

**ORDINANCE NO. 2011-12**

**AN ORDINANCE OF THE CITY OF SIMONTON, TEXAS, DELETING AND THEREFORE REPLACING ORDINANCE NO. 87102007, PROVIDING DEFINITIONS; PROVIDING THAT THE ACCUMULATION OF STAGNANT WATER, CARRION, FILTH, IMPURE OR UNWHOLESOME MATTER, WEEDS IN EXCESS OF TWELVE (12) INCHES, OR ANY OTHER RUBBISH, BRUSH OR OTHER UNSIGHTLY, OBJECTIONABLE OR UNSANITARY MATTER, OR ANY THING THAT RENDERS THE GROUND, WATER, AIR, OR ANY FOOD OR DRINK UNHEALTHY OR HAZARDOUS TO LIFE OR HEALTH TO BE A PUBLIC NUISANCE; PROVIDING A PROCEDURE FOR THE ABATEMENT OF A PUBLIC NUISANCE BY THE CITY WHEN THE OWNER OR OCCUPANT OF THE REAL ESTATE WHERE SUCH PUBLIC NUISANCE EXISTS FAILS OR REFUSES TO ABATE SUCH PUBLIC NUISANCE; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; PROVIDING SEVERABILITY; AND REPEALING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.**

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**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIMONTON, TEXAS:**

Section 1. Definitions.

A. Brush – Shall include all trees or shrubbery, including any trees or shrubbery that are dead, dying, diseased, or have fallen, which have not been properly cultivated, maintained, cared for, removed or disposed of by persons owning or controlling the premises on which such trees or shrubbery are growing, or in the right-of-way immediately adjacent to such premises.

B. Nuisance - Whatever is dangerous to life or health; whatever renders the ground, the water, the air, or any food or drink unhealthy and a hazard to life or health is hereby declared to be a public nuisance.

C. Person - Shall include an individual, firm, association, organization, partnership, trust, company or corporation.

D. Rubbish - Shall include all refuse, discarded or useless articles, including all liter

and other things usually included within the meaning of the term “rubbish.”

Section 2. Specific Conditions. Each of the following, without limiting the definitions in Section 1 herein, is specifically declared to be a public nuisance, and as such is liable to be abated, and the person guilty of causing, permitting or suffering any such nuisance then upon his premises or in any building occupied or controlled by him or in or upon any street, alley, sidewalk, gutter, drainage ditch or other right-of-way immediately adjacent to such premises shall be deemed in violation of this Ordinance.

- A. The accumulation of stagnant water.
- B. The accumulation of carrion, filth or other impure or unwholesome matter of any kind.
- C. Weeds which have grown to a height of more than twelve (12) inches.
- D. The accumulation of rubbish, brush or unsightly, objectionable or unsanitary matter.

Section 3. Abatement.

A. Notice. Should the City Health Officer determine that a nuisance, as herein defined, exists on any lot or parcel of real estate within the City, he shall cause notice to be given to the owner of the lot upon which the nuisance exists. Such notice shall identify the nuisance, identify the property upon which nuisance exists, and direct the owner to take such action as the City Health Officer deems reasonable, appropriate, and necessary to remove the nuisance. Such notice shall be delivered personally to the owner in writing, or by letter addressed to such owner at his post office address, as recorded in the Fort Bend County Appraisal District records; or, if personal service may not be had or the owner's address is not known, by publication at least one (1) time in the City's official newspaper.

B. Action by City to Abate. If the owner fails or refuses to remove the nuisance within seven (7) days following notice as provided in Section 3A above, the City may do or cause to be done that which will abate such public nuisance, and may pay therefor, and charge the expenses incurred in doing such work or having such work done or improvements made to the person who owns such lot or building. If such work is done or improvements made at the expense of the City, then such expenses shall be assessed on the real estate or lot upon which such expense was incurred.

Section 4. Collection of Expenses. The Mayor or City Health Officer shall file a statement of expenses giving the amount of such expense, the date on which such work was done, and a description of the premises upon which such work was done or improvements made with the County Clerk of the County in which the premises are located. The City Council hereby finds and discloses that general overhead of administrative expense of inspection and ordering work done, together with all necessary incidents of same, require the reasonable charge of twenty-five dollars (\$25.00) for each lot, series of two (2) or more adjacent and contiguous lots, or tract or parcel of acreage, and such minimum administrative cost is hereby established and disclosed to be an expense of such work and improvement. The City shall have a privileged lien on such lot or real estate upon which such work was done, or improvements made, to secure the expenditures so made, in accordance with Section 342.007 of the Texas Health & Safety Code, as amended, which lien shall second only to tax liens or liens for street improvements, and such amount shall bear 10% interest from the date the statement is filed. For any such expense and interest, as aforesaid, suit may be instituted and recovery and foreclosure of such lien may be had in the name of the City, and the statement of expenses so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended from such work or improvements.

Section 5. Penalty. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, violate any provision of this Ordinance, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2000. Each day of violation shall constitute a separate offense.

Section 6. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Simonton, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 7. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

PASSED AND APPROVED THIS 17th day of January, 2012.

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Daniel McJunkin, Mayor

ATTEST:

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S. Purcell, City Secretary