

CITY ORDINANCES

WEEDS & BRUSH

ORDINANCE NO. 01-02-04

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALAMO, TEXAS; TITLE 4 PUBLIC HEALTH AND SAFETY, CHAPTER 4 NUISANCES, PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR PUBLICATION; PROVIDING FOR A SEVERABILITY CLAUSE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER THEREOF.

WHEREAS, it is deemed by the Board of Commissioners of the City of Alamo, Texas, that it is dangerous to the public health welfare and safety for lots or parcels of real estate in the city to have places where stagnant water may accumulate and for filth, trash, rubbish, and debris to accumulate on the lots or parcels of real estate in the city and that same constitutes a public safety, fire and health hazard to have weeds, brush, trash, rubbish, carrion, debris or any other unsanitary matter to accumulate and same is hereby declared to be a public nuisance;

WHEREAS, any condition on private property which endangers the public health, welfare and safety including, but not limited to an accumulation of stagnant water, carrion, filth, trash, rubbish, debris, brush, refuse, junk and other abandoned materials or items, metals, lumber and tires on such property or the unsightly and uncontrolled growth of weeds, grass, and any other plant material or rank vegetation that constitutes a fire or health and safety hazard. Such conditions are hereby found and determined to be a public nuisance and are subject to abatement in the manner hereinafter provided;

WHEREAS, each of the following is a public nuisance:

- (1) a condition or place that is a breeding place for flies and that is in a populous area;
- (2) spoiled or diseased meats intended for human consumption;
- (3) a restaurant, food market, bakery, other place of business, or vehicle in which food is prepared, packed, stored, transported, sold, or served to the public and that is not constantly maintained in a sanitary condition;
- (4) a place, condition, or building controlled or operated by a state or local government agency that is not maintained a sanitary condition;

- (5) sewage, human excreta, wastewater, garbage, or other organic wastes deposited, stored, discharged, or exposed in such way as to be a potential instrument or medium in disease transmission to a person or between persons;
- (6) 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;
- (7) a collection of water in which mosquitoes are breeding in the limits of a municipality *or a collection of water that is a breeding area for Culex quinquefasciatus mosquitoes that can transmit diseases regardless of the collection's location other than a location or property where activities meeting the definition of Section 11.002 (12)(A), Water Code, occur;*
- (8) a condition that may be proven to injuriously affect the public health and that may direct or indirectly result from the operations of bone boiling or fat rendering plant, tallow or soap works, or other similar establishment;
- (9) a place or condition harboring rats in a populous area;
- (10) the presence of ectoparasites, including bedbugs, lice, and mites, suspected to be disease carriers in a place in which sleeping accommodations are offered to the public;
- (11) the maintenance of an open surface privy or an overflowing septic tank so that the contents may be accessible to flies;
- (12) an object, place, or condition that is a possible and probable medium of disease transmission to or between humans.

WHEREAS, for the purposes of this ordinance, the terms used herein shall be interpreted as follows:

- a. *Filth* shall mean any matter in a putrescent state.
- b. *Carrion* shall mean the dead and putrefying flesh of any animal, fowl or fish.
- c. *Weeds* shall mean uncultivated vegetation, including but not limited to grasses, of a height in excess of fifteen (15) inches.
- d. *Rubbish* shall mean trash, debris, rubble, stone, useless fragments of building materials, and other miscellaneous, useless waste or rejected matter.
- e. *Brush* shall mean scrub vegetation or dense undergrowth.
- f. *Refuse* shall mean a heterogeneous accumulation of worn out, used up, broken, rejected or worthless material.

- g. *Impure unwholesome or unsanitary matter* shall mean any putrescible or nonputrescible condition, object or matter which tends, may or could produce injury, death or disease to human beings.
- h. *Objectionable or unsightly matter* shall mean any matter, condition, or object which would be objectionable or unsightly to a person of ordinary sensitivities.
- i. *Any work not herein defined* shall be constructed in the context used and by

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ALAMO, TEXAS THAT:

SECTION I. The Code of Ordinances of the City of Alamo, Texas, Title 4, Public Health and Safety, Chapter 4, Nuisances, Section 4-4-1; Prohibited Conditions Stagnant Water, Accumulation of Carrion, Filth, Etc., Section 4-4-2; Grass, Weeds of Brush, Section 4-4-3; Enforcement of Provisions and Section 4-4-4; Violation and Penalties, are hereby amended in its entirety to read as follows:

4-4-1 A. Prohibited conditions designated; stagnant water, accumulation of carrion, filth, etc.

