

ORDINANCE NO. 148

Revision 1

AN ORDINANCE PROHIBITING THE ACCUMULATION OF REFUSE, GARBAGE, RUBBISH, AND RUBBLE, AS WELL AS EXCESSIVE VEGETATION, UPON PREMISES IN THE TOWN OF ENCHANTED OAKS, TEXAS; DEFINING THESE TERMS; PROVIDING FOR NOTICE TO VIOLATORS; PROVIDING FOR AUTHORITY TO ENFORCE; AND PROVIDING A PENALTY FOR VIOLATION OF THE ORDINANCE.

Section 1 - Title, Purpose, Scope

- (a) **Title.** That this article shall be known as the "Property Maintenance Code" of the Town of Enchanted Oaks, and shall be referred to herein as "this code."
- (b) **Purpose.** The purpose of this code is to provide minimum standards and regulations to help safeguard and preserve life or limb, property, and public welfare by regulating the use and maintenance of the exterior of all structures, buildings, and properties within the city.
- (c) **Scope.** This code shall apply to all zoning districts, land, properties, structures, and buildings within the city, including all vacant, occupied, residential, nonresidential, improved or unimproved land, properties, structures, and buildings.
- (d) **Other ordinances.** If other ordinances of the city conflict with this code and the standards and regulations established herein, the stricter standard (or regulation) shall prevail.
- (e) **Intent.** It is the intent of this code to regulate and control public nuisances and other conditions and circumstances, as herein set forth, that adversely affect the health, safety, and welfare of the general public. It is not intended that this code be interpreted or enforced to require the city to intervene in matters which are primarily personal or private in nature and which may appropriately be resolved between or among private interests without material danger to the public health, safety, or welfare.

Section 2 - Definitions

Where terms are not defined, they shall have their ordinary accepted meaning within the context with which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1981, shall be considered as providing ordinary accepted meanings. Words in the singular include the plural and the singular. Words in the masculine gender include the feminine and the feminine the masculine. The following terms are defined and shall apply to all sections of this code unless defined elsewhere in the code:

Building. Any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind, which has enclosing walls of fifty (50) percent of its perimeter.

Building official. The building official of the Town of Enchanted Oaks or designee.

Carrion. Dead or decaying animal fowl or fish.

Commercial motor vehicle. A motor vehicle, other than a motorcycle, designed or used for:

- (1) Transportation of property; or
- (2) Delivery purposes.

Commission. The building official of the Town of Enchanted Oaks.

Enforcement authority. The Mayor of Enchanted Oaks or the person to whom the Mayor may delegate the enforcement responsibility.

Graffiti. Words, phrases, designs, symbolic letters or drawings, written, painted or scratched on sidewalks, fences, windows, vehicles, walls or buildings, trees or other structure or property.

Hazardous waste. Toxic, caustic, or flammable materials.

Infectious waste. A waste containing pathogens or biologically active material capable of transmitting disease such as animal and human blood or body parts, microbiological, and pathological waste, needles, syringes, and sharps.

Junk. Used metals, materials, equipment, appliances, furniture, tires, engines, and parts, and other manufactured or raw goods that are so worn, deteriorated, or obsolete as to make the item unusable or inoperable in their existing condition, or is a potential safety or health hazard.

Light truck. A commercial motor vehicle that has a manufacturer's rated carrying capacity of one and one-half (1 1/2) ton or less.

Nuisance.

(1) Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of the building or upon an occupied premise, including but not limited to, any abandoned wells, shafts, basements, excavations, discarded refrigerators, unsecured vacant building, motor vehicles, unprotected swimming pools, or any structurally unsound fences or structures, or any gasoline, chemicals, lumber, trash, debris or vegetation which may prove a hazard for inquisitive children.

(2) Whatever is dangerous to human life or is detrimental to health and is contrary to the public health, safety or welfare.

