

ORDINANCE NO. 05-20-2024

AN ORDINANCE OF THE CITY OF MERKEL, TEXAS AMENDING ORDINANCE NO. 110998-2; ADOPTING REGULATIONS REGARDING NUISANCE CONDITIONS ON PROPERTY; PROVIDING FOR NOTICE AND ABATEMENT; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Merkel (the "City") is a general law municipality operating pursuant to the laws of the State of Texas;

WHEREAS, Subchapter A of Chapter 342 of the Texas Health and Safety Code authorize the City to regulate certain nuisance conditions on property within the City;

WHEREAS, the City's existing ordinance addressing nuisances is outdated and the City Council of the City (the "City Council") has determined that it is necessary to adopt an updated ordinance; and

WHEREAS, the City Council finds that this Ordinance is in the best interest of the health, safety, and welfare of the citizens of the City.

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

Part 1. The provisions in the attached Exhibit "A" are hereby adopted as the Nuisance Ordinance of the City of Merkel.

Part 2. Any person, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a class C misdemeanor, and upon conviction thereof shall be punished by a fine of not more than two thousand dollars (\$2,000.00).

Part 3. Any and all ordinances or ordinance provisions in conflict herewith are hereby repealed or amended to the extent of such conflict.

Part 4. If any provision or any section of this ordinance shall for any reason be adjudged invalid or unconstitutional by a court of competent jurisdiction, such judgement shall not affect or invalidate the remaining provisions or sections, which shall remain in full force and effect.

Part 5. This ordinance, being a penal ordinance, shall become effective after its publication as required by the Texas Local Government Code.

PASSED AND APPROVED this 20th day of May 2024.

ATTEST:



City Secretary, Evelyn Morse

SIGNED:



Mayor, Mary Schramper

EXHIBIT "A"

CITY OF MERKEL NUISANCE ORDINANCE

Section 1. Nuisance Conditions.

It shall be unlawful for an owner or occupant of any land, tract, or lot, or portion thereof, to allow any of the following conditions to occur on said property:

- (1) Stagnant water;
- (2) Grass, weeds, brush, or uncultivated vegetation in excess of twelve (12) inches in height;
- (3) The keeping, storing or accumulation of household trash and garbage unless the refuse is entirely contained in a closed receptacle;
- (4) The keeping, storing or accumulation of rubbish, including newspapers, refrigerators, stoves, furniture, tires, cans, used building materials and supplies, or discarded household fixtures or appliances, unless completely enclosed in a building or not visible from a public street; and
- (5) Maintaining the property in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests.

Section 2. Notice of violation.

(a) If a property owner violates Section 1 of this Ordinance, the City enforcement officials may send a notice of violation which shall be in writing and may be served on such owner by:

- (1) Delivering it to the owner in person;
- (2) Letter addressed to the owner at the owner's address as recorded in the Taylor County Central Appraisal District records; or
- (3) If personal service cannot be obtained, by:
 - (A) Publication at least once;
 - (B) Posting the notice on or near the front door of each building on the property to which the violation relates; or
 - (C) Posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.

(b) The notice of violation shall inform the owner of the nature of the violation of Section 1 of this Ordinance and give the owner ten (10) days from the date the notice is delivered, mailed, published, or posted to correct the violation.

(c) If the letter is returned by the United States Postal Service as “refused” or “unclaimed”, the validity of the notice is not affected, and the notice is considered as delivered.

(d) In a notice provided under this section, the City may inform the owner by regular mail and a posting on the property, or by personally delivering the notice, 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.

Section 3. Abatement by city.

If the City sent a notice under Section 2 and the owner does not correct the violation within the required time period, the City may do the work or make the improvements required and pay for the work done or improvements made and charge the expenses to the owner of the property.

Section 4. Assessment of city’s expenses; lien.

(a) The City shall assess expenses incurred under Section 3 against the real estate on which the work is done or improvements made.

(b) To obtain a lien against the property, the City Manager must file a statement of expenses with the Taylor County Clerk. The lien statement must state the name of the owner, if known, and the legal description of the property. The lien attaches upon the filing of the lien statement with the County Clerk.

(c) The lien obtained by the city is security for the expenditures made and interest accruing at the rate of 10% on the amount due from the date of payment by the City.

Section 5. Penalty.

(a) Any person who shall violate any provision of this article shall be guilty of a misdemeanor, which shall be punishable by a fine up to five hundred dollars (\$500.00), or up to two thousand dollars (\$2,000.00) if the Court finds that the violation relates to a regulation governing public health and sanitation.

(b) Prosecution in municipal court shall be in addition to other remedies provided in this Ordinance.

(c) Each day a violation occurs or continues to occur constitutes a separate offense.

Section 6. Dangerous weeds.

(a) The City may go upon property and do or cause to be done the work necessary to obtain compliance with this Ordinance without notice when weeds have grown higher than 48 inches and are an immediate danger to the health, life, or safety of any person.

(b) No later than the tenth day after the date the city causes the work to be done under this section, the city shall give notice to the property owner in the manner required by Section 2.

- (c) The notice shall contain:
- (1) An identification, which is not required to be a legal description, of the property;
 - (2) A description of the violations of this Ordinance that occurred on the property;
 - (3) A statement that the city abated the weeds; and
 - (4) An explanation of the property owner's right to request an administrative hearing about the city's abatement of the weeds.
- (d) The municipal court judge shall conduct an administrative hearing on the abatement of the weeds under this section if, not later than the 30th day after the date of the abatement of the weeds, the property owner files with the municipal court a written request for a hearing.
- (e) An administrative hearing conducted under this section shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the city's abatement of the weeds.
- (f) The city may assess expenses and create liens under this section as it assesses expenses and creates liens as provided in Section 4.