1. It shall be unlawful for any person who shall own any lot or other premises in the City to allow or permit holes or places where water may accumulate and become stagnant to be or remain on such lot or premises or to allow to permit the accumulation of stagnant water thereon, or to permit stagnant water to remain thereon.
2. It shall be unlawful for the owner of any lot, building, house, establishment or premises in the City to allow or permit any carrion, filth refuse, rubbish, or any other impure or unwholesome matter of any kind to accumulate or remain thereon.
3. Whenever grass, weeds, brush, or any other plant that is not cultivated, rubbish, refuse and all other objectionable, unsightly and unsightly matter of whatever nature shall exist, covering or partly covering the surface of any lot or parcel of real estate situated within the City, the same shall constitute a public nuisance, the prompt abatement of which is hereby declared to be a public necessity. Such lots or parcels of real estate, in addition to the grounds within their respective boundaries, shall be held to include all lots or parcels of real estate lying and being adjacent to, abutting and extending beyond the property line of any such lots or parcels of real estate to the center-lines of adjacent or abutting streets or alleys.
4. It shall be unlawful for any owner or occupant of any lot or premises in the City to allow or permit the existence of any type tree on such lot when such tree is dead or damaged and such condition poses a serious threat to property or life on such lot or an adjacent lot or an adjacent public right-of-way, and such condition are hereby declared to be a nuisance in the City.

4-4-2 A. Grass, Weeds or Brush-Maximum Height

1. It shall be unlawful and it is hereby declared to be a public nuisance for any person, including

the owner tenant, or for a representative of any nonresident owner or tenant of any lot or parcel of real estate, or any other premises or parts thereof, whether vacant or occupied within the city, to allow grass, weeds, or brush of any description to grow or flourish thereon and sidewalks abutting any such premises without having such grass, weeds or brush cut and kept short at all times to a height not greater than fifteen inches (15") from the surface of the ground.

B. Grass, Weeds or Brush-Duty to Cut and Remove.

1. It shall be the primary duty of the owner or tenant of premises within the city to cut and remove all weeds as often as may be necessary to comply with the provisions of this Code. In any prosecution for a violation of this chapter, the owner shall not be permitted to plead or show evidence that the occupant or tenant of property is the person against whom the charges should be brought.

2. It shall be unlawful for any person, as the owner, tenant or agent of any owner or tenant of premises within the city, to leave any unsightly piles or windrows of debris or weeds, grass or brush which could serve as habitat for rodents or other vectors of disease on such premises after such weeds, grass or brush have been cut, and it shall be the duty of such owner, tenant or agent to remove or prepare for removal by city crews, if applicable, such weeds, grass or brush and to ensure that same is cut from premises to prevent unsanitary conditions from occurring on such premises.

3. Any grass, weeds or brush that are cut shall be removed from the premises promptly and be disposed of in an appropriate manner.

4-4-3 A. Enforcement and Provisions.

1. Whenever, in the opinion of the city inspector or code enforcement officer, any condition which constitutes a violation of Sections 4-4-1 or 4-4-2 exists on any parcel or property in the City and such condition causes an immediate threat to the physical well-being of any person or adjacent property, in addition to constituting a public nuisance, the city inspector or code enforcement officer is hereby authorized to abate such nuisance utilizing City personnel or private contractors. The cost of abating such nuisance shall **(include but not be limited to labor, equipment, disposal, mileage, etc., of which all rates shall be established by the Board of Commissioners)** be charged against the property owner or other person responsible. The City shall have the right to file a lien for such charges upon following the procedures for city abatement and the charging of such costs as provided for after notification as set out in Section 4-4-4 (D), if such procedures are possible considering the immediate threat to life or property, of the nuisance to be abated.

