

AN ORDINANCE OF THE VILLAGE OF PLEAK REGULATING AND PROHIBITING THE ACCUMULATION OF RUBBISH, BRUSH, WEEDS, AND OBJECTIONABLE, UNSIGHTLY OR UNSANITARY MATTER; PROVIDING DEFINITIONS; PROVIDING FOR PENALTIES; REPEALING ORDINANCE NO. 44.

WHEREAS, it is the Village Council's intention with this ordinance to promote the health, safety and welfare of persons and property, by regulating and prohibiting the accumulation of rubbish, brush, weeds and objectionable, unsightly or unsanitary matter within the incorporated limits of the Village of Pleak;

NOW, THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL FOR THE VILLAGE OF PLEAK, that the following ordinance is hereby adopted.

Section 1. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Brush shall mean all trees or shrubbery which are not cultivated, maintained or cared for by persons owning or controlling the premises on which such trees or shrubbery are growing.

Objectionable, unsightly or unsanitary matter of whatever nature shall mean all uncultivated vegetable growth, objects and matter which are liable to produce or tend to produce disease or an unhealthy, unwholesome or unsanitary condition on the premises or within the general locality where they are situated, including, without limitation, the accumulation of stagnant water, carrion, filth, impure or unwholesome matter, weeds, rubbish, and brush.

Rubbish shall mean all refuse, discarded or useless articles, discarded clothing and textiles of all sorts, discarded appliances, furniture, tires, and in general all litter and other things usually included within the meaning of the term "rubbish."

Weeds shall mean uncultivated vegetable growth or matter, including grasses, which have, regardless of height, become an unwholesome or decaying mass or breeding place for mosquitoes, flies, fleas, insects or vermin, or reptiles.

Section 2. Specific conditions.

Each of the following, without limiting the definitions in section 1 above, 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 or gutter immediately adjacent to such premises shall be deemed in violation of this division:

1. The accumulation of stagnant water or holes or places where water may accumulate and become stagnant, including tires.
2. The accumulation of carrion, filth, or other impure or unwholesome matter of any kind.
3. Weeds.
4. The accumulation of rubbish, brush or other unsightly, objectionable or unsanitary matter.

Section 3. Notice.

1. Village to provide notice.

Should it be determined that a public nuisance, exists on any lot, tract or parcel of real estate within the Village of Pleak, notice shall be given to the owner of the real estate upon which the nuisance exists. Such notice shall identify the nuisance, identify the property upon which the nuisance exists, and direct the owner to take such action as the Village deems reasonable, appropriate, and necessary to remove the nuisance. Such notice shall be delivered personally to the owner in writing; or by letter, using certified mail, return receipt requested, addressed to the owner at the owner's address as recorded in the records of the Fort Bend County Appraisal District; or, if personal service may not be had or the owner's address is not known, by publication at least once in the Village's official newspaper; or by posting notice on or near the front door of each building on the property to which the violation relates; or, if the property contains no buildings, by posting the notice of a placard attached to a stake driven into the ground on the property to which the violation relates.

2. Returned notice.

If the Village mails a notice to a property owner in accordance with this section, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.

3. Repeat violations.

In a notice provided under this section, the Village may inform the owner, that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the Village may, without further notice, correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice under this section occurs within the one-year period, and the Village has not been informed in writing by the owner of an ownership change, then the village may, without notice, take any action permitted by this ordinance and assess its expenses accordingly.

Section 4. Action by Village to abate.

If the owner fails or refuses to remove the nuisance within seven (7) days following notice, the Village may do or cause to be done that which will abate such public nuisance, may pay for the work, and may 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 are made at the expense of the Village, such expenses shall be assessed on the real estate or lot upon which such expense was incurred.

Section 5. Collection of expenses.

The Village official designated by the mayor, shall file, with the county clerk, a statement of expenses incurred under section 4 hereof, giving the amount of such expense; the date on which such work was done; the name of the owner, if known; and the legal description of the property upon which such work was done or improvements were made. A lien will attach to the property upon the filing of such statement. The Village council finds and discloses that general overhead of administrative expense of inspection and ordering work done, together with all necessary incidents of the work, require a reasonable charge for each lot, series of two or more adjacent and contiguous lots, or tract or parcel of acreage in accordance with the fee schedule adopted by the council; and such minimum administrative cost is established and disclosed to be an expense of such work and improvement. The Village 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 state law, which lien shall be second only to tax liens or liens for street improvements; and such amount shall bear ten percent interest from the date the Village made the expenditure. For any such expense and interest, suit may be instituted, and recovery and foreclosure of such lien may be had in the name of the Village; and the statement of expenses so made, or a certified copy of the statement, shall be prima facie proof of the amount expended for such work or improvements. The Village may foreclose on a lien on a property under this ordinance.

Section 6. Penalty.

Any person, firm, corporation, partnership or association who shall fail to comply with the notice as set forth in the preceding sections of this ordinance shall be subject to a fine, upon conviction in the municipal court, of not more than \$2,000.00, and each and every day that the premises shall remain in a condition in violation of the terms of this ordinance shall constitute a separate offense. This section shall be in addition to and cumulative of the provisions for the abatement of the nuisance and charging the cost of the abatement against the owner of the premises by the Village.

Section 7. Repeal.

Ordinance #44, adopted June 21, 2006, is hereby repealed in its entirety and all ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 8. Severability.

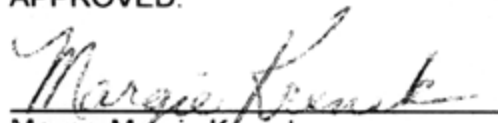
In the event any section, clause, sentence, paragraph, or portion of this Ordinance shall be, for any reason, adjudged by any Court of competent jurisdiction to be invalid, such invalidity shall not effect, invalidate or impair the remainder of this Ordinance.

Section 9. Adoption of ordinance.

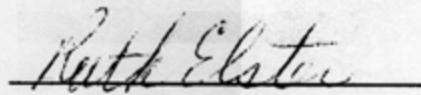
This ordinance shall become effective upon its approval and passage.

PASSED by an affirmative vote of all members of the Village Council this 16 day of August, 2006.

APPROVED:


Mayor, Margie Krenek

ATTEST:


City Secretary, Ruth Elster