

**NO. 2023-9**

**AN ORDINANCE FOR THE CITY OF CANTON, TEXAS, AMENDING CHAPTER 93: PUBLIC NUISANCES OF THE CITY OF CANTON CODE OF ORDINANCES PROVIDING FOR THE REGULATION AND ABATEMENT OF WEEDS, RUBBISH, BRUSH, AND OTHER OBJECTIONABLE, UNSIGHTLY, OR UNSANITARY MATTER; PROVIDING FOR REGULATIONS FOR JUNKED VEHICLES, OPEN BURNING AND NOISE; PROVIDING FOR THE ASSESSMENT AND COLLECTION OF EXPENSES FOR WORK DONE OR IMPROVEMENTS MADE BY THE CITY OF CANTON; PROVIDING FOR LIENS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR SAVINGS, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF**

**WHEREAS**, the City Council of the City of Canton, Texas ("City Council") has determined that it is dangerous to the public health and that it constitutes a fire hazard for properties in the City of Canton, Texas, ("Canton") to have places thereon where weeds, rubbish, brush, and other objectionable, unsightly, or unsanitary matter accumulate; and

**WHEREAS**, Chapter 342, Texas Health and Safety code, provides municipalities with the power to regulate and abate accumulations of weeds, rubbish, brush, and other objectionable, unsightly, or unsanitary matter; and

**WHEREAS**, the City Council has determined that certain portions of Chapter 93: Public Nuisances of the City of Canton Code of Ordinances should be amended and revised to clarify the requirements for the regulation and abatement of weeds, rubbish, brush, and other objectionable, unsightly, or unsanitary matter; and

**WHEREAS**, Canton the City Council has determined that it is in the best interest of the public health and safety of the citizens of Canton to adopt these revisions;

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

**SECTION 1: Repeal of City of Canton Ordinances Nos. 88-11 and 2020-19**

The recitals set forth above are found to be true and correct and are adopted as if set forth in full herein.

**SECTION 2: Chapter 93: Public Nuisances of the City of Canton Code of Ordinances is hereby amended as follows:**

### 93.01 Definitions

1. **Agricultural property** is defined as property, whether cultivated or uncultivated, that has been granted a property tax exemption by the Van Zandt County Appraisal District pursuant to the Texas Property Tax Code or Texas Constitution, for agricultural land, and/or which is zoned as Agricultural by the City of Canton.
2. **Brush** is defined as scrub vegetation or dense undergrowth.
3. **Carrion** is defined as the dead flesh of any animal, fowl, or fish.
4. **Code Enforcement Official** is defined as any police officer, building official, fire marshal, code enforcement official, health inspector or their designated representatives charged with any enforcement and administration of this Chapter by the City of Canton.
5. **Fire Official** is defined as Fire Marshal of the City of Canton or the Fire Marshal's designee.
6. **Garbage** is defined as any waste, including animal and vegetable waste, dead animals, food, any matter that is no longer wanted or needed, of any nature whatsoever, which is subject to decay, putrefaction, and the generation of noxious and offensive gasses or odors or which may serve as breeding or feeding material for flies and/or other germ-carrying insects or vermin.
7. **Graffiti** is defined as the unauthorized application of paint, ink, chalk, dye or other similar substance, or other inscribed or engraved material, on public or private structures located on publicly or privately-owned real property with the city that is not authorized by law.
8. **High Grass / Weeds** is defined as any vegetation that, because of its height, is objectionable, unsightly or unsanitary which contributes to urban blight and endangers the public safety by creating a fire hazard, excluding shrubs, bushes, trees, cultivated flowers, gardens, and cultivated crops.
9. **Junk** is defined as all worn out, worthless, or discarded material, including but not limited to any of the following materials: metal, glass, wood, cordage or parts of said materials or any combination thereof, and includes, but is not limited to any used and/or inoperative lawn care equipment and machinery not currently in use.
10. **Junked Vehicle** is a vehicle that is self-propelled and:
  - (a) Does not have lawfully attached to it an unexpired license plate; and/or

(b) Is

(1) Wrecked, dismantled or partially dismantled or discarded; or

(b) Inoperable and has remained inoperable for more than:

(i) Seventy-two (72) consecutive hours, if the vehicle is on public property;

(ii) Thirty (30) consecutive days, if the vehicle is on private property.