(State law reference-Weeds, rubbish and other unsightly conditions. V.T.C.A., Health and Safety Code 342.004)

B. Notice to Property Owner.

1. Wherever the existence of any nuisance defined in this chapter on any lot or parcel of real

estate situated within the city shall come to the knowledge of the city inspector or code enforcement officer, it shall be his duty to forthwith cause a written notice identifying such property to be issued to the person owning such parcel or real estate. For the purpose of complying with this section, it shall be sufficient if the city inspector or code enforcement officer places in the United States mail a registered card or letter addressed to the owner at his last known address. The City inspector or code enforcement officer may rely on the real property ownership records of the county appraisal district in determining the ownership of any property on which a violation exists for the purpose of enforcement and notice. Such notice shall be addressed to such person at his post office address or may be served in person.

If such registered card or letter is returned unclaimed, or if personal service has not been had or if the owner's address is not known, the notice shall be published two times within ten consecutive days in any newspaper of general circulation in the area or by posting the notice on or near the front door of each building on the property to which the violation relates; or 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 building.

Such notice should require the abatement of such nuisance by mowing and removing such weeds, brush, rubbish or other objectionable, unsightly matter of whatever nature, as the case may be, within ten days from the date of service of such notice. Such notice shall further state that in default of the performance of the above condition, the city may, at once, cause such abatement to be done or improvements made, at the expense of the owner of such property, and if such work is done or improvements at the expense of the city, then such expense shall be assessed as a lien on such real estate upon which such expense was incurred. Failure to comply with such notice by any owner shall render such person guilty of a misdemeanor.

2. The aforementioned notice may be sent by certified mail, in which case such notice shall inform the owner that if the owner commits another violation of the same kind or nature as provided herein, which violation occurs on or before the first anniversary day from the date of such notice, the city may, without further notice, correct the violation at the owner's expense and assess the expense against owner.

C. Abatement by City Generally.

1. If the owner of any premises upon which weeds, grass, or brush are found growing filth, trash, rubbish and debris are found in violation of this chapter cannot be found or is a nonresident, and if a person who has been given the notice provided for by this article shall fail to comply with such notice, it shall be the duty of the city inspector or code enforcement officer to cause the weeds, grass, brush, filth, trash, debris or other unsanitary matter or condition constituting a nuisance to be promptly and similarly abated, in a reasonable or prudent manner.

2. Any weeds, grass, brush, rubbish or other unsanitary matter abated by the city shall become the property of the city to be removed or disposed of in the manner prescribed by the city manager.

(State law reference-Abatement by city, VTCA, Health and Safety Code 342.006.)

D. Expenses; Method of Computation

1. The community planning & development department shall charge all necessary expenses in connection with abatement of a nuisance under this article, including but not limited to work done and improvements made in abating such nuisance, to the owner of such premises. The City shall be entitled to recover all reasonable costs incurred in mailing, inspecting, locating the owner, issuing notice including publishing notice to the owner/occupant of a weedy lot, or re-inspecting such premises and all other reasonable costs incurred in abating such nuisance. Such expenses shall be certified by the community planning & development department and shall prepare an invoice for the total amount, which will include actual labor computed in one hour increments at a rate established by the Board of Commissioner.

(State law reference-Assessment of expenses, VTCA., Health and Safety Code 342.021.)

E. Liability Disclaimer

1. The City shall be held harmless from any and all liability from any claims resulting from the abatement of the failure to abate a nuisance on any property, including, but not limited to, destruction of shrubs, flowers, brush and small trees of any nature. The City has no duty nor does this article impose any duty on the city inspector or any other employee to abate any nuisance existing on any private property. The provisions of this article neither change nor modify the responsibility of the owner or occupant of any premises in the city to keep the premises in a reasonable safe condition so as not to cause injury to any third party either on the property or adjacent to the property as provided for in the tort laws of the state. The adoption of this chapter does not, in any manner, change the responsibility under the tort or statutory laws of the state. A decision of the city to abate a nuisance is solely discretionary and any decision to abate a nuisance or not abate a nuisance shall not create any liability on the city in any manner to any party.

F. Notice of Work Done, Preparing and Mailing Notices.

1. Whenever any work is done or improvements made by the city under the provisions of this article, the city shall notify the property owner of the work and done and cost thereof, such notice to be in writing to the last known post office address of the owner. Such costs shall be certified by the community planning & development department and shall prepare an invoice in the amount of the total costs of removing such weeds, grass, brush, rubbish or other unsanitary matter. The account shall become due and payable within fifteen (15) calendar days after notice is given.