(3) Inadequate or unsanitary sewage or plumbing facilities, allowing sewage on lots, grounds, yard or any other place in the city, contrary to the public health, safety or welfare or in violation of the codes and ordinances of the city and state.

(4) Uncleanliness, contrary to the public health, safety or welfare or in violation of the codes and ordinances of the city and state.

(5) Whatever renders air, food, or drink unwholesome or detrimental to the health of human beings, public health, safety or welfare, or in violation of the codes and ordinances of the city and state.

(6) Graffiti of any type.

(7) Keeping, storing, or accumulating rubbish, including newspapers, refrigerators, furniture, tires, cans, etc., on premises in a neighborhood for ten (10) days or more,

unless rubbish or object is completely enclosed in a building or is not visible from a public street.

(8) Maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests.

(9) Sewage, human excreta, wastewater, garbage, or other organic waste deposited, stored, discharged or exposed in such a way as to be a potential instrument or medium in disease transmission to a person or between persons.

(10) A vehicle or container that is used to transport garbage, human excreta or other organic material and that is defective and allows leakage or spilling of contents.

(11) A collection of water in which mosquitoes are breeding in the city limits.

(12) A place or condition harboring rats or breeding flies in a populated area.

(13) Any public nuisance known at common law or in equity jurisdiction or as defined by codes or city ordinances.

(14) Overcrowding a room with tenants.

Objectionable, unsightly, or unsanitary matter. Any matter or object, which is offensive to ordinary sensitivities of a person, is not conducive to high aesthetic appearance and quality of a home or neighborhood, or is a health or safety hazard or a potential health or safety hazard.

Open storage. The unscreened storage of new or used materials, salvaged items, vehicle parts, or any item that will cause deterioration of property values.

Owner. Any person claiming the ownership or title of real or personal property, including, but not limited to:

(1) Holder of fee simple title.

(2) Holder of life estate.

(3) Holder of a leasehold estate for an initial term of five (5) years or more.

(4) A buyer in possession, or having right of possession under a contract or deed.

(5) A mortgagee, receiver, executor, or trustee in possession or control, or having right of possession or control, of real property.

(6) Any agent who is responsible for managing, leasing, or operation of property.

Pool. A permanent swimming pool, spa, hot tub over eighteen (18) inches deep if public or semi-public, and three (3) feet deep if private, located at ground level, above ground or below ground, filled or empty.

Premises. Any parcel, lot or tract of land, including any structure, building, landscaping, trees, or other structure or improvement located thereon.

Recreation vehicle. Motor vehicles primarily designed as temporary living quarters for recreational camping or travel use, which can be towed, hauled, or driven. The term includes, but is not limited to, a travel trailer, camping trailer, truck camper, motor home, including any truck, truck-tractor or other vehicle exclusively used to tow or haul a recreation vehicle.

Refuse/Rubbish. All decaying and non-decaying solid waste (except body waste) including, but not limited to, garbage, rubbish, ashes, cans, papers, boxes, glass, and other matter commonly understood as rubbish.

Screening wall. Wood, vegetation, or a combination of both at least four (4) feet in height.

- (1) Screening walls shall mean a solid, opaque screening fence or wall at least four (4) feet in height; or
- (2) Vegetation consisting of solid hedgerow or evergreen shrubs, or trees and shrubs, providing full screening from the ground to a minimum of four (4) feet;
- (3) Any combination of the above; or
- (4) Any other form of compatible and appropriate screening as approved by the city.

Semi-trailer. A vehicle designed or used with a motor vehicle so that part of the weight of the vehicle and its load rests on or is carried by another vehicle.

Standard driveway. The pavement between the street and the garage or carport, or a paved circular driveway which is intended to facilitate easier access to the main entrance of the premises.

Structure. Any residential building, nonresidential building, dwelling, condominium, townhouse, apartment unit, detached garage, shed, awning, fence, screening wall, sign, swimming pool, excavation, any edifice, erection of material, or any other improvement placed or located on any property within the city.

