

**AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS**

**ORDINANCE NO. 2010-12-36**

**AN ORDINANCE OF THE CITY OF LANCASTER, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 3, BY ADDING ARTICLE 3.7000, PROPERTY MAINTENANCE CODE, SECTION 3.7001 TO PROVIDE FOR THE ADOPTION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE, 2006 EDITION, AND SECTION 3.7002 TO PROVIDE FOR THE EXCEPTIONS AND AMENDMENTS TO THERETO; PROVIDING FOR SEVERABILITY; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

**SECTION 1.** That Chapter 3 of the Lancaster Code of Ordinances be, and the same is, hereby amended by adding Article 3.7000, Property Maintenance Code, Section 3.7001 to provide for the adoption of the International Property Maintenance Code, 2006 Edition, and Section 3.7002 to provide for the exceptions and amendments to thereto, which shall read as follows:

**“ARTICLE 3.7000 PROPERTY MAINTENANCE CODE**

**Sec. 3.7001. Adoption of Property Maintenance Code.**

A certain document, a copy of which is on file in the office of the city secretary of the city, being marked and designated as the International Property Maintenance Code, 2006 Edition, including appendix, as published by the International Code Council, be and is hereby adopted as the property maintenance code of the city. Each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the city are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in Section 3.7002 of this Article.

**Sec. 3.7002. Exceptions and Amendments**

The Property Maintenance Code adopted in this article shall be subject to the exceptions and amendments to the International Property Maintenance Code, 2006 Edition, as follows:

**\*\*Section 201.3 Terms defined in other codes.** Delete reference to ICC Electrical Code and replace with reference to National Electrical Code.

**\*\*Section 202 Definitions,** Insert definition for Junked Vehicle to read as follows;

Junk Vehicle means a vehicle that is self propelled and does not have lawfully attached to it;

- (A) an unexpired license plate; and
  - (B) a valid motor vehicle inspection certificate; and is
- 
- (A) wrecked, dismantled or partially dismantled, or discarded; or
  - (B) inoperable and has remained inoperable for more than 72 hours, if the vehicle is on public property; or 30 consecutive days, if the vehicle is on private property.

**\*\*Section 107.1 Notice to person responsible,** Delete entire section and change to read as follows:

**Section 107.1, Notice to person responsible,**

Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Section 107.2 and 107.3 herein to the person responsible for the violation as specified in this code. In the notice herein provided for the City shall have the right to inform the property owner that if he or she commits another violation of the same kind or nature any time within one year from original notice, the City may institute the appropriate proceedings at law or to correct or abate such violation without further notice at the owner's expense and assess the expense against the property. Exception to this section, weeds in excess of 48 inches in height that are a danger to the health, life or safety of any person, may be immediately abated without notice. Notice shall be not later than the tenth day after the City causes the work to be done under this section, the City shall give notice to the property owner in the manner required by this section.

**\*\*Section 111.2 Membership of Board,** Delete as written and replace with the new Section 111.2 Membership of Board as follows;

**Board of Appeals**

- (a) Any reason directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the Property Standards and Appeals Board, hereinafter referred to as the "Board", provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.
- (b) Membership, rules and procedures of the Board shall be those as determined by the governing body and State law unless otherwise so stated herein.

- (1) The Board shall consist of five (5) members and (1) alternate member who are qualified by experience, common knowledge, and/or training to pass upon matters of construction and this code. Members shall be residents of the City and shall be appointed by the City Council for a term of two years. Alternates appointed shall serve a one year term. Vacancies shall be filled by appointment for unexpired terms. Any member may be removed from the Board by the City Council at will.
  - (2) Postponed hearing. When a quorum of the Board is not present to hear an appeal, the hearing will be postponed. A majority of the members (3) shall constitute a quorum of the Board. The act of a majority of the members which a quorum is in attendance shall constitute the act of the Board unless the act of a greater number is required by law.
  - (3) Chairman. The board shall annually select one of its members to serve as chairman.
  - (4) Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.
- (c) Notice of meeting. The boards shall meet upon notice from the code official within 20 days of the filing of an appeal, or at stated periodic meetings. Notice of any meeting shall be given to the public in accordance with the requirements of the Texas Open Meetings Act. All meetings shall be conducted in accordance with the Texas Open Meetings Act.
- (d) Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard.
- (e) Board decision. The board shall, only by a concurring vote of a majority of those present either modify the order of the official by granting an extension of time to make all repairs and improvements necessary to meet code requirements, enforce the recommendation of the official, or reverse the decision of the code official,
- (1) Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official upon request.
  - (2) Administration. The code official shall take immediate action in accordance with the decision of the board.
- (f) Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and within 30 days following the decision of the Board.
- (g) Stays of enforcement. Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the board.

**\*\*Section 302.3 Sidewalks and driveways.** Add the additional sentence to the section as follows;

Repairs and maintenance shall be the responsibility of the property owner to maintain free from obstructions, trip hazards or dilapidated conditions from the edge of street or alley pavement.

**\*\*Section 302.4 Weeds**, Amend the first sentence to read as follows; All premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve (12) inches in height.

**\*\*Section 302.4.1 Trees, Scrubs, Vegetation**, Add new section 302.4.1 to read as follows;

It shall be unlawful for any person, firm, or corporation owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate city limits to permit bushes, trees, shrubs, vegetation or plant substances(s) or any part(s) thereof, whether living or not, that has its roots on said real property, to hang, overhang, grow into or grow over any street, alleyway within the City, if said growth is overhanging below fourteen (14) feet from a point on a vertical line with the starting point on a horizontal plane of the street or alleyway and no plant or tree growth be allowed within twelve (12) inches of the edge of any street or alleyway. Sidewalks shall have a clearance of eight (8) feet from a point on a vertical line with a starting point at the horizontal plane of the sidewalk. When such growth exists it shall be deemed a nuisance and a danger to public safety. It shall be the duty of the person named as owner of the property to abate the nuisance so that the overhang is not below the set minimum(s) clearances as stated above.