G. Penalty for Nonpayment of Invoice

1. Any owner, whether a natural person or a corporation, or any agent, representative or employee of such owner, including any person having ownership of any premises or lot or parcel of real estate or any part thereof, or any interest therein, or improvements thereon, situated within the limits of the city, on which there exists any nuisance as defined in this chapter, who shall allow or permit any such nuisance to be created or to remain and continue if created and established or who shall fail, this article or otherwise regulating such premises, so as to prevent such nuisance, within ten (10) days from the date of service of notice thereof as provided for in this chapter, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined

in any sum not exceeding two thousand dollars (\$2,000.00), and each day during which such failure, refusal or neglect shall continue to exist shall constitute a separate offense.

2. Any owner, or agent of any owner, violating any terms of this chapter shall be subject to a fine as provided in Section 4-4-4 (A) (1). Each and every day that the premises remain in violation of the terms of this article shall constitute a different and operate offense. If the owner of any lot, lots or premises under the provisions of this section shall be a corporation and shall violate any of the provisions of this article, the president, vice-president, secretary or treasurer of such corporation or any manager, agent, or employees of such corporation shall be also severally liable for the penalties provided for a violation of the Code.

B. Collection and Disposition of Money Under Article.

1. The City finance department shall be responsible for collecting all monies due for abating nuisances under this article.

2. Any payment or collection made under the terms of this chapter shall be received by and receipted for the by the director of finance, or one of his duly authorized agents. Such sums of money, receipts thereof, and the necessary records in connection therewith shall be handled, prepared and maintained as a permanent record, all in the form and manner prescribed and maintained as a permanent record, all in the form and manner prescribed by the director of finance.

C. Procedures for Collection of Money Under Article.

1. Whenever the city shall have performed the work and paid all necessary expenses in connection therewith as provided in this chapter and the city shall have charges accrued against such property for a period of thirty (30) days or more from the first billing, the director of finance, or his duly authorized agent, shall notify the community planning and development shall immediately prepare and file for record in the office of the county clerk an itemized statement of all the work performed and all costs and expenses incurred and paid by the city in connection therewith in the form of an affidavit duly sworn to, which affidavit or duly certified copy thereof, after have been recorded shall be prima facie proof of the work done and performed and the amounts paid therefore. Such affidavit, among other things and provisions, shall contain the following:

- a. Name and address of owner, occupant or agent of owner of property, if known and if unknown, recite the fact.
- b. Description of property sufficient to identify the property, and where property has been subdivided, a description by lot and block number of any particular Subdivision shall be sufficient.
- c. Statement of the particular violation of this article.
- d. Statement including date that notice of violation was mailed or published to owner as to failure to comply therewith.

- e. Itemized statement of the work done and date such work was performed, together with costs thereof opposite each item.
- f. Statement of payments made by the city, the date of such payment, and to whom made if contracted out to private commercial enterprises.
- g. Statement that such affidavit is made for the purpose of fixing a lien upon the property therein described, in accordance with provisions of V.T.C.A., Health and Safety Code 342.001 et seq., with up to the maximum percent interest allowed by law on the aggregate amount to be paid to the city.

2. The Board of Commissioners hereby finds and declares that the general legal work by the city conjunction with the filing of the lien and other associated necessary incidents of such filing requires a minimum charge for each lien that is assessed per lot, tract or parcel of real estate. The minimum charge for such shall be set by the Boards of Commissioners.

3. The City Manager or his designated authorized agent is hereby authorized to execute any lien to be filed with the County Clerk for the imposition of the lien on the property for which a nuisance was abated and the costs assessed by the city as provided for in this article.

(State law reference-lien, VTCA Health and Safety Code 342.007.)

D. Foreclosing Lien.

1. Upon the filing of the statements and affidavits provided for, the city shall have a lien for the repayment of the aggregate amount so expended and paid as therein set forth, with up to the maximum percent interest allowed by law thereon from the date of payment or incurrence of cost thereof by the city, upon the property described in such affidavit, and which lien shall have precedence over all other liens and encumbrances except tax liens for street improvements; and for any such expenditures and interest aforesaid, suit may be instituted, and recovery had, and such lien foreclosed by the city in the manner provided by law.

