

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING APPENDIX B, ARTICLE II, DIVISION 3 “NUISANCES,” OF THE CODE OF THE CITY OF FORT WORTH, TEXAS (2015), AS AMENDED, BY AMENDING CERTAIN SECTIONS RELATED TO REQUIRED NOTICE BEFORE ABATEMENT OF CERTAIN NUISANCES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL PRIOR ORDINANCES AND REPEAL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Fort Worth ("City Council") seeks to protect the public safety, preserve the quality of life, and promote efficiency within the City; and

**WHEREAS**, the City Council seeks to promote greater efficiency and expediency in abating nuisances found within the City; and

**WHEREAS**, Texas Health and Safety Code, Chapter 342 provides for abatement of nuisances within seven days of notice of a violation; and

**WHEREAS**, pursuant to Texas Local Government Code Chapter 51, the City Council has the general authority to adopt and publish an ordinance or police regulation that is for the good government, peace or order of the municipality and is necessary or proper for the carrying out of a power granted by law to the municipality; and

**WHEREAS**, it is advisable to amend Appendix B, Article II, Division 3 “Nuisances,” of the Fort Worth Code of Ordinances to reduce the notice period before abating nuisances from ten days to seven days; and

**WHEREAS**, the City Council finds this Ordinance to be reasonable and necessary;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, THAT:**

**SECTION 1.**

Appendix B, Article II, Division 3 “Nuisances,” Section 11A-52 of the Code of the City of Fort Worth is hereby amended to be and read as follows:

## **Sec 11A-52 NUISANCE ABATEMENT ORDER.**

(a) The director is hereby authorized to give notice to the owner of any property upon which a nuisance under this division exists to abate the nuisance.

(b) If the owner of the property does not comply with an abatement notice issued by the director within ~~ten~~seven days after the date the notice is received, the director may:

(1) Enter the property and do or cause to be done any work or improvements required to abate the nuisance; and

(2) Pay for the work or improvements done and charge the expenses to the owner of the property.

(c) The notice must be given:

(1) Personally to the owner in writing;

(2) By letter addressed to the owner at the owner's post office address; or

(3) If personal service cannot be obtained or the owner's post office address is unknown:

a. By publication at least twice within ten consecutive days;

b. By posting the notice on or near the front door of each building on the property to which the violation relates; or

c. By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

(d) Notice will be deemed to have been received:

(1) For personal service, as of the date the notice was given personally to the owner;

(2) For mailed notice, three days after it was mailed;

(3) For notice by publication, on the date that the last notice was published in the official newspaper; or

(4) For notice by posting, ten days after notice was posted.

(e) The director in the notice of a violation may inform the owner by certified mail, return receipt requested, 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 city without further notice may correct the violation at the owner's expense and assess the expense against the property.

(f) If a violation covered by a notice under subsection (e) above occurs within the one-year period, and the director has not been informed in writing by the owner of an ownership change, then the city without notice may take any action permitted by subsections (b)(1) and (b)(2) above.

(g) If a nuisance presents an immediate danger to the health, life or safety of any person or to the environment, the director may, without complying with the notice provisions of this section or without waiting the ~~ten~~seven-day period, enter the subject property and:

- (1) Do or cause to be done any work or improvements necessary to abate the nuisance and remediate and restore the environment; and
- (2) Pay for the work or improvements done and charge the expenses to the owner of the property.

## **SECTION 2.**

This ordinance shall be cumulative of all provisions of ordinances of the Code of the City of Fort Worth, Texas, (2015), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

## **SECTION 3.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid as contrary to local, state or federal law, by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

## **SECTION 4.**

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of the Code of the City of Fort Worth, or any other ordinances of the City, that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance, but may be prosecuted until final disposition by the courts.

## **SECTION 5.**

All other provisions of the Code of the City of Fort Worth, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

**SECTION 6.**

This ordinance shall take effect immediately upon adoption, and it is so ordained.

**APPROVED AS TO FORM AND LEGALITY:**

**ATTEST:**

\_\_\_\_\_  
Attorney Name, Title

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Jannette Goodall, City Secretary

ADOPTED AND EFFECTIVE: \_\_\_\_\_