11. **Nuisance** is defined as any condition, object, material, matter, light or noise as defined by city ordinance (as an act, object, or practice) that invades or interferes with another's rights or interests and/or is offensive, annoying, obstructive, dangerous or detrimental to human life, safety or health; or that renders property, the ground, the water, the air or food a hazard or likely to cause injury to human life or health; or any objectionable, unsightly, or unsanitary matter, including but not limited to, any abandoned wells, shafts, or basements, stagnant or unwholesome water, carrion, rubbish, junk, trash, debris or refuse, waste, impure or unwholesome matter of any kind. This definition also includes the conditions enumerated in Section 93.02 of this Chapter, *infra*.
12. **Open Burning** is defined as the burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open Burning does not include road flares, smudge pots and similar devices associated within safety or occupational uses typically considered open flames or recreational fires.
13. **Person or Individual** is defined as any individual, firm, association, partnership, joint venture, or corporation.
14. **Recreational Fire** is defined as an outdoor fire burning materials other than rubbish where the fuel being burned is contained in an incinerator, outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of three (3) feet or less in diameter and two (2) feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purpose.
15. **Refuse** is defined as a homogeneous or heterogeneous accumulation of worn-out, used, broken, rejected, or worthless materials including but not limited to, garbage, rubbish, paper and/or litter, and other decayable or non-decayable waste.
16. **Rubbish** is defined as trash, debris, mounds of rubble, stone, dirt, useless fragments of building materials, or other miscellaneous useless waste or rejected matter.

17. **Trash / debris** is defined as all solid waste, garbage, trash, litter, junk, tin or aluminum cans, bottles, papers, grass and weed cuttings; tree limbs; brush; wood or building materials; discarded fences; discarded vehicle parts; tires; operable or inoperable household fixtures or furniture that are not designed for outdoor use, including but not limited to, plumbing apparatus, electrical equipment, machinery, containers and appliances, equipment, tools, machines, and/or anything that is worthless, of nominal value, inferior, or vile.
18. **Vehicle** is defined as:
- (a) Any motor driven or propelled vehicle, including but not limited to, automobiles, trucks, buses, motor homes, motorized campers, tractors and construction equipment and machinery;
  - (b) Any trailer or semitrailer, other than manufactured housing, including but not limited to, boat trailers or travel trailers;
  - (c) Any four-wheel all-terrain vehicle designed by the manufacturer for off-highway use;
  - (d) Any motorcycle, motor-driven cycle or Mo-ped;
  - (e) Any recreational conveyances, including but not limited to, boats, dune buggies; or
  - (f) Any motor vehicle subject to registration pursuant to the Texas Certificate of Title Act, Tex. Trans. Code §§501.001 et seq.
19. **Vehicle Accessories** are defined as any part or parts of any vehicle.
20. **Waste** is defined as discarded, worthless, defective or of no use, unwanted or unusable material.