(State law-Foreclosure of lien, VTCA, Health and Safety Code 342.007(e))

E. Authority to Execute and Release Liens.

1. The City Manager or his designated authorized agent is hereby authorized to execute release of liens on behalf of the city of all liens created under the provisions of this article. The City Manager or his designated authorized agent shall have no right to execute such releases until he has satisfied himself that the debt or portion thereof secured by the lien and for which a release is requested has been paid in full to the city, and such lien shall be released only insofar as it affects the property for which the debt secured thereby has been paid in full.

SECTION II. This Ordinance shall be effective after its passage and signature by the Mayor of the City of Alamo.

SECTION III. The City Secretary is hereby directed to publish a notice of this Ordinance in the official

newspaper in and for the City of Alamo, Texas according to law.

SECTION IV. The City Secretary is hereby directed to cause Section I of the Ordinance thereof to be published in the Code of the City of Alamo.

SECTION V. If any section or part of any section, paragraph or clause of this Ordinance is declared invalid or unconstitutional of any reason, such declaration shall not be held to invalidate or impair the validity, force or affect of any other section, part of any section, paragraph or clause if this Ordinance.

PASSED AND APPROVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ALAMO, TEXAS, at a Regular Meeting called and held in the Alamo City Hall on the **3rd day of February, 2004** held in accordance with the provisions of Chapter 551 of the Texas Government Code.

CITY OF ALAMO
Rudy Villarreal, Mayor

ATTEST:

Margot Saenz, City Secretary

James E. Darling, city Attorney

ORDINANCE NO. 06-08-04

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALAMO, TEXAS; TITLE 4 PUBLIC HEALTH AND SAFETY, CHAPTER 4 NUISANCES, SECTION 4-4-3 (A); ENFORCEMENT AND PROVISIONS; SUBSECTION (1) (a) ESTABLISHED HOURLY RATES TO ABATE NUISANCES; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A PUBLICATION; PROVIDING FOR A SEVERABILITY CLAUSE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER THEREOF.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ALAMO, TEXAS THAT:

SECTION I. The code of Ordinances of the City of Alamo, Texas Title 4 Public Health and Safety, Chapter 4 Nuisances, Section 4-4-3 (A); Enforcement and Provisions; Subsection (1) (a) Established Hourly Rates to Abate Nuisances is hereby amended to include the addition of which shall read in its entirety:

1. (a) Established Hourly Rates to Abate Nuisances

Tractor mower rate: \$45.00 per hour

Weed trimmer rate: \$15.00 per hour

Back-hoe rate: \$40.00 per hour

Dump truck rate:	\$55.00 per hour
Chain saw rate:	\$15.00 per hour
Disposal fee:	\$40.00 per ton

SECTION II. This Ordinance shall be effective after its passage and signature by the Mayor of the City of Alamo.

SECTION III. The City Secretary is hereby directed to publish a notice of this Ordinance in the official newspaper in and for the City of Alamo, Texas according to law.

SECTION IV. The City Secretary is hereby directed to cause Section I hereof to be published in the Code of the City of Alamo.

SECTION V. If any section or part of any section, paragraph or clause of this Ordinance is declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force or effect of any other section, paragraph or clause of this Ordinance.

PASSED AND APPROVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ALAMO, TEXAS, at a Regular Meeting called and held in the Alamo City Hall on the 17th day of August, 2004 held in accordance with the provisions of Chapter 551 of the Texas Government Code.

CITY OF ALAMO
Rudy Villarreal, Mayor

ATTEST:

Margot Saenz, City Secretary

James E Darling, City Attorney

**MOTOR VEHICLES AND TRAFFIC
ABANDONED, WRECKED VEHICLES**

SECTION:

- 6-5-1: Definitions
- 6-5-2: Public Nuisance Declared
- 6-5-3: Notice of Violation
- 6-5-4: Right of Entry for Inspection
- 6-5-5: Public Hearing Prior to Removal
- 6-5-6: Exceptions

6-5-1: **DEFINITIONS:** The followings words, terms and phases, when used in this Chapter, shall have the meaning ascribed to them in this Section, except where the context

clearly indicates a different meaning:

ANTIQUÉ AUTO: A passenger car or truck that was manufactured in 1925 or before, or which is thirty five (35) or more years old.

