

ORDINANCE NO. 2014-02

AN ORDINANCE OF THE CITY OF INGLESIDE ON THE BAY, TEXAS TO PROTECT THE PUBLIC HEALTH AND PROMOTE THE PUBLIC WELFARE OF THE CITY OF INGLESIDE ON THE BAY, TEXAS, PROVIDING STANDARDS FOR LOTS WITHIN THE CORPORATE LIMITS OF THE CITY; PROVIDING FOR NOTICE OF A VIOLATION TO BE GIVEN TO THE OWNERS OF A LOT; PROVIDING FOR THE IMPLEMENTATION AS PROVIDED HEREIN; PROVIDING FOR ASSESSMENT OF COSTS; PROVIDING FOR THE FIXING OF A LIEN; DEFINING CERTAIN PROHIBITED ACTS AND PROVIDING PENALTIES FOR VIOLATION, WAIVER OF LIABILITY; PROVIDING A SEVERABILITY CLAUSE; REPEALING PREVIOUS ORDINANCES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF INGLESIDE ON THE BAY, STATE OF TEXAS.

The following provisions shall be and constitute the City of Ingleside on the Bay, Texas Nuisance Abatement Ordinance:

ARTICLE 1: GENERAL

- A. All weeds, brush, rubbish, junk and unsightly matter are hereby declared public nuisances and prohibited.

ARTICLE 2: DEFINITIONS

- A. BRUSH – All trees or shrubbery less than seven feet in height and less than two inches in diameter which are not maintained, cared for or cultivated.
- B. CODE ENFORCEMENT OFFICIAL – The designated authority charged with the administration and enforcement of this ordinance or his duly authorized representative.
- C. DEBRIS – Dirt, concrete, rocks, brick or other building materials not being used for on-site improvements.
- D. JUNK – Including but not limited to: all worn-out, worthless and discarded material, other metals, glass, paper and cordage, discarded, abandoned or worn-out; manufactured materials and machinery, including motor vehicles and/or parts of motor vehicles, tires, aircraft, boats, farm implements, building or construction materials, appliances and/or parts of appliances, and scrap metal.
- E. OBJECTIONABLE, UNSIGHTLY OR UNSANITARY MATTER – Animal, vegetable or mineral matter or any composition or residue thereof.
- F. LOT – A measured parcel of land having fixed boundaries and designated on a plot or survey of the City of Ingleside on the Bay, Texas.

- G. OBSTRUCTION – Anything blocking any roadway or alleyway or anything covering any fire hydrant or traffic signs. Tree branches extending over roadways or alleyways must be kept trimmed to a height of not less than fourteen (14) feet above such streets or alleys to avoid damage to large trucks, RVs and boats.
- H. OWNER – Any person owning any interest in a lot.
- I. RUBBISH – Garbage, trash and other discarded articles and material.
- J. TRASH – All refuse other than garbage, debris and brush; including any household trash and yard trash (grass clippings, leaves, etc., piled or bagged).
- K. WEEDS – Means all rank and uncultivated vegetable growth or matter that:
  - 1. Has grown to more than fifteen (15) inches in height; or
  - 2. May create any unsanitary conditions or become a harborage for rodents, vermin or other disease-carrying pests, regardless of the height of the weeds.

### ARTICLE 3: STANDARD

#### 1. Standards

- A. The existence of brush, debris, junk, objectionable, unsightly or unsanitary matter, rubbish, trash or weeds upon a lot in violation of the ordinance is hereby declared to constitute a public nuisance subject to the abatement procedures prescribed in this ordinance. The exception being properly maintained compost piles.
- B. It shall be unlawful for any owner, or person who has supervision and control of any lot, occupied or unoccupied, improved or unimproved, within the corporate limits of the City of Ingleside on the Bay to permit weeds or grass to grow to a height greater than fifteen (15) inches upon said premises.
- C. With respect to large tracts of undeveloped property under single ownership, the provisions of this ARTICLE shall not be applicable to the area in excess of ten (10) feet from any open public street or alley or to the area in excess of twenty-five (25) feet from any adjacent property under different ownership on which habitable dwellings are located. It shall be unlawful for any owner, or person who has control of any lot, occupied or unoccupied, improved or unimproved, within the corporate limits of the City to permit the open storage of any icebox, refrigerator, stove or similar items upon any such lot.

#### 2. Illegal Dumping

- A. Chapters 342 and 365, Health & Safety Code are hereby adopted by the City of Ingleside on the Bay.
- B. A person commits an offense if the person disposes or allows or permits the disposal of litter or other solid waste at a place that is not an approved solid waste site, including a place on or within 300 feet of a public highway, on a right-of-way, on other public or private property, or into inland or coastal water of the State.
- C. A person commits an offense if the person receives litter or other solid waste for disposal at a place that is not an approved solid waste site, regardless of whether the litter or other solid waste or the land on which the litter or other solid waste is disposed is owned or controlled by the person.