## **Section 93.02 Declaration of Nuisance.**

- A. **Nuisance Generally.** The following conditions or circumstances are declared to be a public nuisance and shall be abated by the owner and any persons guilty of performing or causing any such nuisance or permitting or suffering such on any property or to remain upon said property or in any structure, building, owned, occupied by, or controlled by such persons or on any public street immediately adjacent to such premises shall be deemed guilty of an offense under this Chapter:
- 1. Any property, buildings, structures or places containing indoor or outdoor accumulations of garbage, weeds, water, junk, trash, debris, rubbish, stagnant liquids, flammable liquids, or other deposits or substances which have become or are likely to become unwholesome, filthy, unsightly,

- offensive, unsanitary, or likely to create or engender disease, or which contributes to urban blight.
2. Discharging any sewage waste directly or indirectly onto the ground or into any stream, creek, water way or other body of water.
  3. Permitting any roll-off dumpster containing garbage to remain unemptied for a period of time that causes foul odors or attracts rodents, vermin, or omnivorous animals and/or birds.
  4. Permitting any property, tank, pond, alley, gutter, swimming pool, or open receptacle containing water, or a source of water to become stagnant, foul, nauseous, offensive, or unpleasant, or provide harborage for mosquitoes, flies, or other insects.
  5. Maintaining a swimming pool with impaired visibility of upper and/or lower drain(s) or in an unsafe, unsecured, unclean or unsanitary condition.
  6. Discharging water from a swimming pool onto the property of another, or to drain the pool in such a way as to drain onto the property of another without consent or one or more adjoining property owners.
  7. Permitting the accumulation, dumping or burial of garbage, trash and debris, building materials, discarded furniture, tree limbs, household waste items, ashes, inoperable household appliances, vehicle tires, scrap metal, or automobile parts on any private property and/or depositing the same onto any private property, public right-of-way or public property or the dumping or burying of used motor oils or any other chemical substance which is not permitted by the Texas Commission on Environmental Quality or any state or federal law directly onto or into the ground.
  8. Permitting a lawn irrigation system to spray or overflow water onto a public sidewalk or public street during periods of freezing weather when such water freezes and results in a potentially dangerous condition.
  9. Allowing conditions on any real property where rats or vermin are allowed to breed or are harbored.
  10. Any object or article placed, planted or allowed to grow upon or over any public sidewalk, except such as are permitted by ordinance of this city, in such manner as to obstruct or hinder the free passage of persons upon such public sidewalk.
  11. Depositing any trash and debris onto any public street or other public place and allowing the same to remain in such place.

12. Creating or allowing graffiti that is visible from a public place or public right-of-way.
13. Scattering, distributing, or affixing any advertisements, circulars, handbills, printed or written announcements or paper of like character, upon the public streets, within or on public buildings, signs, monuments, or grounds within the city, except as provided by the city's sign ordinance or other law.
14. Permitting light or lights to directly illuminate or shine upon a dwelling on a property of another after 11:00 p.m. in such a manner as to cause distress, discomfort, or injury to persons, except with the express consent of such other person. This Chapter shall not apply to lights maintained or controlled by the city upon its own property or property under its control or upon any street or alley of the city.
15. Using a vehicle for living, sleeping, home occupation, or household purposes when parked or stored on commercial or residential property.
16. To allow any violation of the following described sections:

**B. High Grass/Weeds/Brush**

It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any property, occupied or unoccupied, to permit grass, weeds, or brush to grow to a height greater than twelve (12) inches, or to permit grass or weeds to grow and accumulate or remain thereon and within the curb, gutter and sidewalk. If there is no curb and gutter, then the property shall be maintained to the traveled portion of the street. This prohibition shall not include cultivated flowers and gardens.

EXCEPTION: With respect to Agricultural property, the owner or occupant of such property shall be required to maintain grass, weeds, brush, or other unsightly vegetation to a height of less than twelve (12) inches only within ten (10) feet of any adjacent street, alley, or property of different ownership.

**C. Tree and Brush Maintenance – Street**

Every occupant or owner of a property shall maintain any tree and/or shrubbery allowed to grow onto or over a public street, except such as are permitted by ordinance of this city, in such manner as to obstruct or hinder the free passage of vehicles including but not limited to, fire, police, emergency and non-emergency vehicles must maintain a minimum clear space between the street and lowest portion of the tree limbs of at least fourteen (14) feet above the public street and gutter.