Tenant. Any person or agent who occupies a structure or property.

Trailer. A vehicle that:

- (1) Is designed or used to carry a load wholly on its own structure which does not exceed eighteen (18) feet in length; and
- (2) Is drawn or designed to be drawn by a motor vehicle.

Truck-tractor. A motor vehicle:

- (1) Designed and used primarily for drawing another vehicle; and
- (2) Not constructed to carry a load other than a part of the weight of the vehicle and load to be drawn.

Unsafe building. A building which is dilapidated, substandard, structurally unsound or dangerous and unfit for human habitation and is a hazard to the public health, safety and welfare, or is unoccupied by its owners, lessees, other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children.

Unwholesome matter. Any conditions, object, or matter, whether decaying or non-decaying, which may produce injury, disease, or death to human beings, directly, or indirectly.

Section 3 - Enforcement and Inspection

- a) The enforcement authority for the provisions of this article shall be the Mayor of the Town of Enchanted Oaks or the person to whom the Mayor delegates the enforcement responsibility.
- b) Whenever it is necessary to make an inspection to enforce this Code, or whenever the enforcement authority has reasonable cause to believe that there exists upon any property a condition or violation which is unsafe, dangerous or hazardous or detrimental

to the public interest, the enforcement authority may enter upon such property at all reasonable times to inspect the same; provided that if such structure or property is occupied, the enforcement authority shall first present proper credentials and request entry, and if such entry is refused, the enforcement authority shall have recourse to every remedy provided by law to secure entry.

Section 4 - Responsibility

(a) Owner. Every owner of the premises shall maintain such premises in compliance with this Code. An owner shall not let, rent, or lease a premise for occupancy or use, which does not comply with the provisions of this Code.

(b) Owner and tenant. Every owner and every tenant of the premises shall maintain the premises in a clean, sanitary, and safe condition, including the disposal of rubbish, garbage, organic or inorganic waste, junk, or other waste in a lawful manner.

Section 5 - Exterior Grounds

(a) Trash, debris, and objectionable matter.

It shall be unlawful for any person, firm or association of persons to allow filth, rubbish, or any other unsanitary or unsightly matter to accumulate on property under the control of such person, firm or association of persons. It shall be unlawful to allow an overgrowth of weeds, brush or stagnant water on such property within the City Limits. It shall be unlawful for any owner, lessee, occupant or any person in charge of any premises in the Town of Enchanted Oaks, Texas, to allow refuse, garbage, rubbish, or rubble to accumulate upon said premises, or allow vegetation to grow upon such premises to such an extent as is reasonably calculated to create a fire hazard or become injurious to the health of the citizens of the Town of Enchanted Oaks, and such acts are hereby declared to constitute a public nuisance. All exterior property shall be maintained in clean, safe, and sanitary condition. It shall be unlawful to allow paper; wood; rocks; junk; appliances; furniture; dead grass; branches; trash debris; carrion; improper composting; rubber tires; bottles; scrap metal; vehicle parts; construction materials; fill materials; hazardous waste; i.e., chemicals, oils, solvents, gasoline, paints, pesticides, cleaners, batteries; and other unwholesome matter, to accumulate or remain on any piece of property to include easements so as to create a potential harborage, or breeding place, for rats, vermin or insects, or in such a manner as to be oppressive or injurious to the public health or unpleasant and disagreeable in sight or odor to persons residing or occupying the premises or adjacent premises or to persons who may be in a public place or public right-of-way.

(b) Grading and drainage.

- (1) All property shall be maintained so as to prevent the accumulation of stagnant, foul, and offensive water thereon, or within or under any structure located thereon.
- (2) No filling or excavation shall be performed or constructed on any property without city determination that there will be no adverse effect on an

existing or planned drainage pattern on an adjacent property. Plans must be submitted by the property owner, with an engineer's seal, if it appears that drainage problems may result from filling, excavation, improvements, or landscaping.

