

ORDINANCE NO 2011-06

AN ORDINANCE OF THE CITY OF CROWELL, TEXAS; DECLARING A PUBLIC NUISANCE A VIOLATION; PROVIDING FOR GENERAL DEFINITIONS; PROVIDING FOR SPECIFIC PUBLIC NUISANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR NOTICE OF VIOLATIONS; PROVIDING FOR ABATEMENT PROCEDURES; REPEALING PRIOR ORDINANCES IN WHOLE OR IN PART IN CONFLICT; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS the City of Crowell recognizes a need to endeavor to prevent conditions of slum, urban blight, eyesore, and;

WHEREAS the City of Crowell recognizes that such conditions of slum and blight are detrimental to the economic welfare of the community, and;

WHEREAS the City of Crowell recognizes a need to promote a clean, aesthetic, and safe environment in the interest of the health, safety and welfare of the community;

IT IS THEREFORE ORDAINED BY THE GOVERNING BODY OF TIC CITY OF CROWELL, TEXAS, THAT:

PUBLIC NUISANCES

Section A: Declaration of Public Nuisances and Violation in General

Any real property building, or portion thereof or the premises, inclusive of vacant lots, in which there exists a condition not in compliance with this Ordinance shall be deemed and is hereby declared to be a public nuisance and shall constitute a violation of this Ordinance, and subject to the penalty clause of this Ordinance.

Section B: Definitions

Terms, words, phrases and their derivations used, but not specifically defined in this Ordinance, shall have the meanings defined in Websters New Collegiate Dictionary. Words used in the singular include the plural and the singular. Words used in the masculine gender include the feminine, and used in the feminine, shall include the masculine. For purposes of this Ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (I) **Enforcement Officer** - The Chief of Police and any Peace Officers of the City of Crowell; Any official assigned to Code Enforcement by the Mayor or Chief of Police: Any Peace Officer of the State of Texas requested to enforce the provisions of this Ordinance by the Mayor or Chief of Police.

- (2) **Unwholesome Material** - means all putrescible and non-putrescible wastes, either solid or liquid, inclusive of but not limited to the following: debris, household garbage, trash, rubbish, junk, rubble, debris, manure, dead animals, abandoned, inoperable, or discarded appliances or any appliances stored outside of buildings, brush, yard clippings, furniture designed for interior use stored outside of buildings, industrial wastes, chemicals, human wastes, *gray* water or black water sewage, stagnant water, construction scraps, bathroom fixtures stored outside of buildings, vehicle parts, cans and bottles.
- (3) **Exterior Property Area** - means the open space on the premises and on adjoining under the control of the owner or agent of such premises.
- (4) **Fireworks** - Any sparkler, rocket, fire cracker, roman candle, torpedo or any other substance in whatever combination used to obtain a visible or audible pyrotechnic display and shall include all articles or substances with the commonly accepted meaning of the word "fireworks".
- (5) **Garbage** - All putrescible waste, except body waste, includes animal and vegetable waste resulting from handling, preparation, cooking, storage or consumption of food.
- (6) **Inspection** - the examination of property by the Enforcement Officer or his authorized representative for the purpose of evaluating its condition as provided for this Ordinance.
- (7) **Inoperable Vehicle** - A vehicle that is rendered temporarily or permanently inoperable due to conditions such as, but not limited to, flat tires, missing tires or wheels, partially wrecked or dismantled, not having a valid registration certificate affixed or a valid motor vehicle inspection certificate or both, or in a state of disrepair or otherwise unserviceable or not drivable.
- (8) **Owner** - any person, agent, firm, corporation, association or other entity having legal or equitable interest in a property as shown on the most recent tax roll.
- (9) **Person** - Any person, agent, firm, corporation, association or tenant.
- (10) **Public Nuisance** - Any act, condition or thing existing, done or in being, which act, condition or thing endangers the peace, property, health, and safety of the citizens of the City.
- (11) **Putrescible** - Capable of becoming putrid, rotten, foul and offensive.
- (12) **Rubbish** - All non-putrescible waste including, but not limited to, debris, tin

cans, bottles, papers, grass and weed cuttings, paper boxes, wood or building materials and tree limbs generally not exceeding three (3) feet in length and generally not exceeding a weight of more than fifth (50) pounds.

