

Ordinance No. 2025-07-14-1

An Ordinance of the City of Wolfe City, Texas, Defining, Regulating, and Providing for the Abatement of Public Nuisances; Establishing Prohibited Conditions Including Stagnant Water, Filth, Overgrown Vegetation, Trash, Unsanitary Matter, and Obstructions; Authorizing City Enforcement Through Notices, Abatement, Cost Recovery, Liens, and Penalties, Including Fines of up to \$500.00, or \$2,000.00 if the Violation is Injurious to Public Health or Safety; Providing for Emergency Abatement, Civil and Criminal Remedies, and Repeal of Prior Nuisance Ordinances; and Setting an Effective Date.

Be it ordained by the City Council of the City of Wolfe City, Texas:

Section 1: Purpose and Scope. This Ordinance is enacted to protect the public health, safety, and welfare within the City of Wolfe City by defining and prohibiting public nuisances. It is the City's policy that **no property** shall be maintained in a condition that: (1) harbors disease or pests; (2) creates a fire or safety hazard; or (3) endangers the comfort or well-being of the public. Conditions such as accumulated filth, overgrown weeds, junked vehicles, and other hazards are hereby declared public nuisances.

Section 2: Definitions. *(Unless otherwise indicated, these definitions apply throughout Ordinance 93.)* For the purpose of this Ordinance, the following terms have the meanings ascribed:

- a. **Abate** – To eliminate or remedy a condition. Abatement can include removal, repair, demolition, cleanup, cutting, mowing or any action to remove or mitigate a nuisance.
- b. **Brush** – Piles or clumps of cut or broken trees, limbs, bushes or other natural vegetation debris, whether decaying or not. Also includes **brush piles** left unattended.
- c. **Cultivated** – Tended and maintained in a manner that keeps property free of nuisances. For vegetation, *cultivated* means trimmed, controlled, and cleared of litter or brush on a regular basis.
- d. **Junk** – Old or scrap metal, lumber, rope, rags, batteries, paper, trash, rubber debris, tires, or other worn-out, discarded material of little value, **including** inoperable appliances or furniture discarded outdoors.
- e. **Litter** – All forms of trash, refuse and garbage. This includes waste materials from households or businesses, paper, plastic, cans, bottles, etc., that are not properly disposed of.
- f. **Owner** – The person or entity with legal title to a property. *Owner* also includes any person in lawful control of property (such as a lessee or property manager) for purposes of responsibility to maintain the premises.
- g. **Public Nuisance** – **Any condition or thing** (other than noise or building structural issues, which are covered elsewhere) that is **injurious to health, offensive to the senses, or obstructs the use of property** of others, thereby interfering with the comfortable enjoyment of life or property by the public. The term encompasses, but is not limited to, the specific nuisances defined in Sec. 93.04 below. It also includes whatever is declared to

be a nuisance by Texas law or common law (to the extent the City is authorized to abate it).

- h. **Unchecked vegetation** – Grass, weeds, brush or any plant growth (other than ornamental plants, flowers, trees or agricultural crops under active cultivation) that is not maintained and is growing in an excessive height or density.
- i. **Unsanitary Matter** – Any substance, item or condition which is or may become putrid, foul, harborage for rodents or insects, or otherwise detrimental to health. This includes **carrion** (animal carcasses or parts), filth, human or animal waste exposed to the environment, or standing water polluted with trash or algae.

Section 3: Administrative Liability. No officer, agent or employee of the City shall be personally liable for damage or injury to any person or property resulting from any act required or permitted in the discharge of their official duties under this Ordinance. *(This provision affirms that enforcement actions taken in good faith pursuant to this nuisance code do not impose personal liability on City officials.)*

Section 4: Public Nuisances Prohibited. It shall be **unlawful** for any person owning, leasing, occupying or having supervision or control of any property within the city to permit or maintain a public nuisance on such property. The following conditions **are hereby defined to be “public nuisances”** per se if they exist within the city limits:

