

ORDINANCE NO. 2003-0007

AN ORDINANCE OF THE CITY MILANO, TEXAS, PROVIDING DEFINITIONS; DECLARING LITTERING AND THE ACCUMULATION OF STAGNANT WATER, CARRION, FILTH, WEEDS AND OTHER IMPURE OR UNWHOLESOME MATTERS TO BE UNLAWFUL; PROHIBITING THE STORAGE OF AIRTIGHT CONTAINERS OUTSIDE CERTAIN STRUCTURES TO BE UNLAWFUL; DECLARING SPECIFIED CONDITIONS TO BE A NUISANCE; PROVIDING FOR THE ABATEMENT OF NUISANCES; DECLARING CERTAIN DISCHARGES OF SEWAGE AND THE STORAGE OF GARBAGE, WASTES OR UNWHOLESOME MATTER IN A MANNER TO CAUSE ODORS, OBNOXIOUS, UNHEALTHY OR UNWHOLESOME CONDITIONS TO BE A VIOLATION; PROVIDING FOR THE FILING OF LIENS TO SECURE COST; PROVIDING PENALTIES; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the accumulation of litter, solid waste, garbage, trash and vegetative overgrowth is injurious to the quality of life and the economic development of the community;

WHEREAS, standing and stagnant water, the accumulation of solid waste, garbage, trash and vegetative overgrowth, overgrown grass, weeds and brush on lots and property, are a threat to the health of the community, create fire hazards, and otherwise detract from the quality of life in the City of Milano, Texas (the "City");

WHEREAS, the regulation, management and control of solid waste, garbage, trash and unwholesome matters, stagnant water and grass, weeds and brush on property within the City is essential to the public health, safety and welfare of the community; and

WHEREAS, property conditions and uses that cause or result in noxious odors on neighboring streets, public property, or upon the private property of another person, damage the public welfare, property values, economy, and the quality of life in the City;

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

Article I. Authority and Definitions.

Section 1. Authority. This ordinance is adopted pursuant to the police powers and authority given general law cities by the constitution, codes and general laws of the State of Texas, including but not limited to Chapt. 51, Tex. Loc. Gov't. Code and Tex. Health and Safety Code. For the purposes of this Ordinance, the term "Building Official" or "Code Enforcement Officer" shall mean and include any officer, employee or volunteer of the City that is assigned a duty provided in this Ordinance to be performed by such officer.

Section 2. Purpose. The purpose of this ordinance is to provide for public health and general welfare, the efficient and effective provision of city services and the protection of the environment and natural resources of the community. From and after the passage of this ordinance all occupancies and uses within the City shall conform to the following rules and regulations.

Section 3. Findings of Fact. The findings and recitations set out in the preamble of this Ordinance are found to be true and correct and that they are hereby adopted by the City Council and made a part hereof for all purposes.

Section 4. Definitions. For the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning ascribed to them in this section; provided that, unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage, and so as to give this ordinance its most reasonable application.

- 4.01 **Brush.** All uncultivated shrubs, bushes and small trees.
- 4.02 **Earth and Construction Materials.** Earth, rocks, bricks, concrete, other similar materials and waste materials resulting from construction or remodeling.
- 4.03 **Garbage.** Rubbish, trash, kitchen and household waste, ashes, bottles, cans, rags, paper, food, food containers, lawn trimmings, tree trimmings, hedge trimmings, leaves, grass, weeds and refuse, and all decayable wastes, including animal and vegetable matter.
- 4.04 **Hazardous Waste.** Shall mean solid or liquid waste, in any amount, which is defined, characterized, identified or designated as hazardous by the United States Environmental Protection Agency or appropriate State Agency by or pursuant to Federal or State law, or waste, in any amount, which is regulated under Federal or State law, including motor oil and radiator, engine crank case, transmission or differential fluid, gasoline, paint, paint cans, toxic or corrosive materials or any material found harmful to personnel or equipment as determined by the director of public works.
- 4.05 **Junk.** All worn out, worthless and discarded material, in general, including, but not limited to, scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metals and their alloys, and bones, rags, glass, paper, cordage, cloth, rubber, rope, tinfoil, bottles, old cotton, machinery, tools, construction materials, appliances, furniture, fixtures, utensils, boxes or crates, pipe or pipe fittings, automobile or airplane tires, dismantled motor vehicles, boats, boat trailers, boathouses or travel trailers or parts thereof, or other manufactured goods or odds and ends that are worn out, worthless, deteriorated, obsolete, discarded material or other wastes, especially those that are unusable in their existing condition.
- 4.06 **Litter.** Any quantity of uncontainerized paper, metal, plastic, glass, or miscellaneous solid waste which may be classed as trash, debris, rubbish, refuse, garbage, or junk not placed in a solid waste container.
- 4.07 **Lot.** Means any tract, block or other parcel of land, or portion thereof, located within the City limits of the City of Milano.
- 4.08 **Motor Vehicle.** Every vehicle, car, boat or similar vehicle that is, or was originally, designed