- (3) If dirt used for filling appears to the enforcement authority to be contaminated, the city may require proof of non-contamination.
- (4) The draining or discharging of pesticides, grease, petroleum products, paints, sewage, or grease trap waste cooling towers, etc., and toxic chemicals onto any property, streets, alleys, or sewers is prohibited.

(c) Sidewalks. All sidewalks, walkways, steps, and driveways located on all private property shall be maintained in state of good repair. The owner and tenant of private property adjacent to all public sidewalks, walkways, and steps shall keep such sidewalks, walkways, and steps free of mud, debris, or other obstruction that would impair or prevent their use.

(d) Insect and rodent control. Every owner and every tenant of a building, structure, or property shall prevent any condition which can provide harborage and breeding of insects, rats, ants, vermin, mosquitoes, or other pests which can create a hazard or a nuisance to said building, structure, or property, or are otherwise detrimental to the public health, safety, and welfare.

(e) Glare and direct illumination Exterior lights placed or erected on private property shall be shielded, placed or erected so as not to create a traffic hazard or a public nuisance. They shall be located to not produce direct illumination across the bounding property line.

(f) Trees, shrubs, and plants. Trees, shrubs, and plants that are dead or which are considered by the enforcement authority to be hazardous to persons or property shall be removed by the owner.

(g) Weeds and grass.

- (1) Weeds or grass shall be maintained at a height not exceeding eighteen (18) inches on vacant lots.
- (2) Weeds or grass are not maintained on overgrown unimproved vacant lots between Trailwood & Springwood, and Lark and First Oak.
- (3) Weeds or grass on all improved lots within the City, which consist of a resident structure, shall be maintained at a height not exceeding six (6) inches.
- (4) All cut weeds, grass and shrubs or brush shall not be left or allowed to accumulate on any public street, sidewalk or public way.
- (5) Weeds, grass, shrubs or brush shall not be deposited in any drainage ditch, inlet, manhole, or storm sewer, or sanitary sewer system, or refuse center.
- (6) The unpaved areas of the front yard shall be maintained with grass, ground cover, or other type of landscaping to such an extent that the soil is not subject to erosion.

(h) Animal pens. The regulating of animals can be found in city ordinance 136, with the following exceptions.

- (1) All animal pens, runs, exercise areas, fenced areas, houses, structures and enclosures shall be kept clean, sanitary, free from odor and excrement, insects, and other unsightly or objectionable matter which constitutes a public nuisance or is otherwise detrimental to the public health, safety, or welfare.
 - (2) Pens and housing for animals shall be kept in a state of good repair.
 - (3) Fenced areas or enclosures shall only be allowed to house a maximum of 3 dogs on any one property.
- (i) Accumulations of firewood, lumber, boxes, etc. Any lumber, boxes, barrels, bricks, stones, pipes, firewood, or any other character of materials which may be used as a harborage by rats, rodents or other vermin, or in which evidence of rats, rodents or other vermin is found shall be separated from the property line or fence owned by adjacent property owner a minimum of three (3) feet.
- (j) Fences.
- (1) All fences shall be maintained structurally sound.
 - (2) All damaged, rotting, removed, or missing portions shall be replaced with comparable materials to the remaining portion of the fence and shall be kept free from deterioration.
 - (3) A fence that has deteriorated to a condition that it likely will fall shall be repaired, replaced, or removed.
 - (4) Fences shall not be externally braced in lieu of replacing or repairing posts, columns, or other structural members.
 - (5) All damaged or missing parts of chain link or metal fences shall be replaced or repaired.
- (k) Accessory structures.
- (1) Carports, awnings, patio covers, detached garages, sheds, storage buildings, benches, and other accessory structures shall be maintained structurally sound and free of deterioration. All accessory structures shall be protected from the elements by periodic painting, staining, or other waterproofing or surface protection.
 - (2) Structures such as tree houses, forts, skateboard ramps, etc., shall not be allowed in the front yard.
- (l) Swimming pools and spas and hot tubs
- (1) Swimming pools, spas, and similar structures above ground, on ground, or in ground, shall be maintained safe, clean, sanitary, secure, and structurally and mechanically sound in accordance with applicable city codes.
 - (2) The City shall approve the dumpsite for pool excavation at the time of plan review.
- (m) Private parking lots, drives, and streets. Private parking lots, drives, and streets, and improved surfaces shall be maintained in good, safe condition and be free of litter, holes, excavation, protrusions, cracks, or other failures that may affect the use, safety, appearance, or drainage of the property or of the adjoining property.

