

**ORDINANCE NO. 2015-03-03**

**AN ORDINANCE AMENDING CHAPTER 90: HEALTH AND SANITATION; NUISANCES PROHIBITING CLUTTER AND REFUSE WITHIN THE CITY LIMITS; INSTITUTING CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS (\$500.00); ESTABLISHING PROCEDURES FOR THE PLACEMENT AND FORECLOSURE OF LIENS RESULTING FROM VIOLATIONS OF THIS ORDINANCE.**

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF ANAHUAC, TEXAS:

**Section 1** – *RUBBISH*. Includes all refuse, rejected tin cans, old vessels of all sorts, useless articles, discarded clothing, litter, appliances, automobile parts, bedding, lumber, building materials, containers, culverts, glass, indoor furniture, machine parts, machinery, pallets, plumbing supplies, tires, lawn equipment, tools, trash cans, and textiles of all sorts, and in general, all litter and all other material not typically used for outdoor decoration.

**Section 2** - Grant of Authority

This ordinance is enacted pursuant to the authority granted by Chapter 342 of the Texas Health and Safety Code (Subchapter A). This ordinance shall apply to all real property located within the corporate limits of the City of Anahuac, Texas.

**Section 3** - Prohibition Against Clutter, Refuse, and Other I insanitary Mauer

Each owner and/or occupant of property subject to this ordinance shall maintain the property free from rubbish, litter, and other objectionable, unsightly, or unsanitary matter, including, but not limited to, appliances, automobile parts, bedding, lumber, building materials, containers, culverts, glass, indoor furniture, machine parts, machinery, pallets, plumbing supplies, tires, lawn equipment, tools, trash cans, and any other materials not typically used for outdoor decoration. Construction materials and equipment reasonably necessary for use for approved construction projects shall not be deemed a violation of this section during the period covered by a municipal construction permit.

**Section 4** - Criminal Penalty

Violation of this ordinance shall constitute a Class C misdemeanor and an owner and/or occupant of the property who violates this ordinance shall, upon conviction, be assessed a fine of not more than \$500.00 per offense. Each day of violation shall constitute a separate offense.

**Section 5** - Notice Of Violation

Should the City Administrator, Mayor, City Council, or Code official determine that a violation of this ordinance exists, it shall cause the City to forward to the owner and/or occupant of a property in violation of this ordinance a Notice of Violation setting forth the following:

- A) a description of the violation of this ordinance;
- B) a reasonable description of the property sufficient to apprise the owner and/or occupant of the location of the property;
- C) a demand that the violation be corrected within seven days of the owner's and/or occupant's receipt of the notice;
- D) a statement that the failure to remedy the violation within seven days of the owner's and/or

occupant's receipt of the notice may result in the City:

- I) doing the work or making the required improvements on the property;
  - 2) charging the owner and/or occupant the cost of the work or improvements paid by the City; and
  - 3) filing a lien against the property for recovery of all costs of the work or improvements., and
- E) a statement that the owner and/or occupant may request a hearing with the City Council by filing a written request for hearing not later than the seventh day following the date of the owner's and/or occupant's receipt of the notice.

The notice may provide that if the owner and/or occupant of the property commits another violation of the same kind or nature which violation poses a danger to the public health and safety within one year of the date on which the notice was issued, then the City may correct the violation at the owner's and/or occupant's expense without further notice, and assess the expenses against the property.

#### **Section 6** - Service Of Notice Of Violation

The Notice of Violation shall be mailed, certified mail, return receipt requested, addressed to the owner and/or occupant at the owner's and/or occupant's address as recorded in the appraisal district records of Montgomery County, Texas. If such notice is returned by the United States Postal Service as "unclaimed," or "refused," then the requirement of personal service of the Notice of Violation shall be deemed satisfied. If such notice is otherwise returned undelivered, then service of the Notice of Violation shall be made by publication in a local newspaper of general circulation, and by posting such notice at such location as may be set by the City Council for the posting of municipal notices. In such event, the seven day period for correction of the violation shall commence with the first day of publication by the newspaper, however, the City shall not be required to publish such notice in a newspaper for more than one day.

#### **Section 7** - Right To Request A Hearing Before City Council

Within seven days of receiving a Notice of Violation, an owner and/or occupant who disagrees with the contents of the notice may file a written request for a hearing before the City Council. A request for hearing shall be filed with the office of the City Secretary. If the request for a hearing is filed not later than the seventh day following the owner's and/or occupant's receipt of the notice, then the seven day period for correcting the violation shall be extended until the seventh day following the City Council's decision. At the hearing, the City Council may only determine whether the real property, which is the subject of the hearing, is in violation of this ordinance.

#### **Section 8**- Correction Of Violation By The City

If, after service of the Notice of Violation, the owner and/or occupant of the real property fails to correct the violation before the expiration of the time period set forth in the notice, then the City may perform the work or make the improvements on the property without further notice to the owner and/or occupant, and shall keep a record of employee hours expended, materials used or purchased, and other costs associated with correcting the violation

#### **Section 9** - Assessment of Lien/Procedure

In addition to any criminal penalties set forth herein, the City shall have a lien for expenses incurred in correcting a violation under this ordinance. Such lien shall be against the real property on which the work is done or improvements made.

To obtain a lien against the property, the Mayor, or such city officer designated by the Mayor, shall file a Statement Of Expenses with the county clerk for Chambers County, Texas. The Statement of

Expenses shall state the following:

- a) the name of the owner and/or occupant of the property, if known,
- b) the legal description of the property, and
- c) a statement setting forth the expenses incurred by the City in correcting the violation.

The lien attaches upon the filing of the Statement of Expenses, and shall accrue interest at the rate of ten percent (10%) on the amount due commencing on the date of the payment by the City of the expenses incurred in correcting the violation. Upon filing of the Statement of Expenses with the county clerk, the City shall forward a copy of the statement to the owner and/or occupant of the real property subject to the lien, but the failure to forward such notice shall not affect the validity of any lien created under this ordinance.

The Statement Of Expenses shall constitute prima facie proof of the expenses incurred by the municipality in doing the work or making the improvements.

**Section 10** - Foreclosure of Lien

The City, at the direction of the City Council, may bring a suit for the foreclosure of a lien created pursuant to this ordinance.

**Section 11** - Effective Date

This ordinance shall become effective immediately upon enactment and publication as required by the Texas Local Government Code

PASSED AND APPROVED THIS 13<sup>TH</sup> DAY OF APRIL, 2105.

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Cheryl Sanders, Mayor

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Julie Harvill, City Secretary