to be self-propelled.

- 4.09 **Person.** Shall mean and include an individual human, partnership, co-partnership firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.
- 4.10 **Refuse.** See "garbage."
- 4.11 **Rubbish.** All refuse, junk, rejected tin cans, old vessels of all sorts, useless articles, abandoned pipe, waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded clothing, used and discarded shoes and boots, combustible waste, pulp and other products used for packaging or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, textiles and objects of all sorts, and in general all litter. The words "any and all objectionable or unsanitary matters," not included within the meaning of the other terms as herein used, means those which are liable to produce or tend to produce an unhealthy, unwholesome or unsanitary condition to the general locality where the same are situated.
- 4.12 **Sewage or Wastewater.** A combination of waterborne wastes from residences, business buildings, institutions, and commercial and industrial establishments, together with such ground, surface and storm waters as may be present.
- 4.13 **Solid Waste.** Household garbage and refuse and commercial garbage and refuse, brush cuttings and weeds.
- 4.14 **Solid Waste Service.** Shall mean the collection and hauling of residential and business solid waste, e.g. garbage, trash and refuse, for disposal at a state licensed landfill; and the actions and services directly related thereto or necessary for the provision of such services to consumers or customers in the City.
- 4.15 **Structure.** means any building or anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, telecommunications towers, sheds, parking lots that are the primary use of a parcel and permanent signs. Structure includes any "building" that is designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels or property of any kind. Sidewalks and paving shall not be considered structures unless located within a public utility or drainage easement.
- 4.16 **Trash.** See "garbage."
- 4.17 **Unwholesome Matter.** All stagnant water, filth, carrion, impure matters and any condition liable to produce, harbor or spread disease or germs or cause noxious, foul and offensive

odors, including foodstuff or by-product thereof of any animal nature, or any fruit, vegetable or other thing which may become tainted, diseased, fermented or decaying or otherwise unwholesome or unclean.

4.18 **Waste.** Rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural, commercial, or industrial activities.

4.19 **Weeds.** All rank and uncultivated vegetable growth or matter which is liable to become an unwholesome or decaying mass or breeding place for flies, mosquitoes, snakes, rats or other vermin.

Article II. Littering

Section 1. Littering by Pedestrians and Motorists Prohibited

(a) It shall be unlawful for any person to throw, discard, place, or deposit litter in any manner or amount on any public or private property within the corporate limits of the City, except in lawfully provided containers.

(b) In prosecuting the owner of a motor vehicle for violating subsection (a), proof that the litter originated from the particular vehicle described in the complaint, together with proof that the defendant named in the complaint was at the time of such violation the registered owner of said vehicle, shall constitute in evidence a presumption that the registered owner was the person who committed the violation.

(c) It shall be the duty of every person distributing handbills, leaflets, flyers, or any other advertising and information material to take whatever measures that may be necessary to keep such materials from littering public or private property.

(d) To facilitate proper disposal of litter by pedestrians and motorists, publicly patronized or used establishments shall provide, regularly empty, and maintain in good condition adequate containers that meet standards prescribed by the City. This requirement shall be applicable, but not limited to, fast food outlets, shopping centers, convenience stores, supermarkets, service stations, commercial parking lots, and public institutions.

Section 2. Vehicles Transporting Loose Materials.

