

**ORDINANCE O-05-2023**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JACKSBORO, TEXAS, AMENDING THE CITY OF JACKSBORO CODE OF ORDINANCES BY ADDING A NEW ARTICLE 93.30 OF CHAPTER 93; PROVIDING REGULATIONS REGARDING CERTAIN HEALTH AND SANITATION NUISANCES GENERALLY AND REGARDING OFFENSIVE ODORS SPECIFICALLY; DECLARING SUCH OFFENSIVE ODORS TO BE NUISANCES; PROHIBITING CERTAIN NUISANCES INCLUDING OFFENSIVE ODORS WITHIN THE CITY LIMITS; PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Section 51.001 of the Texas Local Government Code, the City Council of the City of Jacksboro may adopt, publish, amend or repeal an ordinance, rule, or police regulation that is for the good government, peace or order of the City, or for the trade and commerce of the City and is necessary or proper for carrying out a power granted by law to the City or to an office or department of the City; and

**WHEREAS**, pursuant to Subchapter A, Section 217.002 of the Texas Local Government Code, except as otherwise prohibited, the City may abate and remove a nuisance and punish by fine the person responsible for the nuisance; define and declare what constitutes a nuisance and authorize and direct the summary abatement of the nuisance; and abate in any matter the City considers expedient any nuisance that may injure or affect the public health or comfort; and

**WHEREAS**, property conditions and uses that cause or result in offensive odors on neighboring public property or the private property of others, harm the public welfare, property values, economy, and quality of life in the City of Jacksboro; and

**WHEREAS**, the City Council of the City of Jacksboro now deems it appropriate to establish regulations related to nuisances and to regulate offensive odors within the city limits; and

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

**SECTION 1.** The facts and recitation set forth in the preamble of this ordinance are hereby found to be true and correct.

**SECTION 2.** The rules, regulations, terms, conditions, provisions and requirements of this ordinance are hereby found to be reasonable and necessary to protect the public health, safety and quality of life in the City of Jacksboro.

**SECTION 3.** The City of Jacksboro Code of Ordinances is hereby amended by adding a new article 93.30 of Chapter 93 to provide as follows:

**"CITY OF JACKSBORO CODE OF ORDINANCES**

**CHAPTER 93: HEALTH AND SANITATION; NUISANCES"**

**ARTICLE 93.30 Offensive Odors**

**Sec 93.31. Definition**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**Nuisance:** Any condition that renders the ground, the water, the air or food a hazard or likely to cause injury to human life or health; or that is offensive to the senses; or that is or threatens to become detrimental to the public health is hereby declared to be a nuisance, prohibited and made unlawful.

#### **Sec. 93.32 Duty to Abate**

It shall be the duty of the owner, or the owner's agent, or the occupant or the occupant's agent, of any lot, building, premises or place of any kind within the city where any nuisance may exist or of any person who commits, causes, creates, permits, keeps or otherwise maintains a nuisance to remove, abate or destroy the same without delay.

#### **Sec. 93.33 Liabilities For Existence on Rented Premises**

Whenever a nuisance is found to exist on rented premises, the owner, or his or her agent, and the occupant may each be liable for its existence and, upon conviction, punished as provided in §93.36.

#### **Sec. 93.34 Odor Nuisances, Generally.**

- (a) Any unreasonably noxious, unpleasant or strong odor, which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof is hereby declared to be a nuisance and is prohibited.
- (b) An odor, stench or smell of such character, strength and continued duration which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities is hereby declared to be a nuisance and is prohibited.

#### **Sec. 93.35 Odor Nuisances, Offensive Odors, Enumerated.**

- (a) The following things are, among others, declared to be offensive odors and health and sanitation nuisances in violation of §93.34 and are hereby prohibited and made unlawful, but said enumerations shall not be deemed to be exclusive:
  - (1) *Chemicals.* Offensive odors from the use or possession of chemicals or from industrial processes or activities which shall disturb the comfort and repose of persons of ordinary sensibilities.
  - (2) *Smoke.* Offensive odors from smoke from the burning of rubbish, trash, rubber, chemical substances or other things or substances which shall disturb the comfort and repose of persons of ordinary sensibilities.
  - (3) *Stagnant pools, refuse and composting.* Offensive odors from stagnant pools, rotting garbage, refuse, offal, or composting which shall disturb the comfort and repose of persons with ordinary sensibilities.
  - (4) *Dead animals.* Offensive odors from dead animals which shall disturb the comfort and repose of persons with ordinary sensibilities.
  - (5) *Live animals.* Offensive odors from animals in yards, pens and enclosures in which animals are confined which shall disturb the comfort and repose of persons with ordinary sensibilities. (Sec. 90.16)

#### **Sec. 93.36 Violation and Penalty**

Any person who shall, within the corporate limits of the city, commit, cause, create, permit, keep or otherwise maintain a nuisance shall be deemed guilty of a misdemeanor, and, upon conviction thereof shall be punished by a fine not exceeding \$2000; provided, however, that no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state. Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense. (Sec 10.99) Whenever it shall appear to the court trying the cause that the nuisance continues at the time of conviction, the court shall order and adjudge the removal, abatement or destruction of the nuisance, as the case may require, and shall issue a separate warrant therefor. The court shall inquire into the probable costs of such removal, abatement or destruction and shall tax the costs thereof against the defendant as costs in the case.

**SECTION 4. SEVERABILITY CLAUSE.** It is declared to be the intent 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 is declared invalid by the judgment or decree of a court of competent jurisdiction, the invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance since the City Council would have enacted them without the invalid portion.

**SECTION 5. REPEALER CLAUSE.** All provisions of the ordinances of the City of Jacksboro in conflict with the provisions of this Ordinance be, and the same are hereby, repealed. and all other provisions of the ordinances of the City of Jacksboro not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 6. PENALTY.** That any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Texas Local Government Code, Chapter 54, Section 54.001 (b) (1), and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand dollars (\$2,000.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense

**SECTION 7. EFFECTIVE DATE.** This ordinance shall take effect immediately from and after its passage and publication of the caption as required by law.

**PASSED, APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF JACKSBORO, TEXAS, THIS THE 10TH DAY OF APRIL, 2023.**

**CITY OF JACKSBORO**

  
**CRAIG FENTER**  
**MAYOR**

**ATTEST:**

  
**SHALYN BURRITT**  
**CITY SECRETARY**

**APPROVED AS TO FORM:**

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