLATION OF SECTION 30-92 AND/OR 30-93, AND SEC. 30-95. - ABATEMENT—NOTICE TO INCLUDE UPDATED DEFINITIONS AND ENFORCEMENT FOR NON-CUSTOMARY OUTDOOR STORAGE NOT DEFINED IN THE CURRENT CODE
- Attachments:** Ordinance Amending Chapter 30, Article III, Sec 30-90, Sec 30-91, Sec 30-94, and Sec 30-95 to include updated definitions for rubbish, garbage, hazardous waste, and non-customary outdoor storage.
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Summary Statement: This amendment is an attempt to better describe excessive outdoor storage as being those items that may not be rubbish but are not customarily stored outdoors or in a front yard and subsequently become an eyesore, a nuisance, damaged by the environment, a habitat for vermin, and encourage neighborhood blight. This requested draft amendment is not intended to create more regulation but to more accurately define the parameters of urban blight and give Code Enforcement a better definition and enforcement tool to get these violations abated and help neighborhoods come together.

Recommended Action: Staff recommends approval

ORDINANCE _____

AN ORDINANCE AMENDING CHAPTER 30 ARTICLE III –WEEDS, TRASH, RUBBISH, DEBRIS, GREEN WASTE, STAGNANT WATER, SEC. 30-90. – DEFINITIONS, SEC. 30-91. - PROHIBITED ACCUMULATIONS ON PRIVATE PROPERTY, SEC. 30-94. - PENALTY FOR VIOLATION OF SECTION 30-92 AND/OR 30-93, AND SEC. 30-95. - ABATEMENT—NOTICE TO INCLUDE UPDATED DEFINITIONS AND ENFORCEMENT FOR NON-CUSTOMARY OUTDOOR STORAGE NOT DEFINED IN THE CURRENT CODE, INGLESIDE CODE OF ORDINANCES AND PROVIDING FOR EFFECTIVE DATE, READING, SEVERANCE, AND PUBLICATION.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF INGLESIDE, COUNTY OF SAN PATRICIO, STATE OF TEXAS:

SECTION 1. AMENDMENT. Chapter 30 Article III –Weeds, Trash, Rubbish, Debris, Green Waste, Stagnant Water, Sec. 30-90. – Definitions, Sec. 30-91. - Prohibited Accumulations On Private Property, Sec. 30-94. - Penalty for Violation of Section 30-92 and/or 30-93, and Sec. 30-95. - Abatement—Notice - Ingleside Code of Ordinances is hereby amended to read as follows, new matter being indicated by underscoring and deleted matter by interlineations and brackets:

ARTICLE III. - WEEDS, TRASH, RUBBISH, DEBRIS, GREEN WASTE, STAGNANT WATER

Sec. 30-90. - Definitions.

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

Garbage means any and all dead animals of less than ten pounds in weight, except those slaughtered for human consumption; every accumulation of waste, animal, vegetable and/or other matter, that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents; except, in all cases, any matter included in the definitions of bulky waste, construction debris, dead animals, hazardous waste, rubbish or stable matter.

Green waste is tree and bush trimmings generated from the maintenance of improved residential and/or multifamily properties.

Hazardous waste means any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the state to be hazardous as that term is defined by or pursuant to federal or state law.

Non-customary outdoor storage means the accumulation of, but is not limited to vehicle or machinery parts; tires; business supplies or inventory; construction materials not incidental to an active permitted construction project on-site; storage of yard maintenance equipment in excess of what is needed to maintain the property; any item in a visible state of deterioration as reasonably evidenced by rust or other condition, abandoned, discarded, or unused objects or equipment, not customarily stored outside such as indoor furniture, stoves, refrigerators, freezers, washers/dryers or other appliances, electronic equipment, boxes and other types of containers; clothing; or any such item which will rapidly deteriorate outside of a controlled or protected environment.

Rubbish The term is meant to include, but is not limited to, used building materials or scraps of used building materials when stored outside a structure on residentially zoned properties where visible from any public street, alley or right-of-way. means all waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definitions of bulky waste, construction debris, dead animals, garbage, hazardous waste or stable matter.

Store means to park, leave, locate, keep, maintain, deposit, allow to remain or allow to have a physical presence.

Trash means any combination of material as defined by garbage and rubbish but may contain other materials within the scope of Section 30-90

Sec. 30-91. - Prohibited accumulations on private property.

(a)Non-customary outdoor storage. It shall be unlawful to accumulate items in excess of what is reasonable and customarily necessary for the use of the property and/or which, by its placement and/or condition whether reusable or not has the potential to:

- (1) Cause, through visual blight or odor, impairment of the use or enjoyment of neighboring properties.
- (2) Pose a risk to public health by creating conditions favorable for the harboring of vermin or insects.
- (3) Pose a risk of environmental contamination through the deterioration of materials not customarily stored outside.
- (4) Pose a risk to public safety through the creation of an attractive nuisance.

(b) It shall be unlawful for any person to allow garbage, rubbish, or trash to accumulate on property under his control and within the city. Garbage, rubbish or trash as defined within Sec. 30-90.

Sec. 30-92. - Depositing garbage, trash and rubbish on public or private property.