- (13) **Rubble** - Solid waste larger and heavier than rubbish, including but not limited to, discarded appliances and furniture, large tree limbs, discarded fences, generally exceeding three (3) feet in length and fifty (50) pounds in weight.
- (14) **Tenant** - Any person, agent, firm, corporation, or association who occupies a property or premises and who is not the owner.
- (15) **Yard, front** - The area extending across the entire width of the lot and situated between the front lot line and the most extreme front corners of the building, or, in the absence of a building, the area extending across the entire width of the lot to the front of the building set-back line.
- (16) **Yard, rear** - The area extending across the entire width of the lot and situated between the rear lot line and the most extreme rear corners of the building, or in the absence of a building, the area extending across the entire width of the lot to the rear of the rear building set-back line.
- (17) **Yard, side** - the area extending between the side lot line and the nearest and most extreme side corners of the building, or, in the absence of a building, the area extending to the side yard building set-back line and extending from the front yard to the rear yard. This definition does not apply to a side yard to the rear property line.
- (18) **Yard, side adjacent to a street** - The area extending between the side lot line adjacent to a street and the nearest and most extreme side corners of the building, or, in the absence of a building, the area extending to the side yard building set-back line adjacent to a street and extending from the front yard to the rear property line.
- (19) **Vehicle** - Any motor vehicle subject to registration under the Certificate of Title Act and also shall include, but not limited to, trailers, recreational vehicles, camper tops, boats, and boat trailers or any associated body or mechanical parts.

Section C: Specific Nuisances.

Without limiting the power of the City Council to here after declare a public nuisances any other act, condition, or thing, by ordinance, the following specific acts, conditions, and things are, each and all of them are hereby declared to be and constitute public nuisances:

- (1) Maintaining the exterior property area or any structure which is not reasonably free from holes and excavations, sharp protrusions, and other objects or conditions which might be a potential cause of personal injury to the occupants or to the public.
- (2) Maintaining any cellar, vault well, drain, cistern, sewer or septic tank, which presents a potential injurious threat to the health or safety to the public.
- (3) Maintaining a fence or screening wall in a manner which constitutes a public hazard to persons or property. All fences shall be maintained reasonably plumb and structurally sound. Any fence or screening wall which is severely deteriorated and constitutes a public hazard to persons or property or is fifteen (15) degrees or more out of plumb shall be repaired, replaced or removed.
- (4) Discharging of any sewage waste directly or indirectly onto the ground or into any stream, creek, waterway or other body of water.
- (5) Maintaining any sanitary plumbing fixtures and facilities not in compliance with the public health laws, ordinances, and regulations of the State of Texas, and County of Foard and the City of Crowell.
- (6) Permitting, maintaining or causing the emission of foul, offensive, noisome, nauseous, noxious or disagreeable odors repulsive to the physical senses of ordinary persons.
- (7) Permitting any land area, tank, alley, gutter, swimming pool, or open receptacle containing water, or a source of water to become stagnant, foul, nauseous, offensive or unpleasant, or provide harborage for mosquitoes, flies, or other insects.
- (8) Maintaining a swimming pool hot tub, and their related accessory structures in an unsafe, unsecured, unclean, unsanitary, and unsound condition.
- (9) Permitting the accumulation or the dumping of garbage, rubbish, rubble or debris, decaying vegetation, or to make nauseous, foul or putrid discharges, which provides a breeding place for insects or rodents which is offensive, tends to decay, become putrid, become offensive and odorous, or which renders the atmosphere impure or unwholesome and provides harborage for flies, mosquitoes, rodents, rats, snakes, vermin.
- (10) Permitting the accumulation or the dumping of garbage, rubbish, rubble or debris, building materials, building rubbish, discarded furniture, tree limbs, leaves, household waste items, ashes, inoperable household appliances, vehicle tires,

scrap metal, or automobile parts on any private property and/or depositing the same onto any public right-of-way or private or public property.

- (11) Permitting the accumulation or the burial of rubbish, building material wastes, road material waste, rubber tires, garbage, or refuse, or the depositing of any substance which is detrimental to public health, safety or the dumping or burying or used

motor oils or any other chemical substance which is not permitted by the Texas natural Resources Conservation Commission directly onto or into the ground.

- (12) Permitting a lawn irrigation system to spray or overflow water into a public street during periods of freezing weather when such water freezes and results in a potentially dangerous condition.

- (13) The scattering or distributing of any advertisement, circulars, handbills, printed or written announcements, upon any public right-of-way or within any public building or on any public grounds.

- (14) The maintaining of any building or structure of which the roof eaves project beyond the vertical projection of any property line or sheds water directly upon any property other than that property on which to building or structure is located.

- (15) The manufacturing, storing, using, possessing, or selling fireworks with the Corporate Limits of the City of Crowell.

EXCEPTION: The lawful display pursuant to a permit issued by the proper authority of the City.

