

AN ORDINANCE PROHIBITING THE ACCUMULATION OF UNWHOLESOME, UNSANITARY AND UNSIGHTLY MATERIAL ON PROPERTY WITHIN THE CITY; PROVIDING FOR NOTICES TO CORRECT PROSCRIBED CONDITIONS; AUTHORIZING THE CITY TO CORRECT VIOLATIONS AND PLACE A LIEN AGAINST PROPERTY FOR THE EXPENSE THEREOF; ESTABLISHING A PENALTY FOR FAILURE TO CORRECT IN RESPONSE OF NOTICE; PROVIDING FOR SEVERABILITY AND FOR PUBLICATION.

WHEREAS, the Pelican Bay City Council desires to establish regulations which aid in elimination of unwholesome, unsanitary and unsightly conditions within the City as a public health measure;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PELICAN BAY, TEXAS:

**Section 1: Removal of deposit of dirt, gravel, etc.**

It shall be unlawful for any person to remove or deposit dirt, gravel, earth or topsoil from any land situated within the City unless such person provides for proper drainage following the removal of deposit of such dirt, gravel, earth or topsoil. Proper drainage means that the water draining off such land shall not disturb the natural drainage so as to adversely affect City streets or adjoining property owner. It shall be unlawful for any person to remove or deposit any such material unless he first secures a permit therefor from the City.

**Section 2: Accumulation of unwholesome matter.**

It shall be unlawful for the owner of any lot, building, house, establishment or premises in the City to allow or permit any carrion, filth or any other impure or unwholesome matter of any kind to accumulate or remain thereon.

**Section 3: Dumping of waste matter.**

It shall be unlawful for any person to place, or allow to be placed, any waste matter, whether usable or not, which is offensive to the public health, safety or to the aesthetics of the neighborhood, on any property, whether private or public, within the City. This Section is specifically intended to include, but not be limited to, worn out, wrecked and/or abandoned automobiles, trucks, tractors, machinery of any kind, any part thereof, old iceboxes, refrigerators and stoves, weeds, grass clippings, lumber, clothing, boxes, carcasses of animals, furniture or furnishings, rocks, brickbats or similar trash.

**Section 4: Leveling of fill material.**

2 The owner of any private property where fill material is placed shall cause the  
4 same to be graded and leveled within thirty (30) days from the placement  
thereof.

6 **Section 5: Accumulation of stagnant water.**

8 It shall be unlawful for the owner of any lot or lots within the City to allow to  
10 exist thereon any sinkhole or low place in which stagnant water may be found.  
Such low places or sinkholes shall be filled upon notice by the City, and upon  
12 failure of the owner to fill such sinkhole or low place after notice complying  
with the other sections, the City may fill the same and have a lien placed against  
14 the property for such charges plus expenses as otherwise provided by this  
Ordinance.

16 **Section 6: Removal of rubbish, brush.**

18 It shall be unlawful for the owner of any lot or lots within the City to suffer the  
20 same to have rubbish and brush thereon. Such rubbish and brush shall be  
removed upon notice from the City as provided in this Ordinance, and upon the  
22 failure of the owner to remove the same, the City may have the work done and  
charge the expense thereof as a lien against the owner as provided in this  
24 Ordinance.

26 **Section 7: Unlawful growth of vegetation; duty to remove.**

- 28 (a) It shall be unlawful for any person, owner, agent, occupant or anyone  
30 having supervision or control of any lot, tract, parcel of land or a  
portion thereof, occupied or unoccupied, within the City, to suffer or  
32 permit grass, weeds or any plant that is not cultivated to grow to a  
greater height than twelve (12) inches on an average, or to grow in rank  
profusion upon such premises.
- 34 (b) No person shall permit grass, weeds or any plant that is not cultivated to  
36 grow along the sidewalk or street adjacent to the same between the  
property line and the curb or, if there is no curb, within ten (10) feet  
38 outside that property line to a height greater than twelve (12) inches on  
an average, or to grow in rank profusion upon such premises.
- 40 (c) It shall be the duty of any person, owner, agent, occupant or anyone  
42 having supervision or control of any lot, tract, parcel of land or a  
portion thereof, occupied or unoccupied, within the City, to remove or  
44 cause to be cut and removed all such grass, weeds or plants as often as  
may be necessary to comply with subsections (a) and (b).