- (a) It shall be unlawful for any person to sweep, haul, throw, or deposit any garbage, trash, dirt, concrete, rocks, brick, plaster, tile, stagnant water, dead animals or accumulations of green waste, into, upon, or along any drain, gutter, alley, sidewalk, parkway, street, vacant lots, or upon any public or private property within the city. If handbills are distributed, they must be distributed in a manner prescribed by the city council and written permission from the city manager certifying conformity with the outlined requirements of the city council.
 - (1) Exception: Green waste may be placed on an easement directly adjacent to the property owner's property in preparation of the city's scheduled pick-up in accordance with the conditions set forth in subsection (b).
- (b) It shall be unlawful for any person to have an accumulation of green waste on improved residential and/or multifamily property more than 30 days prior to the city's scheduled pick-up for that area. The city's schedule of regular pick-ups is located at city hall and public works offices.
 - (1) Exception: In the case of unusual environmental conditions or events of a catastrophic nature, the mayor of Ingleside, at his discretion, may waive the required 30-day restriction.
- (c) It shall be unlawful to place and/or allow an accumulation of green waste in any location that may obstruct public streets, sidewalks, or rights-of-way, obscure the view of traffic, or within the 25-foot traffic sign triangle. No green waste, trash, bulky waste or construction debris shall ever be deposited for collection in any place which may cause interference with the normal flow of surface drainage along and through a drainage ditch.
- (d) All green waste to be collected by the city shall be placed at a location so that access to it is not obstructed by overhanging tree limbs, wires or other obstacles which would interfere with mechanical collection. If improperly placed, the city reserves the right to deny collection and/or require abatement in accordance with section 30-95 of this Code.

Sec. 30-93. - Obligations of owners.

Weeds, grass, brush, and shrubs taller than the maximums listed below are hereby declared a public nuisance. Every owner, lessee, and other person in charge of land, whether or not improved, within the city limits is obligated, jointly and severally, as follows:

- (1) To keep the weeds on the property cut, mowed, and maintained so that the height of weeds located on the property within 100 feet of any building, whether the building is located on the property or the property of another, is less than 15 inches for improved property and 30 inches for unimproved property. For the purpose of this section "improved" property is any manmade changes to the real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- (2) To maintain, protect, and preserve the property in such a way as to prevent the accumulation, collection or appearance of carrion, filth, rubbish, trash, debris, or any other unsightly or unsanitary matter on the property and to timely remove from the property and dispose of any and all such material as may appear thereon.

- (3) To maintain, protect, and preserve the property in such a way as to prevent the collection, accumulation or appearance of any matter on the property which constitutes a fire hazard and to timely remove from the property and dispose of any and all such material as may appear thereon.
- (4) To take such action as is necessary to prevent the accumulation, collection, or appearance of stagnant water on the property and to ensure proper drainage of the property.
- (5) To keep all weeds located on the property and in public road, alley, and right-of-way adjacent to the property, which weeds are within 25 feet of any public road, alley, right-of-way, or street, cut, mowed, and maintained so that the height of such weeds is less than 15 inches for improved property and 30 inches for unimproved property.

Sec. 30-94. - Penalty for violation of section 30-91, 30-92 and/or 30-93.

Any failure to perform the obligations or any of the obligations imposed by section 30-91, 30-92 and/or 30-93 shall be unlawful and shall be punishable in accordance with section 1-14.

Sec. 30-95. - Abatement—Notice.

- (a) If any of the conditions set forth in sections 30-91, 30-92 and/or 30-93 exist, the city may serve notice on the owner of the property on which the condition exists to clean up, abate, remedy, and/or correct the condition. Such notice shall be written and shall be delivered to the owner of the property by:
 - (1) Personal service or by letter, properly addressed to the owner at the most current mailing address of the owner as reflected by the San Patricio County Appraisal District records, postage prepaid; or
 - (2) If neither personal service nor service by mail can be obtained, then by publication two times within ten consecutive days in the official newspaper of the city, or by posting the notice on or near the front door of each building on the property to which the violation relates, or 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. Notice by personal service is effective on the date of deposit into an official depository of the United States post office. Notice by publication is effective on the date of the last publication. Notice by posting is effective on the date of posting.
- (b) The city in the notice of a violation may inform the owner by certified mail, return receipt requested, that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may correct the violation at the 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, the city without notice may take any action permitted by V.T.C.A., Health and Safety Code § 342.006(a) (1) and (2) and this article and assess its expenses as provided by V.T.C.A., Health and Safety Code § 342.007 and this article.

Section 2. Effective Date. As provided by Article III, Section 3.11C of the Charter of the City of Ingleside, this ordinance shall be effective upon adoption and, in addition, if any penalty, fine or forfeiture is imposed by this ordinance, then this ordinance shall be effective only after publication of this ordinance in its entirety or in summary form once in the official newspaper of the City of Ingleside.

Section 3. Reading. As provided by Article III, Section 3.11.B of the Charter of the City of Ingleside, this ordinance or the caption of it shall be read at two City Council meetings with at least two weeks elapsing between each reading.

Section 4. Severance. If any part of this ordinance is invalid or void or is declared to be so, then said part shall be severed from the balance of this ordinance and said invalidity shall not affect the balance of this ordinance, the balance of the ordinance to be read as if said invalid or void portion thereof were not included.

Section 5. Publication. As provided by Article III, Section 3.11C, this ordinance shall be published one time in the official newspaper of the City of Ingleside, San Patricio County, Texas, which publication shall contain the caption of this ordinance stating in substance the purposes of same.

PASSED, ORDAINED, APPROVED AND ADOPTED this _____ day of _____, 2017.

CITY OF INGLESIDE, TEXAS

By: _____
Luis Lamas, Mayor

ATTEST:

Kimberly Sampson
City Secretary

First Reading: _____

Second Reading: _____