(n) Solid waste. The regulation of solid waste is contained in city ordinance numbers 98, 105 and 131.

Section 6 – Construction Site

Each contractor and property owner shall be responsible for a construction site so that building materials and debris will be contained on the site of construction. Damaged roads, litter or other debris including dirt and mud deposited as a result of normal construction, remodeling, or landscaping process upon any public place or private premises, shall be repaired and/or removed by the contractor and/or property owner. A temporary container is required on the construction site to contain the litter generated from construction or construction workers. When the trash container is full, the trash shall be disposed of immediately.

Section 7 – Dumping or Littering

- (a) Dumping within City limits of any residential or commercial garbage, rubbish, brush, junk, stone construction materials, appliances, furniture, grease, solvents, petroleum products, vehicle and vehicle parts in any place and in any manner, except as specifically approved by the Town, is prohibited.
- (b) The hauling of materials and waste without proper containment is prohibited.
- (c) It is in violation of this section for property owners to allow dumping or littering to take place on any property under their control and supervision.

Section 8 – Infectious or Hazardous Waste

No infectious or hazardous wastes shall be deposited at any location within the city regardless of consent of property owner. Infectious and hazardous household waste shall not be placed in polycarts or at pickup point. Any disposal of infectious or household hazardous waste will be in accordance with the regulations and policies stipulated by the Texas State Health Department and the Texas Commission on Environmental Quality (TCEQ).

Section 9 – Open Storage

Open storage shall not be permitted in vacant lots, front yard, in a carport, or on a front porch of any residential dwelling. Open storage shall be screened from adjacent properties and streets by a four-foot solid wood-screening fence. Open storage shall include furniture other than furniture designed for outside use, household items, products of a commercial trade or business enterprise, whether such items are used or new, items of salvage such as scrap metal, papers, cans, containers, lumber and building materials not currently being used or held for immediate use upon the premises and other similar materials.

Section 10 – Unsafe Buildings and Structures

All unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with this code.

(a) Burned structure. Whenever any building or structure in the city is partially burned, the owner or person in control shall, within thirty (30) days, after completion of investigation by the fire department, remove from the premises all refuse, debris, charred and partially burned lumber and material. If such building or structure shall be burned to such an extent that it is rendered incapable of being repaired, the owner or person in control shall, within sixty (60) days, after completion of investigation by the fire department, remove from the premises all the remaining portion of the building or structure (a demolition permit is required). If the building or structure is to be repaired, work shall begin within sixty (60) days and progressively be completed in one hundred eighty (180) days.

(b) Vacant buildings. Every vacant dwelling, house, building or other similar structure within the corporate limits of the city shall comply with the following requirements:

- (1) All exterior doors and windows shall be kept in sound working condition and free of broken glass.
- (2) All exterior doors shall be equipped with a workable lock or locking device and shall be kept securely locked during the period of time said building is vacant.
- (3) A latch, lock or other means shall secure all windows so as to prevent easy entry into said structure by children, vagrants or other unauthorized persons.
- (4) All exterior walls and roof shall be kept in good repair and free of holes, cracks, defective materials and structural deterioration so as to keep such building from becoming a breeding place for rodents, roaches and disease carrying insects.
- (5) The exterior of said building and the premises thereon shall be kept free of any accumulation of paper, hay, moss or other flammable or combustible rubbish or waste material of sufficient quantity to constitute a danger to said building or any other building or premises in case such waste material should become ignited.
- (6) The exterior of the premises shall be kept free of any accumulation of trash, garbage, rubbish or any waste material of such quantity as to constitute an unsanitary condition.
- (7) Fences shall be maintained in good repair and gates locked at all times.