46 **Section 8: Notice to owner to correct unlawful condition.**

- 2 (a) Whenever any condition described in this Ordinance is found to exist on  
4 any premises within the City, the owner of such premises shall be  
6 notified by the City, in writing, to correct, remedy or remove the  
condition within ten (10) days after such notice, and it shall be unlawful  
8 for any person to fail to comply with the same.
- 10 (b) The notice provided for in subsection (a) shall be served personally on  
12 the owner to whom it is directed or shall be given by letter addressed to  
14 such owner at his last known post office address. In the event personal  
service cannot be made and the owner's address is unknown, such notice  
shall be given by publication at least two (2) times within ten (10)  
consecutive days in a newspaper of general circulation within the City.

16 **Section 9: Correction or removal of conditions by City - Generally.**

18 If the owner of any lot or premises, upon which a condition described in this  
Ordinance exists, fails to correct, remedy or remove such condition within ten  
20 (10) days after notice to do so is given in accord with this Ordinance, the City  
may do such work or make such improvements as are necessary to correct,  
22 remedy or remove such condition, or cause the same to be done, and pay  
therefor and charge the expenses incurred thereby to the owner of such lot.  
Such expenses shall be assessed against the lot or real estate upon which the  
24 work was done or the improvements made. The doing of the work by the City  
shall not relieve such person from prosecution for failure to comply with such  
26 notice in violation of Section 8(a).

28 **Section 10: Same - Statement of expenses.**

30 Whenever any work is done or improvements are made by the City under the  
provisions of Section 9, the Mayor or his designee on behalf of the City shall  
32 file a statement of the expenses incurred thereby with the County Clerk. Such  
statement shall give the amount of such expenses and the date or dates on  
34 which the work was done or the improvements were made. The Mayor or his  
designee is hereby authorized to execute release of liens upon payment thereof.

36 **Section 11: Same - Creation of lien.**

38 After the statement provided for in Section 10 is filed, the City shall have a  
40 privileged lien on the lot or real estate, upon which the work was done or  
improvement made, to secure the expenses thereof. Such lien shall be second  
42 only to tax liens and liens for street improvements, and the amount thereof shall  
bear interest at the rate of ten (10) percent per annum from the date of payment  
44 by the City of such expenses. For any such expenditures and interest, suit may  
be instituted and recovered and foreclosure of the lien may be had in the name  
46 of the City, and the statement of expenses made in accord with Section 10 or a

2 certified copy thereof shall be prima facie proof of the amount expended for  
4 such work or improvements.

6 **Section 12: Penalty.**

8 Violation of Sections 1, 2, 3, 4, 5 or 6 shall constitute a misdemeanor and any  
10 person, firm or corporation convicted thereof shall be fined in an amount not to  
12 exceed Two Thousand Dollars (\$2,000.00). Each day any such prohibited  
14 condition shall continue shall constitute a separate offense punishable  
16 hereunder.

18 **Section 13: Severability**

20 If any section, sentence, clause or phrase of this Ordinance is found invalid by a  
22 court of competent jurisdiction, it is the intent of the governing body of the City  
24 that the remaining sections sentences, clauses and phrases continue in full force  
26 and effect.

28 **Section 14: Publication.**

30 The City Secretary is hereby authorized and directed to cause publication of the  
32 descriptive caption of this Ordinance as an alternative method of publication  
34 provided by law.

36 AND IT IS SO ORDERED.

38 PASSED AND APPROVED on the 27 day of March, 1995 by a vote  
40 of 5 to —.

42 CITY OF PELICAN BAY

44 By: Billy Heaton  
46 Billy Heaton, Mayor

48 ATTEST:

50 Shirley Climer  
52 Shirley Climer, City Secretary

54 Approved as to form and legality:

56 George A. Staples, Jr.  
58 George A. Staples, Jr., City Attorney