

ORDINANCE NO 10102006-5

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MUNDAY PROVIDING FOR THE REGULATION OF WEEDS, FILTH, CARRION AND OTHER UNWHOLESOME MATTER; PROVIDING FOR NOTICE OF VIOLATION TO THE OWNERS OR OCCUPANTS OF PROPERTY; PROVIDING FOR THE ABATEMENT OF SUCH CONDITIONS; PROVIDING FOR FILING A STATEMENT OF LIEN FOR THE COST OF ABATEMENT; PROVIDING CRIMINAL PENALTIES FOR NON-COMPLIANCE, PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR PUBLICATION AND PROVIDING FOR AN EFFECTIVE DATE OF SAID ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUNDAY, TEXAS, AS FOLLOWS:

Section 1 Unwholesome Conditions Specified; Unlawful to Maintain

It shall be unlawful for the owner, lessee, or occupant of any land, tract, or lot or any portion thereof, regardless of size, within the corporate limits of the City of Munday, to fail to maintain said property free of weeds, grass and undergrowth over twelve (12) inches tall, or to fail to maintain said property free from household trash, garbage, used building materials and supplies, used and or discarded household fixtures or appliances, toxic materials, stagnant water, dead animals, brush piles, debris, rubbish, materials which constitute a fire hazard, or any other matter which may be detrimental to the health, safety and welfare of the citizens of the City.

Section 2. Abatement

- (a) Should any owner of any lot or lots within the City of Munday allow weeds, rubbish, brush, or any other unsightly, objectionable or unsanitary matter to remain upon his property, in violation of this Ordinance, following seven (7) days notice of a violation, the City of Munday may:
- (1) do the work or make the improvements required; and
 - (2) pay for the work done or improvements made and charge the expenses to the owner of the property;
 - (3) file a lien statement in accordance with Section 6.

- (b) Notice shall be given:
 - (1) personally to the owner in writing;
 - (2) by letter, mailed by certified mail return receipt requested, addressed to the owner at the owner's post office address as recorded in the appraisal district records of the Knox County Appraisal District; or
 - (3) if personal service cannot be obtained or the owners post office address is unknown:
 - (A) by publication at least once in a newspaper of general circulation within the City of Munday; and
 - (B) by posting the notice on or near the front door of each building on the property to which the violation relates; or
 - (C) 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.
- (c) If a notice to a property owner is mailed in accordance with this section or Section 3 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.

Section 3. Alternate Method of Notice

- (a) As an alternative method of notice to that provided in Section 2, the City of Munday may deliver notice by certified mail return receipt requested. The notice shall contain the following:
 - (1) a statement 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.
- (b) If a violation covered by this sub-section occurs within the one-year period, and the City of Munday has not been informed of a change of ownership, the City of Munday may without further notice to the owner, take action permitted by section 2 and assess its expenses as provided in Section 6.

Section: 4. Hearing.

Upon completion of notice as required by Section 2 or 3 above, the owner may, within seven (7) days, request a hearing before the City Council to appear and show cause why the alleged nuisance should not be abated. If a timely request for hearing is received, the City Council shall hold a hearing within seven (7) days of the request. The purpose of the hearing shall be to determine whether the property is in violation of this ordinance and whether it should be abated. Following completion of the hearing, the City Council may issue such orders regarding the property as it, in the council's sole discretion, deems appropriate under the circumstances.

Section 5. Emergency Abatement

- (a) The City of Munday may abate, without notice, weeds that:
 - (1) have grown higher than 48 inches; and
 - (2) are an immediate danger to the health, life, or safety of any person.
- (b) Not later than the 10th day after the date the City abates weeds under this section, notice shall be given 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 the ordinance that occurred on the property;
 - (3) a statement that the municipality abated the weeds; and
 - (4) an explanation of the property owner's right to request an administrative hearing about the municipality's abatement of the weeds before the City Council.
- (d) The City Council shall conduct the hearing on the abatement of 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 City Secretary a written request for a hearing.
- (e) The 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 municipality's abatement of the weeds.

- (f) The City may assess expenses and create liens under this section as it assesses expenses and creates liens under Section 6.

Section 6. Filing of Lien Statement

The Mayor, City Health Officer or municipal official designated by the mayor shall file a statement of expenses incurred under section 2 with the County Clerk of Kox County, Texas. The lien statement shall state the name of the owner, if known, the legal description of the property, a description of the work performed and the amounts claimed. The lien attaches upon the filing of the lien statement with the County Clerk. The lien shall accrue interest at a rate of 10% per annum from the date the City pays for the work or improvements. The lien is inferior only to tax liens and liens for street improvements. The City of Munday may bring a suit for foreclosure to recover the expenditures and interest due. The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the municipality in doing the work or making the improvements.

Section 7. Penalty

Any person, firm or individual who shall violate any of the provisions of the article shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not exceeding Two Thousand Dollars (\$2,000.00). Each and every day the violation continues shall constitute a separate and distinct offense.

Section 8. Repeal

That any part of any other ordinance of the City of Munday in conflict with this ordinance is repealed to the extent of the conflict.

Section 9. Publication

The City Secretary is hereby authorized and directed to cause the publication of the caption and penalty for violation of this ordinance as required by law.

Section 10. Effective Date

This ordinance shall take effect immediately upon completion of publication as provided by law.

PASSED AND APPROVED on this the **10th** day of **October** ____,
2006.

CITY OF MUNDAY

Robert Bowen, Mayor

ATTEST:

Cheryl Crawfords, City Secretary