

ORDINANCE NO. 20170912-04 File No. ___
AN ORDINANCE REGULATING GARBAGE, BRUSH, WEEDS, DRY RUBBISH, ALLEY MAINTENANCE PROVIDING FOR A LIEN IN FAVOR OF THE CITY OF ROPESVILLE, PROVIDING A PENALTY FOR THE VIOLATION OF THIS ORDINANCE AND DECLARING AN EMERGENCY.

WHEREAS, the Board of Aldermen of the City of Ropesville has determined that the accumulation of garbage, brush, weeds, dry rubbish are detrimental to the public health, safety and welfare of the residents of the City of Ropesville, Hockley County, Texas.

NOW THERE FORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ROPESVILLE, TEXAS:

Section 1: Definitions.

The following words and terms shall have the definitions herein set forth.

- (1) "Brush" means tree trimmings, weeds, large hedge trimmings, and trees not exceeding three inches in diameter, which have been trimmed and cut in lengths not exceeding five feet.*
- (2) "Dry Rubbish" means tin cans, paper, dry trash, and such, but in no event, shall it be construed to mean kitchen garbage or other garbage, refuse or rubbish which will cause noxious odors and disagreeable smells.*
- (3) "Garbage" means rubbish, trash, kitchen and household waste, ashes, paper, food containers, small hedge and lawn trimmings, and carcasses, but does not include sewage, body waste, or an industrial by-product.*
- (4) "Weeds" means any uncultivated plant which is obnoxious and injurious to man, animal, cultivated or economically useful plant life, create an unsanitary condition or become harborage for rodents, vermin, or other disease-carrying pests regardless of the heights of the weeds.*

Section 2. Applicability.

The provisions of this ordinance shall apply to all territory within the corporate limits of the City of Ropesville, Texas.

Section 3. Public Nuisance.

- (1) A person may not cause, permit, or allow a public nuisance under this section on any premises.*

(2) A public nuisance is:

- a. Keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle:*
- b. Keeping, storing, or accumulating rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood for ten days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street: maintaining premises in a manner that creates an unsanitary condition likely to:
 - i. Attract or harbor mosquitos, rodents, vermin, or disease-carrying pests:*
 - ii. Allowing weeds to grow on premises in a neighborhood if the weeds are located within three (300) hundred feet of another residence or commercial establishment:**
- c. City owned land or:*
- d. Land or easements owned of held by a special nonprofit, of the city as its governing body or discarding refuse on the smaller of the area that spans twenty (20) feet on each side of a utility line; of the actual span of the utility easement.*

This section does not apply to:

(1) A site or facility that is:

- a. Permitted and regulated by a state agency; or*
- b. Licensed or permitted under Texas Health & Safety Code Chapter 361 or agricultural land.*

(2) In Subsection with (c), "agricultural land" means land that qualifies for tax appraisal under: Subchapter C or D, Chapter 23, Tax Code.

Section 4. Treatment of Materials Not Within Containers.

(1) It shall be the duty of each occupant or owner of a residence or business establishment using the city garbage collection system to place all garbage within the containers. Only garbage that can be placed entirely within the containers shall be collected.

(2) Rubbish, brush, trees, limbs and garbage that cannot be placed entirely within the container shall be the responsibility of and removed by the owner or occupant and any such rubbish, trees and limbs, brush and garbage shall not be allowed to accumulate for any period in the excess of fourteen (14) days; removal may be waived due to weather conditions.

- (4) *When any violation of this Section exists, or is found to exist and is reported to the City Secretary a notice of such violation shall be sent, by mail. If any person, firm, corporation, partnership, association of person, owner, agent, occupant or anyone having supervision or control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the City of Ropesville fails to comply with the letter then a notice of such violation shall be sent, by certified or register mail with a five (5) day return requested to the owner or the occupant of the premises whereupon such violation exists, to abate or remove such violation within ten (10) days from the receipt of said notice. If personal services may not be had, notice shall be published in a local newspaper not less than two (2) times within ten (10) days from the date of the final publication. Failure of the owner or occupant to correct the violation within the specified time shall constitute a misdemeanor.*
- (5) *The City of Ropesville may, after the notice and the expiration of the specified period time to correct the violation, enter upon the lot, tract, or parcel of land or portion thereof and do such work as necessary or cause the same to be done to correct the violation. A statement of the cost incurred by the City of Ropesville shall be mailed to the owner of the premises, which statement shall be paid with thirty (30) days of the date of the mailing thereof. In the event that the statement has not been paid within the 30 day period of time, the Mayor of the City of Ropesville may file a statement with the county clerk of Hockley County of the expenses incurred to correct the violation on the premises, and the City of Ropesville shall have a privileged lien on any lot, tract, parcel of land or portion hereon which such expenses were incurred and this lien shall be second only to tax liens and liens for street improvements, together with ten per cent (10%) on the delinquent amount from the date such payment is due. For any such expenditure and interest, as aforesaid, suit may be instituted and recovery and foreclosure had in name of the City of Ropesville, and the statement so made, as aforesaid, or a copy thereof shall be prima facie proof of the amount expended in any such work performed by the City of Ropesville.*
- (6) *Any person, firm, corporation, partnership, association, of person, owner, agent, occupant or any having supervision or control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the City of Ropesville to comply with this Section hereof shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed one thousand dollars (\$1,000) and each and every day's violation thereof shall constitute a separate and distinct offense. The failure of corporation, partnership or association of person(s) owning or operating, having supervision or control of any lot, tract, parcel of land or portion thereof to comply with any of the provisions hereof shall render the president, vice-president, local manager, partnership, local agent, or associate, heir or devisee liable to the penalty prescribed in this Section.*

- (3) *It shall be unlawful for any owner or occupant to fail to remove from his premises or the abutting street alley or sidewalk, all discarded items such as furniture, automobile bodies, appliances, mattresses, carpet padding, or any other material, including trees and limbs, which cannot be placed in a regulation container in compliance with this Section.*
- (4) *It shall be unlawful for any owner or occupant to fail to remove overhanging tree branches, or branches that interferes with travel down the street, alley or sidewalk, or that could interfere with access of the abutting street, alley or sidewalks.*

Section 5. Weeds.