#### ARTICLE 4: DUTY TO ABATE

- A. It shall be the duty of any owner, or person who has control of any lot, occupied or unoccupied, improved or unimproved, within the corporate limits of the City to cut or cause to be cut and remove such brush, debris, rubbish, trash, junk, iceboxes, refrigerators, stoves and any and all other objectionable, unsightly or unsanitary matter of whatever nature, or caused to be removed, as often as may be necessary to comply with the provisions of Article 3.

#### ARTICLE 5: NOTICE OF PROPERTY OWNER TO ABATE

- A. The Code Enforcement Official shall notify the owner or person who has control of a lot in writing of the existence of a violation of Article 3 upon such lot. Such notice shall require the abatement of such violation within ten (10) days of date of such notice unless application has been made for a bird habitat, some special habitat of a special creature or native vegetation.
- B. With respect to lots under single ownership that have native vegetation and/or native habitats, the natural vegetation may be allowed to grow to provide the habitat to remain in its natural state; however, the carrion, filth, any other unsightly, objectionable or unsanitary matter may not be allowed to accumulate.
- C. The notice is to be given:
  - a. By certified return receipt letter addressed to the owner at owner's post office address;  
Or
  - b. By publication once in the Official City Newspaper if personal service cannot be obtained or the owner's post office address is unknown.

#### ARTICLE 6: ABATEMENT BY CITY; LIEN FOR COST

- A. Should the City of Ingleside on the Bay perform the services required under the provision of this ordinance, the fee to be charged to the owner or owners of such lot or lots is set at the rate of \$100.00 (one hundred dollars) per hour plus an inspection and administrative fee of \$100.00 (one hundred dollars) provided, however, that the minimum charge to be assessed shall be \$200.00 (two hundred dollars). The additional fees for each subsequent violation within a twelve-month period shall be \$200.00 (two hundred dollars) per violation for the second and third violation and \$500.00 (five hundred dollars) per violation for the fourth or more violations. All fines double if City has to notify owner more than three (3) times in one twelve-month period.
- B. The owner of the lot that has been mowed or cleaned by the City shall be charged for the expense of the City's work which shall include, but not limited to, the expenses of inspection or testing by third parties, photography, newspaper publication costs, title search locating, or contacting the owner, labor and equipment costs for mowing and cleaning of the lot, landfill fees, plus an administrative fee to cover the City's costs in administering the work.

- C. The Code Enforcement Official shall certify the expenses incurred in enforcing the provisions of this ordinance for billing to the owner of the property. The bill becomes an account receivable upon completion and shall be due within thirty (30) days.
- D. If after thirty (30) days from billing, payment in full has not been made, the City shall assess the expenses on and have lien against the property filed.
- E. Notice of the lien shall be provided to the County Clerk on a form approved by the City Attorney. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the County Clerk. The lien notice must contain the name of the owner, a legal description, the amount of expenses incurred by the City, the interest rate to be charged and the balance due.
- F. The City's lien is a privileged lien subordinate only to the tax liens and all previously recorded bona fide Mortgage liens attached to the real property to which the City's lien attaches and interest accruing at the rate often ten (10) percent on the amount due.
- G. The lien shall be extinguished if the owner reimburses the City for the total amount due.

#### ARTICLE 7: PROHIBITED ACTS

- A. It shall be unlawful for the owner of a lot in violation of this ordinance to fail or refuse to comply with the order of the Code Enforcement Official.
- B. It shall be unlawful for any person to obstruct or interfere with the implementation of any action required by the order of the Code Enforcement Official.

#### ARTICLE 8: ADMINISTRATIVE LIABILITY

- A. No officer, agent or employee of the City of Ingleside on the Bay shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this ordinance. Any suit brought against any officer, agent or employee of the City as a result of any act required or permitted in the discharge of his duties under this ordinance shall be defended by the City Attorney until the final determination of the proceedings.

#### ARTICLE 9: RIGHT TO APPEAL

- A. The owner or owners of a property or the representative of the owner has the right to appeal the notification of abatement under this ordinance to the City Council with written notice to appear before the council at the next regularly scheduled meeting of the council.

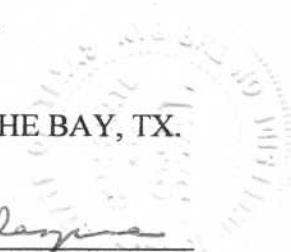
#### ARTICLE 10: VALIDITY

- A. If any section, paragraph, sentence, clause, phrase or provision of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance.
- B. All ordinances or parts of ordinances including Ordinance 1992-17, Ordinance 1995-08, Ordinance 2007-04 and any other ordinance in conflict herewith are hereby repealed.

C. This ordinance shall become effective after adoption and publication one time in the official newspaper of the City of Ingleside on the Bay.

PASSED and APPROVED this the 7<sup>th</sup> day of May, 2014.

CITY OF INGLESIDE ON THE BAY, TX.

  
Howard Gillespie

Howard Gillespie, Mayor

ATTEST:

Diane Hosea  
Diane Hosea, City Secretary