Section 11 – Parking and Storage of Vehicles – Residential Properties

It shall be unlawful for the owner, occupant, or person in charge of property zoned for residential uses to permit the parking, standing, or storing of automobiles, buses, trucks, tractors, motor homes, motorcycles, mopeds, farm machinery, all-terrain vehicles, boats, aircraft, recreational vehicles, golf carts, go carts, trailers, house trailers, campers, camper shells, wheeled towing frames, semi-trailers, truck beds mounted on chassis, mobile homes, all vehicles motorized and non-motorized, within the front yard or side

yard on corner lots. Passenger motor vehicles, light trucks, house trailers, motor homes, motorcycles, trailers, recreational vehicle, mopeds and boats may be parked on the standard driveway of a lot with a driveway connection to the street.

Vehicles must be wholly parked or stored within the property line, not block public walks, be in a good state of repair, not undergoing repairs or overhaul, current state registration and inspection, maintained in such condition as not to be unsightly, and parked or stored in a safe manner, so as to protect the health and safety of all person. No truck-tractor, semi-trailer or commercial vehicle or trailer greater than one-(1) ton shall be parked longer than eight hours or stored within the town on public or private property. Boats, motorhomes, recreational vehicles, and small utility trailers may be parked on the residential premises of the owner provided such boat, recreational vehicle or utility trailer is parked or stored within that portion of the residential lot which is located to the rear of the required front building line provided grass and weeds are maintained in a neat and orderly fashion, not to exceed six (6) inches in height.

Section 12 - Notice to Owner

Whenever any condition described in this ordinance is found to exist on any premises within the City, the owner of such premises shall be notified in writing by the City to correct, remedy, or remove the condition within five (5) days after such notice, and it shall be unlawful for any person to fail to comply with such notices.

Section 13 - Notification Procedure

The notice provided for herein shall be personally served on the owner to whom it is directed or shall be given by letter addressed to such owner at his last known post office address. In the event personal service cannot be made and the owner's address is unknown, such notice shall be given by a publication of at least one (1) time in a newspaper of general circulation published within the area.

Section 14 - Penalty

Any person of culpable mental state intentionally, knowingly, or recklessly violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction in the municipal court shall be subject to the maximum fine allowed by law for each offense, and each day such violation continues, it shall constitute a separate offense.

Section 15 – Injunctive Relief

In addition to and cumulative of all penalties, the city shall have the right to seek injunctive relief for any and all violations of this article.

Section 16 - Severance Clause

Each and every section and sub-section of this ordinance has been considered separately and passed on by the governing body of Town of Enchanted Oaks, Texas. In the event

any section or sub-section of this ordinance should be held invalid or unconstitutional through judicial action, the remainder of the ordinance shall not be invalidated and shall remain in effect.

Whereas the City possesses the rights and powers to define and require the abatement of nuisances as authorized in Subchapter B of Chapter 217 of the Texas Local Government Code;

Whereas, pursuant to the Texas Health and Safety Code, a municipality's governing body may require the owner of a lot in a municipality to keep the lot free from rubbish, weeds, and other objectionable, unsightly, or unsanitary matter; and

Whereas the individual property rights of all citizens are to be respected and protected --

Ordinance No. 116 (September 14, 1999) of the Town of Enchanted Oaks is hereby superseded and canceled.

**BE IT ORDAINED BY THE TOWN COUNCIL OF ENCHANTED OAKS,
TEXAS:**

**Passed and approved at a meeting of the Town Council of Enchanted Oaks, Texas
this 13th day of September, 2005.**

Donald G. Warner III, Mayor

Attest:

City Secretary

**Signatures on file*