- a. **Stagnant Water:** Any condition that allows stagnant or standing water in which mosquitoes or other pests can breed. This includes uncovered cisterns, pools, excavations, or containers that collect water. *Properly maintained ornamental ponds or pools with circulation are not a nuisance if they do not breed pests and are exempt from this ordinance.*
- b. **Accumulations of Filth or Garbage:** The accumulation of **carrion, filth, refuse, garbage, rubbish, animal waste, or any other impure or unwholesome matter** on any premises, in any container (other than appropriate refuse receptacles for collection), or in any body of water or excavation. It is unlawful to allow such materials to remain such that they emit odors, attract vermin, or create a health hazard. All garbage must be properly contained and disposed of in accordance with City sanitation regulations.
- c. **Overgrown Weeds and Vegetation:** Any **weeds, grass or uncultivated vegetation** growing to a height greater than **12 inches** on average, or any dense growth of brush or vines, on any lot or tract. It shall also be unlawful to permit **weeds, grass or brush clippings** that have been cut to remain piled or accumulated on the property, as these can attract insects and rodents. Each owner or person in control of property must keep the property **mowed and cleared** of high weeds or wild growth at all times. *Cultivated flowers, gardens, or pasture crops are exempt so long as they are maintained and do not endanger health or safety.*
- d. **Trash and Debris:** The accumulation of **junk, trash, or rubbish** such as paper, cardboard, plastics, scrap wood or metal, appliances, furniture, mattresses, vehicle parts, broken equipment, **or any discarded materials** in a manner that is unsightly or likely to provide harborage for rodents or insects. This includes **piles of lumber or other materials** left unused and exposed to the elements (except those kept for immediate construction with a valid permit), and **household items** left outdoors as trash. Property owners/occupants must

dispose of such debris properly—storing it openly on the property for extended periods (more than 10 days after written notice) is prohibited.

- e. **Unsanitary Conditions:** Any condition on property brought about by the act or neglect of the property’s occupants that **creates an unsanitary environment**. Examples include accumulations of food waste or garbage that are not in covered containers, excessive animal droppings not cleaned up, or any other condition that breeds disease or emits foul odor. After **notice of violation** from the City, the responsible party must remove and remediate any such unsanitary condition within **10 days**.
- f. **Obstructions to Public Ways (Safety Hazards):** Any tree limbs, shrubbery, or other obstruction on private property that overhangs or encroaches upon a public street or sidewalk in a manner that impedes traffic or pedestrians, or blocks visibility for drivers, thereby endangering public safety. Property owners must trim trees or vegetation to clear public rights-of-way as required by city guidelines (e.g., 14-foot clearance over streets, 8-foot over sidewalks, and not blocking intersection sight lines).
- g. **Anything Specifically Declared a Nuisance by Law:** Any other act, omission, or condition which by the **Texas Health & Safety Code, Texas Water Code**, or other applicable law constitutes a nuisance and which the City is authorized to abate. This includes but is not limited to mosquito breeding places, dangerous dilapidated structures, and other environmental hazards.
- h. **Above Nuisances are Non-Exhaustive:** Each of the above conditions is declared to be a nuisance and is prohibited. The enumeration of specific nuisances is not exhaustive. Other conditions may be declared a nuisance by the City Council or deemed a nuisance in fact under the common law and abated accordingly.

Section 5: Notice to Abate Nuisance (Compliance Process). If a public nuisance as defined above is found to exist on any property, the **code enforcement official** (or other authorized City officer) shall issue a **Notice to Abate** to the property owner and/or occupant. This notice will describe the violation and require the owner/occupant to abate the nuisance **within ten (10) days** of the date of the notice.

- a. **Method of Service:** The notice shall be given to the owner by **one of the following methods**:
 - 1. **Personal delivery** of the notice to the owner or occupant; **or**
 - 2. **Certified mail, return receipt requested**, addressed to the owner’s last known address as listed on City or county records; **or**
 - 3. If personal service or certified mail is unsuccessful (e.g. the owner’s address is unknown or mail is returned unclaimed), then by **posting** the notice:
 - a. On or near the front door of each building on the property to which the violation relates **and/or**
 - b. On a weatherproof placard attached to a stake firmly planted on the property (if no building is present), in a conspicuous place. The notice shall remain posted for at least 10 days.
- b. **Contents of Notice:** The notice shall state the specific nature of the nuisance, the required corrective action, the deadline for compliance, and cite this Ordinance as the legal authority. It shall also inform the recipient that failure to abate may result in the City abating the

nuisance at the owner's expense and that **repeated or continuing violations** may be abated without further notice as provided by law. If the City has previously given notice to the same owner for the same nuisance within the past **12 months**, the notice may also state that no additional notice will be given before the City takes action on subsequent violations (pursuant to Tex. Health & Safety Code §342.006).

- c. **Extension or City-Approved Plan:** The enforcing officer may grant a reasonable extension of the 10-day compliance period if the owner contacts the City and shows good cause (for example, needing additional time to schedule a contractor to mow a large tract). Any extension should be confirmed in writing. Alternatively, the owner may propose a remediation plan subject to City approval, in which case strict adherence to that plan will be required.

