

ORDINANCE NO. 2015-0720-01

AN ORDINANCE OF THE CITY OF LORENA, TEXAS, AMENDING CHAPTER 26, ENVIRONMENT, ARTICLE IV, NUISANCE ABATEMENT, TO ADDRESS FENCE AND SCREENING MAINTENANCE; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR OPEN MEETINGS.

WHEREAS, Chapter 26, Environment, of the City of Lorena (hereinafter, the “City”) provides for certain rules and regulations concerning weeds, junked vehicles and nuisances intended to promote the health, safety and general welfare of the public by ensuring that properties within the City are aware of regulatory standards and are abated of nuisances that detract, devalue and present real health, safety and welfare issues for the City and its residents; and

WHEREAS, the City Council of the City of Lorena is of the opinion that such rules and regulations need to be updated and modified to provide a clearer understanding of and guidance for maintenance of fencing and other forms of screening, all to provide for and benefit the health, safety and welfare of the citizens of the City; and

WHEREAS, the City Council is of the opinion that Chapter 26, Environment, Article IV, Nuisance Abatement, should be amended by clarifying and adding a new Section related to maintenance of fencing.

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

SECTION 1. Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. Modification. The City Council hereby modifies and amends Chapter 26, Environment, Article IV, Nuisance Abatement, Lorena’s Code of Ordinances outlined as follows:

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ARTICLE IV. - NUISANCE ABATEMENT

Sec. 26-88. - Declarations.

The city council hereby finds and declares that it is in the best interest of the health and safety of the citizens of the city to keep lots and property within the limits of the city free from weeds, rubbish, brush, and other objectionable, unsightly, or unsanitary matter. It is the intent of the city council to

prohibit and control such objectionable, unsightly and unsanitary matters through the passage of this article, as permitted by V.T.C.A., Health and Safety Code ch. 342.

Sec. 26-89. – General Activity prohibited.

It shall be unlawful for the owner or occupant of a lot or other real property located within the limits of the city to fail to keep such lot or real property free from weeds, rubbish, brush, or other objectionable, unsightly, or unsanitary matter.

Sec. 26-89.1 – Specific Activity prohibited related to privacy and/or screening fences.

- (a) It shall be unlawful to maintain a fence in such a manner as to allow:
 - (1) Any portion of a fence to lean at an angle from the vertical plane any greater than five (5%) percent.
 - (2) Missing, loose or broken posts, pickets, slats or panels in a fence or rusting, peeling, or blistering paint or other surface damage.
 - (3) Symbols, writings and other graffiti on a fence except for those which are permitted as signs under this chapter or which pertain to the address or occupancy of a property.
 - (4) Any portion of a chain-link fence to be curled, cut through, bent or peeled apart, to become unattached from the framing poles, or for the framing poles to be bent or become unattached from each other.
- (b) All fences and screening walls shall be kept in good repair, shall be maintained so that they shall test plumb and square at all times, shall not be propped up to maintain the required vertical plane of any portion, shall not create blight, and shall be maintained close enough to surface grade to prevent intruder or animal passage. Dilapidated fences or screening walls shall be repaired or replaced in accordance with provisions of this section.
- (c) Broken, damaged, removed or missing parts of a fence shall be replaced or repaired within ten (10) days upon receipt of notice from the City with the same material, or material with comparable composition, color, size, shape and quality of the original fence to which the repair is being made.

Sec. 26-90. - Enforcement.

The city manager, city secretary, the chief of police, code enforcement officer or any police officer of the city shall have the right to enforce the provisions hereof. The provisions hereof may be enforced through this article.

Sec. 26-91. - Work or improvements by city; notice to owner.

- (a) If an owner of a lot or other real property is determined to be in violation of the provisions hereof, the city may give notice to the owner to correct the violation within ten days of notice of such violation.

- (b) Any notice given under this section must be given:
 - (1) Personally to the owner in writing;
 - (2) By letter addressed to the owner at the owner's post office address; or
 - (3) If personal service cannot be obtained or the owner's post office address is unknown:
 - a. By publication at least twice within ten consecutive days;
 - 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) In the notice of a violation, the city may inform the owner by certified mail, return receipt requested, 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, then the city without notice may take any action permitted by subsection (d) of this section and assess its expenses as provided by section 26-92.

- (d) If the owner does not comply with the notice to correct violations hereof within ten days of notice of the violation, the city may:
 - (1) Do the work or make the improvements required; and/or
 - (2) Pay for the work done or improvements made and charge the expenses to the owner of the property.

Sec. 26-92. - Assessment of expenses; lien.

- (a) The city manager may assess expenses incurred under section 26-91 against the real property on which the work is done or improvements made.
- (b) To obtain a lien against the property, the city manager or municipal official designated by the city manager must file a statement of expenses with the county clerk. The lien statement must state the name of the owner, if known, and the legal description of the property. The lien shall attach upon the filing of the lien statement with the county clerk.

- (c) The lien obtained in accordance with subsection (b) of this section is security for the expenditures made and interest accruing at the rate of ten percent on the amount due from the date of payment by the city.
- (d) The lien is inferior only to:
 - (1) Tax liens; and
 - (2) Liens for street improvements.
- (e) The city manager may bring a suit for foreclosure in the name of the city to recover the expenditures and interest due.
- (f) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.
- (g) The remedy provided by this section is in addition to the remedy provided by section 1-10.

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SECTION 3. The previous Section 26-89 and any amendments thereto and other ordinances or parts thereof that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 4. Should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinance as a whole.

SECTION 5. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

SECTION 6. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

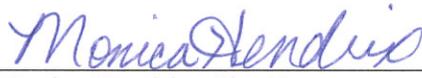
DULY PASSED AND ADOPTED by the City Council of the City of Lorena, Texas, on the 20th day of July, 2015.

APPROVED:



Chuck Roper, Mayor

ATTEST:



Monica Hendrix, City Secretary