**D. Nuisances Abutting Street, Alley, Public Easement or Public Right-of-Way**

The owner, occupant, property manager or other agent of either the owner or occupant of real property that abuts a street, alley, public easement or public right-of-way are each and severally responsible for nuisances and the abatement of nuisances within the City, and shall not keep, store, allow, maintain, permit, or accumulate upon any property any refuse, trash and debris, stagnant water, filth, carrion, junk, garbage, impure or unwholesome matter, or objectionable, unsightly, or unsanitary matter that:

1. is visible from a street or alley;
2. creates or may create an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin or disease-carrying pests; or
3. emits a noxious odor.

**E. Disposal of trash and debris**

1. Every occupant or owner of a property with trash and debris shall dispose of all trash and debris in a clean and sanitary manner by placing such in approved containers of the storage of such until removed from the premises for disposal.
2. All interior and exterior property and premises shall be free from any accumulation of trash and debris.
3. Other than the hours for garbage collection allowed by city ordinance, residentially-zoned property shall maintain approved containers away from the street. Containers may be placed at the curbside or within three (3) feet of the road surface no sooner than twelve (12) hours prior to collection day and removed no later than twelve (12) hours after collection day. Containers must not block or be placed in the path of the mailbox. All containers shall securely contain all contents. Containers should be capable of being handled without spillage and all container lids must be secure and kept closed.
4. Tires
  - a. All used tires, scrap tires and tire pieces stored within the city must be kept in a manner which prevents their exposure to and collection of the elements of a nature. Tires must not be allowed to hold water, dirt, rubbish, or other foreign materials. Monitoring and control measures are to be implemented as necessary to eliminate the presence of mosquito breeding and rodent harborage.

- b. The storage of any tire upon any premises within the city in such a manner that does not conform to the approved storage methods defined above is hereby declared to be a public nuisance subject to abatement at the expense of the owner of such premises as provided by law.

## 5. Batteries

- a. A battery retailer or wholesale shall post in a place visible to all customers a conspicuous notice in both English and Spanish containing the universal recycling symbol concerning the sale and disposal of lead-acid batteries.
- b. The notice shall be a sign at least 8-1/2 inches by 11 inches in size and shall contain the following language:
  - (1) It is a Class C Misdemeanor to discard or improperly dispose of a motor-vehicle battery or other lead-acid battery;
  - (2) Recycle your used batteries; and
  - (3) State law requires us to accept used motor-vehicle batteries for recycling in exchange for new batteries purchased.

## 93.03 OPEN BURNING

### A. Guidelines

#### 1. General

- a. No person shall kindle or maintain any type of outdoor burning or authorize any such fire to be kindled or maintained, without first obtaining a permit from the Fire Official or his or her representative as required in §105.6 of the International Fire Code currently adopted by the City of Canton.
  - b. EXCEPTION. Recreational fires, as defined herein, do not require a permit. Recreational fires must be properly conducted and constantly attended.
2. Open burning that does not meet local, state or federal regulations and emission standards will not be allowed in the City of Canton. Open burning that causes hazardous fires or offensive or objectionable smoke or odor emissions shall be prohibited.



3. The Fire Official is authorized to order the extinguishment by the permit holder or the Fire Department of any open burning which creates or adds to a hazardous situation.