Section 6: Abatement by City. If the property owner or responsible party fails to abate the nuisance **within the time specified** in the notice (or any approved extension), the City is authorized to enter the property and abate or remove the nuisance **at the owner's expense**. Specifically:

- a. The City may **perform or cause to be performed** any work necessary to eliminate the nuisance – e.g. mowing high weeds, removing trash or junk, treating stagnant water, etc. City crews or a private contractor hired by the City may carry out the work.
- b. **Minimum Action:** The City will not undertake more work than necessary to abate the identified nuisance. For instance, if only the front yard has high weeds, the City will limit mowing to that area unless additional nuisance conditions are discovered on site.
- c. All persons performing abatement on behalf of the City shall have full access to the property as needed. (*Entry for nuisance abatement is authorized by Texas law once notice and an opportunity to comply have been given. No person shall obstruct or interfere with these authorized personnel – doing so is a violation, see Sec. 93.12(a) below.*)
- d. The costs and expenses incurred by the City in abating the nuisance **shall be charged to the property owner** as outlined in Sec. 93.07 through 93.10.

Section 7: Assessment of Expenses; Invoice to Owner. Once the City has completed the abatement work, the code enforcement official shall compile all costs incurred. The owner shall be billed for these costs:

- a. **Abatement Costs:** The actual cost to perform the work, including payments to contractors or the reasonable value of City labor and equipment used. *The City hereby sets a minimum charge of \$75.00 per hour for City labor/equipment if used, with a one-hour minimum, plus actual disposal fees or other direct costs.* If an outside contractor is used, the actual invoiced amount to the City shall be charged.
- b. **Administrative Fee:** An administrative fee of **\$75.00** shall be added to each abatement to cover the City's costs of inspection, notification, and processing.
- c. **Related expenses:** Any additional **related expenses** may be included in the charge. These may include costs for title searches, postage, publication of notice (if needed), attorney's fees, and **any other expenses** reasonably incurred by the City in the process of abating the nuisance.
- d. **Invoice and Payment:** After tabulating the above referenced costs, fees, and expenses in Section 7 (a)–(c), the City shall prepare an invoice for the total amount due. The code

enforcement official will certify the expenses and mail or deliver an invoice to the owner's last known address and/or to the property address. The invoice is due and payable **within 30 days** from the date of mailing/delivery. The invoice shall also state that if not paid, the charges will be assessed as a lien against the property.

- e. If personal delivery of the invoice cannot be made and the owner's address is unknown or mail is returned, the code enforcement official may proceed with lien filing after certification of expenses (see Sec. 93.09).

Section 8: City's Lien for Abatement Costs. If the property owner fails to pay the abatement costs within 30 days of the invoice, or if contact with the owner cannot be established within 30 days of the invoice, the City shall **impose a lien** against the property for the unpaid amount. The following provisions apply:

- a. The Mayor, City Secretary, or other designated City official shall execute an affidavit evidencing the lien on behalf of the City. The lien shall then be **filed with the County Clerk** of Hunt County.
- b. **Contents of Lien Affidavit:** The lien document shall state the name of the property owner (if known), the legal description of the property, the amount of costs incurred by the City, and the date(s) the work was done. It should also state that interest will accrue on the amount due. Once filed and indexed by the County Clerk, the lien attaches to the property.
- c. **Priority of Lien:** In accordance with state law, this **municipal lien is inferior only to tax liens and prior recorded bona fide mortgage liens**. It is superior to other non-tax claims. The lien runs with the land, meaning if the property is sold the new owner takes subject to the lien.
- d. **Interest:** Interest shall accrue on the unpaid balance of the lien at the rate of **10% per annum** from the date the City files the lien until paid in full.
- e. **Release of Lien:** Upon the owner's payment in full of all costs plus interest, the City shall file a release of lien in the county records. If a lien is filed in error or the debt is otherwise satisfied, the City will promptly release it. *The lien is extinguished once the City is reimbursed in full for all expenses and interest.*

Section 9: Subsequent/Repeat Violations. Once the City has given notice to a property owner of a nuisance condition and that condition is abated (by the owner or the City), **if the same type of nuisance occurs again on the same property within 12 months**, the City is **not required to deliver a new notice** before abating the subsequent violation. The City may proceed directly to abate and charge the owner for the costs on the repeat offense. This section implements the authority of Tex. Health & Safety Code §342.006 to issue one annual notice for recurrent nuisances. All costs of abating repeat violations will be assessed and liens filed against the property in question as provided above. Additionally, **each day** a repeat nuisance condition continues is a separate offense subject to citation (see Sec. 93.11).