**\*\*Section 302.10 Other exterior property conditions**, Add the following new section 302.10 to read as follows; Unless authorized within a zoning district and under conditions thereof, or within the extraterritorial jurisdiction of the City, it shall be unlawful of any person to allow permit, conduct or maintain objectionable, unsightly or unsanitary conditions, items, situations or events on any portion of a lot or tract, outside of an enclosed or covered patio or other projecting overhang that includes, but is not limited to:

- 1) Furniture, appliance and other items left outside that were or are not intended for outdoor use that includes broken or damaged lawn furniture, outdoor structure(s), lawn and garden accessories and sculpture.
- 2) Building materials or any item by itself used in construction that is not serving its intended purpose where there is not an active building permit.
- 3) Clothing, papers, broken glass, scrap materials, pipe, barrels, piles or stacks of unused brick or stone, uninstalled fence and or fence materials.
- 4) Brush, trash, wood piles, fallen trees or large parts of trees such as the trunk or main branches, dead trees or other dead vegetation.
- 5) Lawn equipment in whole or in part where such is kept outside and unprotected from the elements.
- 6) Unlicensed and or inoperable trailers.
- 7) Boats not on trailers for longer than 30 days.
- 8) Any condition, situation, event or action as described herein where items are covered by tarpaulin(s) or other such cover including the tarpaulin(s) or other such cover.

- 9) Parts typically associated with trucks, cars, motorcycles, boats, farm equipment, construction equipment or other vehicle that includes but is not limited to body parts, tires, wheels, batteries, upholstered items, engines, drive train components, plows, disks, rakes and other such items.
- 10) A boat on a trailer, car, truck, trailers or other vehicle with axle(s) not currently licensed and or registered.
- 11) Any vehicle elevated up off the ground for a period of more than 72 hours.
- 12) Cargo containers placed on any residential property and cargo containers placed on any commercial property without an active building permit is prohibited.
- 13) Semi Trucks and or trailers or parts thereof on a property or in front of a property used as or zoned for residential use, located on property used or zoned for nonresidential use, other than where permitted within the approved zoning district and subject to items and conditions thereof where such is not conducting business or has not conducted business for more than 24 hours.
- 14) Commercial vehicles, as that term is used and under conditions and or terms established under Ordinance 2004-12-43 parked on a property or in front of a property used as or zoned for residential use or where located anywhere where such vehicle is not conducting work at the time related to the vehicle other than where permitted within the approved zoning district and subject to terms and conditions thereof.
- 15) Construction equipment in whole or in part where the equipment is not being used for its intended purpose on the property where parked or stored unless otherwise allowed within that zoning district subject to terms and conditions thereof.
- 16) Where outdoor storage and or display is allowed, accumulation of trash and or debris and items or material that is not orderly stacked.
- 17) Vehicles may only be parked on those approved surfaces as outlined in Ordinance 2009-06-15 Minimum Parking Standards.
- 18) Signs of all types not included within the approved Sign Ordinance 2009-08-20.
- 19) Any vehicular sign used as a source of advertising for a business within City limits not in compliance with Ordinance 2009-08-20.
- 20) The placing or accumulation of any material or item in any area of a property that does or could provide nesting, harborage or feeding for vermin or pest, or that could negatively affect the environment's ecological system from runoff, areas emitting an odor or odors for longer than 24 hours that a person of reasonable sensibilities may distinguish from ambient odors, seepage of fuels, oils, chemical or organic compounds into the soils and similar such events.
- 21) The accumulation of materials that emit any gases, noxious fumes, or odors to such extent that the same or any of them shall by reason of such offensive odors become a source of endangerment to the health, safety and welfare to immediate surrounding property or to persons living or passing in the vicinity within the city.

- 22) Other situations as determined by the Director of Development Services or their designee.

**\*\*Section 303.2, Enclosures,** Amend the section to read as follows;

Private swimming pools, hot tubs and spas, containing water more than 24 inches in depth shall be completely surrounded by a fence or barrier at least 72 inches in height above the finished ground level measured on the side of the barrier away from the pool. Horizontal members shall not be constructed in such a manner to create a ladder effect. All such door openings directly into such enclosure shall be equipped with self closing and latching devices designed to keep and capable of keeping doors securely closed at all times when not actually in use. It shall be unlawful to maintain a swimming pool, spa or hot tub in the city limits of Lancaster that is not properly fenced. ”

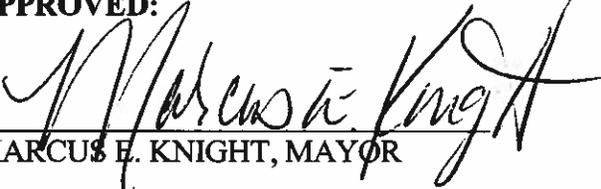
**SECTION 2.** That all provisions of the Ordinances of the City of Lancaster, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 3.** That should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

**SECTION 4.** That this ordinance shall take effect immediately from and after its passage as the law and charter in such cases provide.

**DULY PASSED** by the City Council of the City of Lancaster, Texas, this the 13<sup>th</sup> day of December 2010

**APPROVED:**

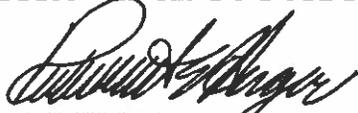
  
MARCUS E. KNIGHT, MAYOR

**ATTEST:**



**DOLLE K. DOWNE, CITY SECRETARY**

**APPROVED AS TO FORM:**



**ROBERT E. HAGER, CITY ATTORNEY**

(REH.cdb)