B. Authorization

1. A non-refundable permit fee in the amount set out in the current City of Canton Fee Schedule will be charged for authorized burning for land clearing, bonfires or fires to control pests or disease. Burn permits are good for five (5) consecutive calendar days. The Fire Official may grant one extension.
2. All persons who obtain permits for authorized fires shall contact the Fire Department for a site inspection to ensure the following:
  - a. General
    - (1) The location for the open burning shall not be less than fifty (50) feet from any structure and provision shall be made to prevent the fire from spreading to within fifty (50) feet of any structure.
    - (2) EXCEPTIONS
      - (a) Fires in approved containers that are not less than fifteen (15) feet from a structure; and
      - (b) The minimum required distance from a structure shall be twenty-five (25) feet where the pile is three (3) or less feet in diameter and two (2) or less feet in height.
  - b. The fire must be attended at all times until the fire is extinguished and the ashes are cooled or covered.
  - c. Wind speeds must be no more than twenty (20) mph as measured during the on-site inspection of the Fire Department representative, and atmospheric and humidity levels (above 50% humidity) must be met.
  - d. On-site provisions must be met to keep the fire from spreading. A minimum 4-A rating fire extinguisher, or other approved fire extinguishing equipment such as a water hose, earth-moving equipment, dirt, sand or water barrel shall be on site and available for immediate use.
  - e. The burn may not include any asbestos, plastics, or petroleum products (tires, rubber, etc.) or miscellaneous hazardous materials as defined by the TCEQ as now written or as hereafter amended. Domestic waste (household trash and rubbish) may not be burned. Burning is limited to waste plant growth which may be burned on the property on which the

material grew. Waste plant growth may be grass, leaves, branch trimmings or other plant growth.

- f. Burning may only be conducted from dawn to dusk.
- g. Burn permits must remain available on site for the duration of the burn.
- h. Permit holders assume full liability for the fire. Violators shall also be subject and liable for any damages resulting from failure to follow requirements of the burn permit.
- i. Any individual who violates any condition above shall be in violation of this section and shall have their permit revoked immediately and be subject to penalties under law.

### **93.04 Noise**

#### **A. General**

- 1. Any unreasonably loud, disturbing, unnecessary noise in excess of 85 decibels at a distance of fifty (50) feet from the property line 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 hereby prohibited.
- 2. Any noise of such character, intensity and continued duration in excess of 85 decibels at a distance of fifty (50) feet from the property line which substantially interferes with the comfortable enjoyment of a dwelling, hotel or other type of residence by persons of ordinary sensibilities is hereby declared to be a nuisance and is hereby prohibited.

#### **B. Nuisances**

The following acts, among others, are declared to be nuisances in violation of this section, but such enumeration shall not be deemed to be exclusive:

- 1. Musical Instruments - The playing of any radio, phonograph or other musical instrument at a level in excess of 85 decibels at a distance of fifty (50) feet from the property line, particularly between the hours of 9:00 p.m. and 7:00 a.m., so as to annoy or disturb the quiet comfort or repose of persons of ordinary sensibilities in any dwelling, hotel, or other type of residence.
- 2. Loudspeakers and Amplifiers - The use of any stationary loudspeaker or amplifier at a level in excess of 85 decibels at a distance of fifty (50) feet from the property line that annoys and disturbs persons of ordinary sensibilities in the immediate vicinity thereof. It is a defense to prosecution under this division if the loudspeakers and amplifiers were operated during a parade on

a public street within the city or at a public event and advance permission for the operation was obtained from the City Manager or the Chief of Police, or at a public event sponsored by the City of Canton, Van Zandt County, or Canton Independent School District.

3. Animals and Birds - The keeping of any animal or bird which, by causing frequent or long-continued noise, shall disturb the comfort and repose of any person of ordinary sensibilities in the immediate vicinity.
4. Horns or other Signal Devices on Vehicles - The continued or frequent sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle except as a danger or warning signal; the creation by means of any such signal device of any unreasonably loud noise for any unnecessary and unreasonable period of time.
5. Operation of Vehicles - The running of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud, extended or unnecessary grinding, jarring or rattling noise or vibrations.
6. Exhaust without Mufflers - The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or boat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
7. Construction Work - The erection, including excavation, demolition, alteration, or repair work on any building other than between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, except in case of urgent necessity in the interest of public safety and convenience, and then only by permit from the city, which permit may be renewed by the city during the time the emergency exists.
8. Near Churches, Schools and Hospitals - The creation of any excessive noise adjacent to any church, school or institution of learning while the same is in session or adjacent to any church, school or hospital which unreasonably interferes with the workings of the institutions, provided conspicuous signs are displayed on any street indicating the street has a church, school or hospital.
9. Loading and Unloading Vehicles, etc. - The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or in the opening and destruction of bales, boxes, crates and containers.
10. Yelling, Shouting, etc. - Loud and raucous yelling, shouting, hooting, whistling, or singing, particularly between the hours of 10:00 p.m. and 7:00 a.m., or any time or place so as to unreasonably disturb the quiet, comfort or repose of reasonable persons of ordinary sensitivities.