Section 10: Emergency Abatement. In situations where a nuisance condition **poses an imminent danger or immediate threat** to public health or safety, the City may summarily abate the nuisance without prior notice to the owner. Examples include: a hazardous spill, a swarm of disease-carrying pests, or vegetation obstructing a stop sign causing immediate traffic hazard. The City will, however, **provide notice as soon as practicable after abatement** to the owner of the action taken

and the costs incurred, following the procedures for invoicing and lien above. Emergencies will be determined by the City Administrator, code enforcement official, fire marshal, or other appropriate authority and documented.

Section 11: Offenses; General Penalty. In addition to the cost recovery and abatement process described, maintaining a public nuisance is hereby declared unlawful and **punishable as a misdemeanor offense.**

- a. **Citation:** A code enforcement officer, peace officer, or other authorized official may issue a **citation** (municipal court complaint) to any person violating any provision of this Ordinance. This includes the property owner and/or person in control of the premises who allowed the nuisance to exist. It is **not a prerequisite** to issuing a citation that the City first abate the nuisance; a citation may be issued upon observation of the violation, whether or not notice to abate has been given.
- b. **Penalty:** A violation of any provision of this Ordinance is punishable by a fine not to exceed **\$500** for each offense, except if, the nuisance condition is of a type that is specifically injurious to public health or safety (for example, creating a condition for disease spread), in which case the fine may be up to **\$2,000**, as authorized by Texas law for health/safety ordinance violations. Each day that a nuisance is maintained after the compliance deadline in a notice (or after citation issuance, if no notice was given) **constitutes a separate offense.**
- c. **Relation to Abatement:** Issuance of a citation does not preclude the City from also abating the nuisance. Conversely, abating the nuisance does not preclude the City from pursuing a fine for the period the nuisance was unlawfully maintained. The court may order, as part of the judgment, that the defendant reimburse the City's abatement costs or that the nuisance be abated, to the extent allowed by law.
- d. **Affirmative Defense:** It shall be an affirmative defense in a prosecution under this Ordinance that the defendant neither owned, occupied, nor had any control over the property and was not responsible for creating the nuisance condition. (For example, a tenant may defend a charge of junk accumulation if it was caused by a previous occupant and the current tenant had no ability to remove it – though the property owner in such a case would likely be the responsible party cited.)

Section 12: Enforcement and Remedies. The City has the following additional remedies for violations of this Ordinance, which are **cumulative** of the above:

- a. **Civil Action:** The City Attorney may initiate **civil proceedings** for injunctive relief to restrain or enjoin continuing nuisances or to seek civil penalties authorized by law (for example, civil penalties up to \$1,000 per day for illegal dumping under **Tex. Health & Safety Code §365.012** in a district court). Such action may be taken in cases of chronic or egregious nuisances, in addition to the regular abatement process.
- b. **Criminal Prosecution:** Certain nuisance-related violations may constitute offenses under state law (for instance, illegal dumping of certain quantities is a misdemeanor or felony under state law). The City may refer such cases to the appropriate county or state authorities for prosecution under state statutes, in lieu of or in addition to municipal citation.

- c. **Specific Penalties:** State law classifications and penalties may apply. For example, under **Tex. Health & Safety Code §365.012**, dumping more than 5 pounds of waste is a Class B misdemeanor, and more than 500 pounds can be a state jail felony. If a violation meets these thresholds, it will be prosecuted accordingly. The municipal court is limited to Class C misdemeanors (fine-only), so more serious cases will be referred to higher courts.
- d. **Abatement in lieu of prosecution:** If an owner diligently abates a nuisance after notice or citation, the City may, in its discretion, dismiss or not pursue the municipal court case, particularly for first-time violations. The goal is compliance; however, failure to timely comply may result in both abatement and prosecution.
- e. **Nonexclusive Remedies:** The remedies provided in this Ordinance are not exclusive. The City may utilize any combination of remedies allowed by law to combat a public nuisance.

Section 13: Repeal of Prior Ordinances. Every ordinance, resolution, order, or portion thereof previously adopted by the City Council that addresses public nuisances—including, without limitation, weed or brush control, accumulation of refuse, stagnant water, junked vehicles, unsanitary conditions, or any subject now governed by this Ordinance—is hereby repealed in its entirety. This Ordinance supersedes and replaces all such prior enactments.

Section 14: Severability. The provisions of this Ordinance are severable. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions. The City Council declares that it would have adopted this Ordinance and each section hereof irrespective of the fact that any one or more sections may be declared invalid.

Section 15: Effective Date

This Ordinance will take effect immediately upon passage, approval, and publication.

PASSED AND APPROVED this 14th day of July, 2025


Sharion Scott
Mayor

Attest: 
Nancy Sanders
City Secretary