

ORDINANCE NO. 619

**AN ORDINANCE AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES OF THE CITY OF WEST COLUMBIA, TEXAS, BY AMENDING ARTICLE II, SECTION 13-31 through 13-36; ESTABLISHING THE OBLIGATION OF OWNERS AND OCCUPANTS OF PROPERTY WITHIN THE CITY AND WITHIN 5000 FEET OF THE CITY LIMITS AND/OR ITS EXTRATERRITORIAL JURISDICTION, WHICHEVER IS GREATER, TO MAINTAIN THEIR PROPERTY, AND ABUTTING EASEMENTS WITHIN PUBLIC RIGHTS OF WAY AND EASEMENTS FREE OF NUISANCES SUCH AS UNACCEPTABLE VEGETATION AND UNACCEPTABLE MATTER; CONTAINING A SEVERABILITY CLAUSE; PROVIDING FOR THE REPEAL OF ANY AND ALL KINDS OF ORDINANCES, REGULATIONS, RULES OR POLICIES WHICH ARE IN ANY MANNER INCONSISTENT OR IN CONFLICT WITH THIS ORDINANCE; PROVIDING THAT THE VIOLATION OF THIS ORDINANCE SHALL CONSTITUTE AN OFFENSE PUNISHABLE BY A FINE OF NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of West Columbia, Texas, is a Type A general law municipality as defined in Chapter 6 of the Texas Local Government Code; and

**WHEREAS**, the City Council of West Columbia, Texas, under the authority which it has under sections 217.002, 217.022, and to 217.042 of the Texas Local Government Code; section 342.004 of the Texas Health & Safety Code; and the section 311.003 of the Texas Transportation Code, has determined and does hereby now declare that the adoption of this ordinance is necessary to the health, safety and general welfare of the inhabitants of the City.

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

**Section One**

Chapter 13 Article II Section 13-31 of the Code of Ordinances of the City of West Columbia shall be and is hereby amended by the addition of the following subsections as follows:

**Section 13-31. Definitions.**

- (3) **Owner** shall mean that Person in whose name any Property situated within the City and within 5000 feet of the City limits and/or its extraterritorial jurisdiction, whichever is greater, is titled according to the real property records of Brazoria County, Texas, and/or the tax rolls of Brazoria County, Texas as maintained by the Brazoria County Appraisal District.
- (4) **Occupant** shall mean any Person occupying, residing on, and/or conducting any business on any Property situated within the City and within 5000 feet of the City limits and/or its extraterritorial jurisdiction, whichever is greater.
- (5) **Property** shall mean any parcel of privately owned real property situated within the City and within 5000 feet of the City limits and/or its extraterritorial jurisdiction, whichever is greater.
- (6) **Abutting Easement** shall mean any and all real property which lies within a public right of way or easement and is situated between Property and the pavement and/or traveled portion of a public street or roadway.
- (7) **Unacceptable Vegetation** shall mean and include grass, weeds, trash or other living material in excess of 12 inches in height.
- (8) **Unacceptable Matter** shall mean and include rubbish, junk or trash

## **Section Two**

Chapter 13 Article II Section 13-32 of the Code of Ordinances of the City of West Columbia shall be and is hereby amended as follows:

### **Sec. 13-32. Accumulation of Unacceptable Vegetation or Unacceptable Matter**

It shall be unlawful for any Owner or Occupant of Property to allow Unacceptable Vegetation to grow or accumulate or Unacceptable Matter to accumulate on that Property or the Abutting Easement. Such Unacceptable Vegetation and/or Unacceptable Matter is declared to be a nuisance and shall be abated as provided below.

### **Section Three**

Chapter 13 Article II Section 13-33 of the Code of Ordinances of the City of West Columbia shall be and is hereby amended as follows:

#### **Sec. 13-33. Notice**

The notice to abate nuisance under this Article may be in writing, served upon such Owner or Occupant of Property by an officer or employee of the City, or it may be by letter addressed to such Owner or Occupant of Property at his post office address. If personal service may not be had, or if the Owner's or Occupant's of Property address is unknown, notice may be given by publishing a brief summary of such order as many as two (2) times within ten (10) consecutive days in some newspaper of general circulation in the city addressed "Sanitary Improvements, To Whom It May Concern," and such publication shall be deemed sufficient notice.

### **Section Four**

Chapter 13 Article II Section 13-34 of the Code of Ordinances of the City of West Columbia shall be and is hereby amended as follows:

#### **Sec, 13-34. Abatement by city.**

In the event the Owner or Occupant of Property which constitutes a nuisance under this Article shall fail or refuse to abate the nuisance within ten (10) days after notice, the city may abate such nuisance or cause the same to be done, and make payment therefor. The expenses incurred in so doing or having such work done, or such improvements made, shall be chargeable to the Owners or Occupants of Property for such nuisance, and such charge shall be a personal liability of the Owner or Occupant of Property, payable to the City.

### **Section Five**

Chapter 13 Article II Section 13-35 of the Code of Ordinances of the City of West Columbia shall be and is hereby amended as follows:

#### **Sec. 13.35 Imposition of lien.**

The city manager or city code enforcement officer shall file a statement of such expenses incurred under section 13-34, giving the amount of such expenses and the date on which such work was done or improvements made, among the real property records maintained by the county clerk. The City shall have a privileged lien on such Property and/or the Property adjoining the Abutting Easement upon which the work was done or improvements made, to secure reimbursement to the City for the expenditures

made, in accordance with the provisions of V.T.C.A., Health and Safety Code § 342.007, which lien shall be second only to tax liens and liens for street improvements. The amount shall bear ten (10) percent interest from the date the statement was filed. For any such expenditures and interest, suit may be instituted and recovery and foreclosure of the lien may be had in the name of the City. The statement of expenses or a certified copy shall be prima facie proof of the amount expended for such work or improvements.

### **Section Six**

Chapter 13 Article II Section 13-36 of the Code of Ordinances of the City of West Columbia shall be and is hereby amended as follows:

#### **Sec. 13.36 Abatement by court order.**

(a) [unchanged]

(b) It shall be unlawful for any person to obstruct the free use of any public thoroughfare within the City or its extraterritorial jurisdiction. In the event any person is found guilty of violating this prohibition, in addition to any fine or court costs which may be assessed, if the obstruction continues to exist, the court shall order the chief of police and/or the code enforcement officer to remove such obstructions at the cost of the defendant, which cost shall be taxed and collected as all other costs in the case.

### **Section Seven**

Any rules, ordinances, police regulations, resolutions, and/or policies of the City of West Columbia, whether written, or otherwise, which are in any manner in conflict with or inconsistent with this ordinance, shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

### **Section Eight**

It is hereby declared to be the intention of the City Council that the several provisions of this ordinance are severable, and if any court of competent jurisdiction enters a final order which holds that any section, sub-section, sentence, clause, phrase, or other portion of this ordinance is invalid, illegal, or otherwise unenforceable, then any such portion shall be deemed a separate, distinct and independent provision, and any such ruling shall not affect any other provision of this ordinance which are not specifically designated as being illegal, invalid or unenforceable.

**Section Nine**

Any person who violates any provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed Five Hundred Dollars (\$500.00).

**Section Ten**

This ordinance shall be effective and applicable from and after the date of its passage and approval by the City Council of the City of West Columbia, and the publication of its caption as provided by law.

PASSED AND APPROVED this the 9th day of September, 2013.

  
LAURIE B. KINCANNON, Mayor

ATTEST:

  
\_\_\_\_\_  
KELLI KUBAN, City Secretary