11. Use of Drums, etc. to Attract Attention - The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by the creation of noise to any performance show or sale of merchandise.

C. Enforcement

1. The Code Enforcement Official (as defined herein) will have the primary responsibility for the enforcement of the noise regulations contained herein. Nothing in this section shall prevent the City of Canton Code Enforcement Official from obtaining voluntary compliance by way of warning, notice or education.
2. If a person's conduct would otherwise violate this section and consists of speech or communication; of a gathering with others to hear or observe speech or communication; or of a gathering with others to picket or otherwise express in a non-violent manner a position on social, economic, political or religious questions; the person must be ordered to, or have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or a citation being issued.

**93.05 Junked Vehicles**

- A. It shall be unlawful for any person owning or having custody of any junked vehicle or vehicle accessory to store or permit to be stored any such vehicle or accessory to remain on any private property within the city limits of the City of Canon, Texas, and any place where they are visible from a public place or public right-of-way.
- B. It shall be further unlawful for any person owning any private property in the city to store or to permit to remain any such junked vehicle accessories on his or her property.
- C. The storage is declared to be a public nuisance and may be abated or removed and penalties imposed as provided in this section.
- D. It shall be unlawful for any person, after notification to remove any junked vehicle or vehicle accessories from any private property has been given, to move the same to any other private property upon which the storage is not permitted or onto any public highway or other public property for purposes of storage.
- E. Prohibited Acts
  1. Junked vehicles and vehicle accessories which are located in any place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public tending to reduce the value of private property, to invite vandalism, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, and are

detrimental to the economic welfare of the state and the City of Canton, Texas, by producing urban blight which is adverse to the maintenance and continuing development of the municipalities of the State of Texas, including the City of Canton, and such vehicles are therefore declared to be a public nuisance.

2. It shall be unlawful for any person owning or having custody of any junked vehicle or vehicle accessories to store or permit any such junked vehicle or vehicle accessories to remain on any private property within the City of Canton, Texas, for a period of more than ten (10) days after the receipt of a notice requiring such removal. It shall further be unlawful for any person owning any private property in the City of Canton, Texas, to store or to permit to remain any such junked vehicle or vehicle accessories on his or her property for more than a like period. The storage is declared to be a public nuisance and may be abated or removed and penalties imposed as provided in this section.
3. It shall be unlawful for any person, after notification to remove any junked vehicle or vehicle accessories from any private property has been given, to move the same to any other private property upon which the storage is not permitted or onto any public highway or public property for purposes of storage.
4. EXCEPTIONS: This section shall not apply to any vehicle or vehicle accessories stored within an enclosed building or on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of the business enterprise, in a storage place or depository maintained in a lawful place and manner. The business enterprises shall include auto junk yards, auto repair and auto body shops, but shall not include automobile services stations or tire, battery and accessory sales stores.
5. Administration and Enforcement
  - (a) The Code Enforcement Official (as defined herein) or their designee(s), on routine inspection or upon receipt of a complaint, may investigate a suspected junked vehicle or vehicle accessories and record the make, model, style and identification numbers and its situation.
  - (b) Whenever the Code Enforcement Official or any member of his or her department finds or is notified that any junked vehicle or vehicle accessories have been stored or permitted to remain on any private property in the city, the Code Enforcement Official shall send by certified mail or registered mail a notice to the owner of record of the junked vehicle or vehicle accessories, if the owner can be ascertained by the exercise of reasonable diligence, and also to the owner of the private property, as listed on the tax assessment records of the city,, on which the same is located to remove the junked vehicle or vehicle accessories within ten (10) days. The notice shall contain the following additional information:

- (i) Nature of complaint;
  - (ii) Description and location of the junked vehicle and/or vehicle accessories;
  - (iii) Statement that the junked vehicle or vehicle accessories will be removed from the premises not later than ten (10) days from the date of notification and/or that a request for a hearing must be made before the expiration of the ten-day period;
  - (iv) Statement that removal from the location specified in the notification to another location upon which the storage is not permitted is prohibited and shall subject the person to additional penalties;
  - (v) Statement that if removal is made within the time limits specified, notification shall be given in writing to the Code Enforcement Official.
  - (vi) Statement of the penalties provided for non-compliance with the notice.
- (c) In the event of the failure, refusal or neglect of the owner or occupant of the premises or property involved to cause the nuisance to be removed or abated in the manner and within the time provided herein, it shall be the duty of the Code Enforcement Official to cause the condition constituting a nuisance to be promptly and similarly abated, in a reasonable and prudent manner, at the expense of the city. The Code Enforcement Official or his or her duly-authorized representative shall compile cost of the work done and improvements made in abating the nuisance, and shall charge the same against the owner of the premise or property. It is hereby provided that general overhead of administrative expense, inspections, locating owner and/or owners, issuing a notice, reinspection and ordering work done, together with all necessary incidents of same, shall require a charge of at least \$25.00 for each occurrence or incident. Notwithstanding therefore, any tabulation of recorded cost, a minimum of \$25.00 shall be assessed against each lot owner or vehicle owner, but the sum of \$25.00 is hereby expressly stated to be a minimum charge only and shall have no application when the tabulated cost of the work done shall exceed the minimum charge. After the junked vehicle and/or vehicle accessories has been removed, it shall not be reconstructed or made operable.
- (d) Removal
- (i) Upon removal of the junked vehicle, notice shall be given to the Texas Highway Department within five (5) days after the date of the removal identifying the vehicle or part thereof.

- (ii) The Code Enforcement Official may cause the removal of the junked vehicle or vehicle accessories thereof from property by any duly-authorized towing service and/or by notifying the Canton Police Department and having it authorize removal.

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## **Sections 93.06 – 93.14 are Reserved for Future Expansion**

### **93.15 Inspections**

The code enforcement official or his/her designee is authorized to inspect any property for compliant with, or violations of, this Chapter.

In the event entry onto the property is refused, the code enforcement official, or his/her designee, shall have recourse provided by law, including but not limited to, obtaining an administrative search warrant or an injunction to secure entry. If the owner, occupant, or person in control cannot be identified or located, the code enforcement official, or his/her designee, shall be authorized to enter the property to the extent allowed by law.

### **93.16 Enforcement**

The provisions of this Chapter shall be enforced by the Code Enforcement Official, or his/her designee, and it shall be unlawful for any person to interfere with or hinder the code enforcement official, or his/her designee, in the exercise of their duties under this Chapter. Notwithstanding any provisions contained herein to the contrary, the Code Enforcement Official, or his/her designee, is hereby granted the authority to conduct abatement procedures and issue immediate citations to persons violating any provision of this Chapter in their presence.”

### **93.17 Duty of owner or occupant to abate nuisance**

It shall be the duty of any person owning, claiming, occupying or having supervision or control of a property, occupied or unoccupied, to comply with his Chapter.

