

ORDINANCE NO. O-06-0807N

(Nuisances-Amending Ord. No. O-04-0319-W)

AN ORDINANCE OF THE CITY OF AURORA, WISE COUNTY, TEXAS MODIFYING ORDINANCE NO. O-04-0319-W, ENTITLED "ORDINANCE REGULATING NUISANCES," BY FURTHER DEFINING AND/OR ENUMERATING NUISANCES PROHIBITED OR REGULATED PURSUANT TO THE ORDINANCE, AUTHORIZING THE CITY CODE ENFORCEMENT/BUILDING OFFICIAL TO ISSUE CITATIONS, PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED THE SUM OF \$2,000 FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 217 of the Texas Local Government Code authorizes a Type A General Law Municipality to:

- A. Abate and remove a nuisance and punish by fine the person responsible for the nuisance; and
- B. Define and declare what constitutes a nuisance and authorize and direct the summary abatement of the nuisance; and
- C. Abate in any manner the governing body considers expedient any nuisance that may injure or affect the public health or comfort; and

NOW, THEREFORE, BE IT ORDAINED, the City Council of the City of Aurora, Wise County, Texas:

SECTION 1. The City Council has determined that high grass and weeds, brush, and other unsightly, unsanitary, or objectionable matter, growing between the edge of the traveled surface of the road (i.e. gravel, asphalt, concrete, or other surface), and either (a) the property line of the owner's property contiguous with the right-of-way, and/or (b) that portion of the landowner's property adjacent to a public road located in whole or in part on the landowner's property, shall constitute a nuisance. The area is commonly identified in Aurora as that area between the edge of the roadway, and the property owner's fence, if any, or the side of the bar ditch furthest from the traveled roadway, which are collectively known herein as the "Bar Ditch" or "Parkway." The City Council has determined that it shall be a nuisance for an owner of the property over which such a road exists, and/or the owner of the property contiguous with the right-of-way, to allow high grass and weeds to exist in those locations.

SECTION 2. Section 6 of Ordinance O-04-0319-W, entitled "Overgrown Vegetation and Weeds," shall have sub-section "E" added as follows:

"E. The possessor and/or owner of property adjacent to a public roadway in the City of Aurora, Texas shall keep the owner or possessor's property, and the property within the public right-of-way, or public easement, abutting the pavement and/or traveled portions of the public roadway, free and clear of high grass and weeds, and other objectionable, unsightly or unsanitary matter of whatever nature. Unsightly or unsanitary matter of whatever nature shall include, without limitation, grass, weeds, brush or other living material in excess of 10 inches in height. Property owners and possessors adjacent to public roadways shall also be responsible for removal of brush and other objectionable unsightly or unsanitary matter, and shall be responsible for

mowing of the grass in such Bar Ditches, and the Parkway.

It shall be unlawful for any owner or any occupant of any property within the City to suffer or permit limbs, brush and other vegetation, existing above a public street to hang lower than 12 feet above the public street pavement, gravel, or other street surface.

This provision shall not apply to City owned open space, parks, nature or trail areas, nor shall it apply to those portions of property under active cultivation of crops, nor the center median of divided roadways."

SECTION 3. Authority to Issue Citations. In addition to any other legally authorized officer within the City of Aurora, the City Code Enforcement Officer and/or Building Official shall be authorized to issue citations pursuant to this Ordinance, and pursuant to all building, construction, and related codes adopted by the City of Aurora.

SECTION 4. Severability. That should any word, phrase, paragraph, section or portion of this ordinance be held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining portions of the ordinance shall not be affected thereby, and each such illegal, invalid or unenforceable word, phrase, paragraph, section or portion shall not affect the ordinance as a whole.

SECTION 5. Repealer. That all provisions of the ordinances of the City of Aurora in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Aurora not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 6. Penalty. That any person, firm or corporation violating any of the provisions of this Ordinance shall be subject to the same penalty a provided herein, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand (\$2,000) Dollars for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 7. Publication. In accordance with Section 52.011 of the local Government Code, the caption of this Ordinance shall be published either (a) in every issue of the official newspaper of the City of Aurora for two days, or (b) one issue of the newspaper if the official newspaper is a weekly paper.

SECTION 8. Effective Date. This Ordinance shall take effect upon publication of the caption, as the law in such case provides.

DULY PASSED AND APPROVED at a regular meeting of the Aurora City Council on this ____ day of _____, 2006.

APPROVED:

Barbara Brammer, Mayor

City Secretary

ATTEST:

Betsy Elam, City Attorney

[CITY SEAL]

Toni Kelly-Richardson, City Administrator