- (1) *It shall be unlawful for any person, firm, corporation, partnership, association of person, owner, agent, occupant or anyone having supervision or control of any lot, tract, parcel of land, or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the City of Ropesville to suffer or permit grass, weeds or any plant that is not cultivated to grow to a greater height than twenty (20) inches on an average of the individual lot, tract or parcel or to grow in rank profusion upon the premises.*
- (2) *It shall be unlawful for any person, firm, corporation, partnership, association of person, owner, agent, occupant or anyone having supervision or control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the City of Ropesville to suffer or permit any rubbish, brush, trees and limbs, and any other objectionable, unsightly or unsanitary matter of whatever nature to accumulate or be present upon any lot, tract or parcel of land.*
- (3) *It shall be unlawful for any person, firm, corporation, partnership, association of person, owner, agent, occupant or anyone having supervision or control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the City of Ropesville to suffer or permit any grass, weeds or any plant that is not cultivated to grow in rank profusion, or otherwise, in along, upon, or across the abutting sidewalk, parkway, or alley to a height greater than twenty (20) inches on the average.*

Section 6. Littering.

No person shall sweep, throw or deposit in any street, alley, sidewalk, or other public place any of the sweeping or clearing of swelling houses, stores, and other premises of all kinds, or any rags, paper, rubbish, or refuse matter of any kind whatsoever.

Section 7. Scattering Material Placed for Collection.

It shall be unlawful for any person to throw or scatter into or onto any street, alley or sidewalk the contents of any can, box, bail, bundle, sack or other container of rubbish, including wastepaper, pasteboard boxed, paper boxes, clothes or other materials deposited for collection on or alongside any street or alley within the city.

Section 8. Throwing Waste onto Public Places.

*It shall be unlawful for any person to throw, deposit, place or drop cans, bottles, any loose paper or other waste materials or refuse into or onto any street, alley, sidewalks, or other public place within the city except in public receptacles, in authorized private receptacles for collection, or in the designated **dump ground**.*

Section 9. Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith, are hereby repealed.

Section 10. Penalty.

Any person, firm or corporation violating or failing to comply with any provision of this ordinance or failing to perform any act which this ordinance imposes a duty to perform shall be deemed guilty of a misdemeanor that is punishable by a fine of not less than \$100 and not more than \$500 (Texas Penal Code Section 602(f) requiring a culpable mental state to fine excess of \$500).

Each day a violation on continues is a separate offense.

Section 11. Emergency Clause.

Whereas, the public, convenience, safety and necessity of the City of Ropesville, Texas, requires the immediate passage of this ordinance, and an emergency is hereby declared and further reading of this ordinance is dispensed with, and the same shall be in full force and effect from and after its passage and publication.

Section 12. Chemicals and Tires.

It shall be unlawful for any person, occupant or owner of a residence or business establishment, to use the city garbage collection system to place or throw tires, batteries or chemicals within the garbage containers.

Section 13. Maintenance of Alleyways and Prohibiting Storage.

It shall be hereinafter being unlawful for the owners or occupant of any property within the corporate city limits of the City of Ropesville, Texas to place, store, maintain deposit or cause to be placed, stored, maintained, or deposited, or allow to be placed, stored, maintained, or deposited any item(s) of whatever type or nature in the alley located within the corporate city limits of the City of Ropesville. The only exception to this prohibition is and shall be garbage containers of the regulation type and the use of such regulation garbage containers shall be for the storage of trash and garbage in a neat, proper and lawful manner.

- (1) It shall be unlawful for any person, firm, corporation or other business association to park or leave unattended in any alley within the corporate limits of the City of Ropesville an automobile, truck, vehicle or any kind of nature.*
- (2) Hereinafter, all trash containers that do not obstruct the passage of any alley within the corporate limits of the City of Ropesville shall be kept immediately near the fence or alley boundary line in such a manner that said trash containers do not interfere with the free passage of traffic in said alley including city utility system.*
- (3) An employee or an authorized person approved by the City Council will be hereby empowered to remove from the alleyways any item there placed in violation of this section of this ordinance at the expense of the owner or occupant of the property adjacent to such alleyway and failure of such owner or occupant to pay such expense shall be deemed in each instance a violation to the penalties herein above set forth.*

Section 14. Severability.

If, for any reason, any one or more paragraphs of this ordinance are held invalid by a court of competent jurisdiction, such holding shall not effect, impair or invalidate the remaining paragraphs of this ordinance, but shall be confined in its operations to the specific sections, sentences, clauses or parts of this ordinances in any one or more instances shall not effect or prejudice, in any way, the validity of this ordinance in any other instance.

PASSED, APPROVED, AND ADOPTED this 12 day of September, 2017, at regular meeting, a quorum being present by a vote of 3 in favor and 0 in opposition to its passage on first reading.

Brenda Rabel
Brenda Rabel
Mayor

AN ORDINANCE REGULATING GARBAGE, BRUSH, WEEDS, DRY RUBBISH, ALLEY MAINTENANCE

ATTEST:

Ofelia Corral
City Secretary

PASSED, APPROVED, AND ADOPTED this 28 day of September, 2017, at regular meeting, a quorum being present by a vote of in favor and in opposition to its passage on second reading.

Brenda Rabel
Brenda Rabel
Mayor

ATTEST:

Ofelia Corral City Secretary