### **93.18 Notice to abate violation; failure to comply; correction by City**

If any person owning, claiming, occupying, or having supervision or control of any real property fails to comply with the provisions of this Chapter within the time prescribed by the Code Enforcement Official or the time prescribed by state law, the City shall notify such person of failure of comply using the procedures set out herein. The City shall have the authority as provided by law to issue citation(s) for such violation and go upon such property and do or cause to be done the work necessary and pay for the work done or improvements made and charge an administrative fee and the expenses to the owner of

the property. The notice must be given personally to the owner in writing; or by letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or if personal service cannot be obtained, the City may serve notice by publication at least once in a local newspaper; 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 buildings. If the City mails a notice to a property owner in accordance with this subsection and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.

In a notice provided under this section, the City may inform the owner by regular mail and a posting on the property 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. If a violation covered by a notice under this subsection occurs within the one-year period, and the city has not been informed in writing by the owner of an ownership change, the City, without notice, may take any action and assess its expenses.

It shall be an offense under this Chapter to mutilate, destroy, tamper with, or remove any notice, placards, signs, tags or seals posted or affixed by the City pursuant to this Chapter.

### **93.19: Expenses incurred by city; lien**

The City may assess expenses incurred under the previous section against the real estate on which the work is done or improvements made. To obtain a lien against the property, the City shall file with the county clerk a statement, signed by the mayor or an official of the City designated by the mayor, of the amount so expended and costs which statement shall state the name of the owner, if known, and the legal description of the property. Such amount shall become a privileged lien against the real property, second only to tax liens. The City may bring a suit for foreclosure in the name of the municipality or recover the expenditures and interest due. The statement of expense filed with the clerk or a certified copy thereof shall be prima facie proof of the amount expended in such work improvements or correction of the property. Failure of the clerk or the City Secretary to record such lien claim or to mail such notice, or failure of the owner to receive such notice shall not affect the right of the City to foreclose on the lien for such charges as provided in the following section. Property subject to a lien for unpaid weed or grass cutting or removal charges and/or for removal of garbage or rubbish shall be sold for nonpayment of the same and the foreclosure of stator liens. Such foreclosure shall be in equity in the name of the City of Canton, Texas. The City Council, upon being notified by the City Secretary of the need of foreclosure, shall then authorize the City attorney, or any attorney representing the City, to direct and institute such proceedings, in the name of the City in any court having jurisdiction over such matters, against any property for which such bill has remained unpaid for sixty (60) days after it has been rendered.



### **93.20 Penalty for Violation**

Any person violating or failing to comply with any provision or requirement of Chapter 93, and/or who continues to violate or fails to comply with the same within the time prescribed by the code enforcement official or the time prescribed by state law shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed \$2,000.00, as such offense being a violation of the City's health, safety and public welfare ordinances. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur.

Notwithstanding the foregoing, any violation of any provision of this Chapter that constitutes an immediate danger or threat to the health, safety and welfare of the public may be enjoined in a suit brought by the City for such purpose.

In addition to any other remedies or penalties contained herein, the City may enforce the provisions of this Chapter pursuant to the applicable provisions of Chapter 54 of the Texas Local Government Code, which provides for the enforcement of municipal ordinances, or by other applicable state law or actions in municipal, state, or federal court, as appropriate."

### **SECTION 3. Savings, Repealer, and Pending Prosecution and Litigation Clause**

All ordinances shall remain in full force and effect, save and except as amended by this or any other ordinance. All other ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed. Any citations, complaints, or litigation matters, civil or criminal, commenced during the time that the prior Chapter 93 was in effect shall not be abrogated by this amendment and shall continue to be considered effective during the pendency of said citation, complaints, or litigation matter.

### **SECTION 4. Severability Clause**

Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Canton hereby declares that it would have passed this Ordinance and each section, subsection, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

### **SECTION 5. Effective Date**

That this ordinance shall take effect immediately from and after its passage and the publication of the caption as the law in such cases provides.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS, on this the 20th day of June, 2023.



APPROVED:

  
LOU ANN EVERETT, Mayor

ATTEST:

  
Debra Johnson, City Secretary