COLLECTOR: The owner of one or more antique or special interest vehicles, who collects, purchases, acquires, trades or disposes of special interest or antique vehicles or parts of them for his own use in order to restore, preserve and maintain an antique or special interest vehicle for historic interest.

DEMOLISHER: Any person whose business is to convert a motor vehicle into processed scrap or scrap metal or otherwise to wreck or dismantle motor vehicles.

JUNKED VEHICLE: A motor vehicle as defined in Vernon's Annotated Civil Status, article 6701d-11:

6-5-1

A. That is inoperative: and

B. That does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle safety inspection certificate; that is wrecked, dismantled, partially dismantled or discarded, or that remains inoperable for a continuous period of more than forty five (45) days.

SPECIAL INTEREST VEHICLE: A motor vehicle of any age which has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyist. (Ord., 6-29-93)

6-5-2: **PUBLIC NUISANCE DECLARED:**

- A. A junked vehicle that is located where it is visible from a public place or a public right of way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazard and safety of minors, and is detrimental to the economic welfare of the City by producing urban blight, adverse to the maintenance and continuing development of the City and is a public nuisance.
- B. A person commits an offense if that person creates or maintains a public nuisance as determined under this Section.
- C. A person who commits an offense under this Section is, upon conviction, subject to penalty in Section 1-4-1 of this Code. On conviction, the Court shall order removal and abatement of the nuisance.

6-5-3 **NOTICE OF VIOLATION:**

- A. Notice by Chief of Police: Whenever it is brought to the attention of the Chief of Police that a public nuisance, as defined in this Chapter, exists on private property or on a public right of way or public property in the City, the Chief of Police shall give or cause to be given to the last registered owner of the junked motor vehicle, any lien holder of record, and the owner of occupants of the private premises or owner or occupant of private property adjacent to the public right of way or owner or occupant of the public premises on which the public nuisance exists, a notice, in writing, stating:
1. The nature of the public nuisance;
 2. That it must be removed and abated within ten (10) days; and
 3. Time for Taking Action: The notice shall be mailed by certified mail with a five (5) day return requested. If the notice is returned undeliverable by the United States post office, official action to abate such nuisance shall be continued to a date not less than ten (10) days from the date of such return. (Ord., 6-29-93)

6-5-4 **RIGHT OF ENTRY FOR INSPECTION:**

The Chief of Police, of his duly authorized agent, may enter private property for the purposes specified on this Chapter and to examine vehicles or parts thereof, obtain information as to the identity of vehicles and to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance, in accordance with this Chapter. The Municipal Court shall have authority to issue all orders necessary to enforce this Chapter. (Ord., 6-29-93)

6-5-5 **PUBLIC HEARING PRIOR TO REMOVAL:**

A public hearing shall be held prior to the removal of any vehicle or part thereof as a public nuisance. Such hearing shall be held before a Municipal Judge of the City. Failure to any party notified under section 6-5-3 of this Chapter to request a hearing within ten (10) days after service of notice or return of such notice undeliverable by the United States post office shall be deemed a waiver of that party's attendance at such public hearing. If, at such hearing the Municipal Court finds that the vehicle in question is a public nuisance, the Court may issue orders necessary to enforce the provisions of this Chapter. If the order provides for removal of the vehicle, such order shall a) prohibit the vehicle from being reconstructed or made operable after removal, and b) provide for notice to the State Department of Highway and Public Transportation not later than the fifth day after removal. (Ord., 6-29-93)

6-5-6 **EXCEPTIONS:**

- A. A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private building.
- B. A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of licensed vehicle dealer or junk yard; or

- C. Unlicensed, operable or inoperable antique and special interest vehicles stored by a collector on his property, provided, that the vehicle and the outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery or other appropriate means. (Ord., 6-29-93)

ORDINANCE NO. 14-04-01

AN ORDINANCE, AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALAMO TEXAS; TITLE 3 BUSINESS; CHAPTER 12 GARAGE, YARD, AND PORCH SALES; SECTIONS 3-12-3A AUTHORIZING SIX (6) PERMIT'S A YEAR; PROVIDING FOR REPLACEMENT PERMIT UNDER CERTAIN CONDITIONS; PROVIDING FOR SEVERABILITY, PROVIDING FOR PUBLICATION AND PROVIDING FOR EFFECTIVE DATE AND ORDAINING OTHER PROVISIONS RELATING TO THE SUBJECT MATTER THEREOF.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ALAMO THAT

SECTION I: The Code of Ordinance of the City of Alamo, Title 3, Business; Chapter 12, is hereby amended by the addition of the following sections to read in their entirety as follows:

SECTION 3-12-1: DEFINITIONS

That a garage, yard, or porch sale is defined to mean a sale of merchandise whether new or used from any residential zoning district or any residence located in a commercial zoning district within the City.