- (16) Permitting the carcass of a dead animal to remain on the property for a period of time exceeding eighteen (18) hours after the death of the animal.

- (17) Allowing, generating or fostering any unreasonably loud, disturbing, or unnecessary noise, including but not limited to noises from musical instruments, loud speakers and amplifiers, animals and birds, horns or other signal devices on vehicles, the operation of vehicles, steam whistles, auto exhaust mufflers that are loud or non-existent on vehicles, or devices operated by compressed air, which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof

- (18) Any act or thing done, suffered or maintained within the City Limits which creates an attractive nuisance to persons of normal sensibilities that may interfere with the health and safety of persons within the community.

- (19) Vehicles abandoned on any public right of way not limited to but including

alley's and utility easements

- (20) Permitting any vehicle or vehicles defined in Section B. item 7 as inoperable or machinery, or farm equipment, including but not limited to tractors, plows, combines, and trailers, or parts thereof, which is in wrecked or dismantled or inoperable condition, to remain on a property in view of the public or any other public private property for a period of over forty five (45) days.
- (21) The act of defecating or urinating upon any public right away or public property or any place that may be seen from a private residence or by persons passing along any public right of way, public or private property.
- (22) Any unwholesome food, liquor or adulterated medicine, and all cattle, horses or hog pens, stables or enclosed areas in which any cattle, horses or hogs may be kept or confined, which may from use have become unwholesome or offensive or a breeding or living environment for flies, mosquitoes, or other insect pest or which have produced an odor capable of annoying persons living in the vicinity or persons passing along public right away or private of public property.
- (23) Permitting any structure which is derelict or dilapidated and is unfit for human habitation or presents an unsafe condition to any person who may enter the property to remain in such state that may cause an unsafe condition for any person who may enter said property. May include but not limited to any property in which has a dwelling for human habitation but does not have running water and/or an appropriate system for the disposal of waste water or sewage.
- (24) Establishing or maintaining or operating any junk yard, wrecking yard, or dump ground on any public or private property in violation of any one or more requirements of Section H.

Section D: Designation of Enforcement Officer

The Chief of Police and any Peace Officers of the City of Crowell; Any official assigned to Code Enforcement by the Mayor or Chief of Police; Any Peace Officer of the State of Texas requested to enforce the provisions of this Ordinance by the Mayor or Chief of Police, are hereby directed and authorized to administer and enforce the provisions of this Ordinance. Nothing contained herein is meant to limit discretion of any Enforcement Officer in evaluating and directing compliance with this Ordinance.

Section E: Enforcement Authority and Liability

The Chief of Police, the Health Officer, or any other authorized person in the

administering of this Ordinance, acting in good faith and without malice in the discharge of their duties, shall not thereby render themselves personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of his duties. Any suit brought against the Chief of Police, Health Officer, or any other authorized person, because of such act or omission performed in the enforcement of any provision of the Ordinance, shall be defended by legal counsel provided by the City of Crowell until final termination of such proceedings.

Section F: Right of Entry

Whenever it becomes necessary to make an inspection to enforce the provisions of this Ordinance, or whenever there is reasonable cause to believe that there exists in any structure or upon any property a condition which violates the provisions of this Ordinance, Any authorized enforcement person may enter such property at all reasonable times to inspect same, or to enforce a provision of this Ordinance; provided, that if such entry; or is such property is unoccupied, he shall first make a reasonable attempt to locate the owner, or other persons having charge or control of the property, and request entry, and if entry is refused, the authorized enforcement person may attempt to secure entry by any legal means.

Section G: Notice of Violation

Whenever it is determined that a violation of this Ordinance exists or that there are reasonable grounds to believe a violation of this Ordinance exists, except where a different notification requirement is established in this Ordinance, any other Ordinance or by any applicable law, the authorized enforcement person shall give an initial written notice of such violation or alleged violation to the person or persons responsible for such violation as follows:

- (1) The property owner, agent, or tenant shall be served a written notice which states a violation and requires compliance with this Ordinance in not more than 10 days from the date that the notice is served. The notice may be left at the property in a location that the owner, agent, or tenant will be reasonably expected to find notice of such violation upon their return if not present which such notification takes place, or by United States mail addressed to the property owner or agent as shown on the most current tax roll or the tenant shown on the utility billing records.
- (2) The property owner, agent, or tenant shall be served a second written notice which is noted "FINAL NOTICE" and states a violation and requires compliance with this Ordinance in not more than 10 days from the date that this notice is served. The notice may be left at the property in a location that the owner, agent, or tenant will be reasonably

expected to find notice of such violation upon their return if not present when such notification takes place, or by United States mail addressed to the property owner or agent as shown on the most current tax roll or the tenant shown on the utility billing records, or if the owner or pennant cannot be found, or if the notice is refused or if notice is returned by us mail, then the owner may be notified as follows:

- i. Posting the notice on a placard attached to a stake driven into the ground on the premises where the violation whist at least ten (10) days prior to further action.
 - ii. Posting the notice on a placard attached to a stake driven into the ground on the premises where the violation exist at least ten (10) days prior to further action.
- (3) If such person, firm, or corporation fails or refuses to comply with the provisions of this Ordinance within the specified period following notification, the same shall be considered to be in violation of and subject to fine and penalty as provided for this Ordinance.
- (4) The placement of a notice of violation on a vehicle shall be considered adequate notice under this article.
- (5) The placement of a seventy two (72) hour sticker on the window of a vehicle on any public right of way in which the owner or operator has left the vehicle on any public right of was shall be adequate notice that the vehicle will be removed by the City upon the expiration of the seventy two (72) hours' notice is given and the vehicle still remains.

Section H: Permit for Junk Yard, Wrecking Yard

Application - Any person who shall desire to establish, maintain, or operated a junk yard, or wrecking yard, on any public or private property in the Corporate Limits of the City of Crowell shall make written application to the City of Crowell at the Office of the City Secretary, for a permit to establish, operate, or maintain a junk yard, or wrecking yard. The City secretary shall require each applicant to pay an application fee of one-hundred (\$100.00) dollars for each application submitted. The City Council shall consider all applications at its first regular meeting following the submission in which the application has been properly placed on the agenda in a timely manner. In the event that the Council rants the issuance of a permit, a permit will be issued within ten (10) days after the approval of said permit. Requirements for establishing, operating, or maintaining a junk yard, wrecking yard shall he established by the City Council at the time the permit is approved in accordance with applicable laws at the time of the application.

Section I: Twenty-Four Hour Abatement under Certain Circumstances

Nothing in this Ordinance shall prohibit the requirement to abatement within twenty - four (24) hours when a nuisance had been declared an immediate threat to the health and safety by any authorized enforcement person.

Section J: Remedies

To enforce any requirement of this Ordinance, any authorized enforcement person may gain compliance by any or all of the following:

- (1) Taking such actions as the enforcement authorized enforcement person deems appropriate within the authorization provided for in this Ordinance.
- (2) Causing appropriate action to be instituted in a court of competent jurisdiction.
- (3) Ordering the abatement of the nuisance and assessing the cost of abatement against the property if the owner of the property does not abate same after required notice.

Section K: Contracting for Abatement

Whenever the property owner, agent, or tenant fails to abate the nuisance within the time allowed, the authorized enforcement person shall confer with the Mayor for a suitable remedy for abating the nuisance. The Mayor may authorize that the authorized enforcement person contract for the abatement with a private vendor.

Section L: Recovery of Cost of Abatement

- (1) Whenever the City of a contracting vendor enters upon the property and causes work to be performed to abate a nuisance, a charge will be made to the property owner, agent, or tenant to recover cost associated with the abatement. The charge shall be the actual cost of abatement, plus applicable sales taxes.
- (2) An administrative fee of thirty - five dollars (\$35.00) shall be assessed for each charge.
- (3) If the actual charge and the administrative fee is not paid to the City within thirty (30) days after the billing date, the City shall file a lien against the property. Said lien shall be filed in the Deed Records of

Foard County, Texas. The lien shall be collected under the same terms and provisions of law as on City ad valorem taxes.

Section M: Penalty Clause

Any person who violates any provision of the Ordinance shall upon conviction be subject to a fine of not more than two hundred dollars (\$200.00) for each offense. Each day that such violation is permitted to continue shall constitute a separate offense. The term, person, as used in this section shall include the owner, occupant, mortgagee, or vender in possession, assignee or rents, receiver, executor, trustee, lessee, agent, or any other person, firm, or corporation directly or indirectly in control and holding interest of a building or tract of land.

Section N: Severability Clause

That it is hereby declared to be the intention of the City Council that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of the Ordinance shall be declared invalid or unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such invalidity or sentences, paragraphs or sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in the Ordinance of any such invalid or unconstitutional phrase, clause, sentence, paragraph or section.

Section O: Effective Date

This Ordinance shall take effect immediately after its passage.

PASSED and APPROVED this the 15th day of October 2013.

APPROVED:

ATTEST:

Gayle Simpson, Mayor

Susan Borchardt, City Secretary