SECTION 3-12-2: PERMITS REQUIRED

- (1) The owner or occupant with permission from the owner of the property, before conducting a garage, yard, or porch sale, shall obtain a permit from the City Secretary of the City of Alamo, the cost of which shall be FIVE AND NO/100 (\$5.00) DOLLARS.

SECTION 3-12-3 REQUIREMENTS

The Owner of the property or occupant of a property who is granted a garage, yard, or porch sale Permit shall abide by the following condition:

- A. For any one location, garage, yard or porch sales shall be limited to six (6) permits per year.
- B. A permit will be issued to cover a period of no more than three (3) consecutive days.
- C. The hours of operation shall not commence before 7:30 a.m. nor extend beyond 7:30 p.m. on each of the three (3) days;
- D. No alcohol beverage shall be sold at or during any garage, yard, or porch sales;
- E. This permit shall be non-transferable and shall be valid only for the dates specified on the permits; and

- F. This permit shall be displayed in a conspicuous place for the entire duration of the sale.
- G. If, due to rain or other inclement weather, the garage, yard, or porch sale can not be held on the permit day, the applicant may request, within forty-eight (48) hours of the permit day, a Replacement permit from the City Secretary. Upon verification of circumstances the City Secretary may issue a Replacement permit for another day (s), which Replacement permit Shall not be counted against the limit in Sub-section (a) of this Section: that is, the original Permit and the Replacement permit shall only count as one (1) permit.

SECTION 3-12-4: SALE WITHOUT PERMIT PROHIBITED

It shall be unlawful for the owner or occupant of such premises to conduct thereon a garage, yard, or porch sale without having first obtained such permit.

SECTION 3-12-5: SALES IN CERTAIN AREAS PROHIBITED

Garage, yard, or porch sales are prohibited in any zoned commercial or industrial except when an occupier residence is found to be located in a commercial zoned property.

SECTION 3-12-6: USE OF STREET, STREET RIGHT-OF-WAY OR SIDEWALK AS PLACE OF BUSINESS

- A. It is unlawful for any person to use street, street right-of-way, sidewalk, plaza, or other public place within the City as a place of business.
- B. A person commits an offense if he/she uses any street, sidewalk, plaza or other public place within the City as a place of business are herein prohibited.
- C. It is unlawful for any person to use street or street right-of-way within the City to place any type of advertising for the announcement of the sale.

SECTION 3-12-7 PENALTY

Anyone who violates this ordinance shall upon conviction thereof be fined in any amount not less than ONE AND N/100 (\$1.00) DOLLAR no more than FIVE HUNDRED AND NO/100 (\$500) DOLLARS per day.

SECTION II. The City Secretary is hereby directed to cause Title 3 Chapter 12 hereof to be published in the Code of Ordinances of the City of Alamo.

SECTION III. The City Secretary is hereby authorized to publish a notice of this Ordinance in the official newspaper in and for the City of Alamo, Texas, according to law.

SECTION IV. This Ordinance shall be effective after is passage and signature by the Mayor of the City of Alamo.

SECTION V. If any section, or part of any section, paragraph, or clause of this Ordinance is

declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force or effect any of any section, part of any section, paragraph or clause of this Ordinance.

READ, CONSIDERED, PASSES AND APPROVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ALAMO, TEXAS, at a Regular Meeting called and held in the Alamo Municipal Building on this the 3rd day of April, 2001, held in accordance with the provisions of Chapter 551 of the Texas Government Code.

Signed this the 3rd day of April, 2001.

CITY OF ALAMO

ATTEST:

Margot Saenz, City Secretary

APPROVED AS TO FORM:

James E. Darling, City Attorney