(a) It shall be unlawful for any person, firm, corporation, institution, or organization to transport any loose cargo by truck or other motor vehicle within the corporate limits of the City unless said cargo is covered and secured in such manner as to prevent depositing of litter on public and private property.

(b) Subsection (a) shall also apply to the owner or operator of the truck or other vehicle.

(c) In prosecuting a person, firm, corporation, institution, organization, or owner or

operator of a truck or other vehicle under subsection (a), proof that the cargo was not adequately covered and secured shall constitute in evidence a presumption of a violation of this section.

Section 3. Loading and Unloading Operations.

(a) Any owner or occupant of an establishment or institution at which litter is attendant to the packing and unpacking and loading and unloading of materials at exterior locations shall provide suitable containers for the disposal and storage of such litter and shall make appropriate arrangements for its collection.

(b) Further, it shall be the duty of the owner or occupant under subsection (a) to remove any litter that has not been containerized at the end of each day.

Section 4. Responsibility to Keep Property Clean; Abatement.

(a) The owner, agent, occupant, or lessee of private property shall keep the exterior free of litter. This requirement applies not only to removal of loose litter, but to materials that already are, or become, trapped at locations such as fence and wall bases, grassy and planted areas, borders, embankments, and other lodging points.

(b) Owners, agents, occupants, or lessees of private property that faces City sidewalks and strips between streets shall keep such sidewalks and strips free of litter.

(c) It shall be unlawful for a person under this section to sweep or push litter from sidewalks and strips into streets. Owners, agents, occupants, or lessees of private property must pick up and put sidewalk and strip sweepings into household or commercial solid waste containers.

Non-resident owners of vacant lots or other vacant property shall appoint a resident agent to keep that lot or other property free of litter.

Section 5. Dumping Refuse; Other Material. It shall be unlawful for any person to dump refuse, garbage, rubbish, junk, or any other material, including, but not limited to, cement or any earth or construction materials, on or near City streets, private property, parks, parking lots, commercial or public buildings, or on adjoining highways and rights-of-way; provided, however, the owner or resident of private property may deposit a reasonable amount of refuse or garbage on his or her private for soil composting purposes, so long as such is done in a manner that prevents the deposit from being blown by the wind or strewn or scattered by animals.

Article III. Repair of Motor Vehicles and Storage of Materials Outdoors.

Section 1. Motor Vehicle Maintenance, Assemblage and the Like on Public Property. It shall be unlawful to repair, strip, assemble, or perform ordinary maintenance on a motor vehicle on public property, parking lots or any vacant lots within the City limits, except in those situations in which immediate action is necessary because the vehicle is disabled.

Section 2. Motor Vehicle Maintenance, Assemblage and the Like on Private Property. It shall be unlawful to repair, strip, assemble or store a disabled motor vehicle, or parts thereof, on any

private property, unless said vehicle is totally enclosed within a structure or behind a six foot (6') privacy fence where the vehicle is completely screened from the view of the public and is not visible from a public roadway, except in those situations in which immediate action is necessary because a vehicle is disabled and the vehicle remains for no longer than forty-eight (48) consecutive hours.

Section 3. Refrigerators and Other Containers.

(a) This section applies to a refrigerator, icebox, or other airtight or semi-airtight container that has:

- (1) A capacity of at least 1½ cubic feet;
- (2) An opening of at least fifty (50) square inches; and
- (3) A door or lid equipped with a latch or other fastening device capable of securing the door or lid shut.

(b) No person shall place a container described in division (a) outside of a structure or in a warehouse, storage room, or unoccupied or abandoned structure so that it is accessible to children.

(c) No person shall permit a container described in division (a) to remain outside of a structure or in a warehouse, storage room, or unoccupied or abandoned structure so that it is accessible to children.

Section 4. Residential Solid Waste Containerization; Removal.

(a) All owners or residents of residential property shall have sufficient container capacity to accommodate their volume of solid waste between collections.

(b) Owners or residents of residential property shall deposit all items too large to fit into containers, such as, but not limited to, appliances, furniture, and mattresses through fee-payment bulk collection service or self transport of such items to end-disposal facilities outside the City.

(c) Owners or residents of residential property shall bundle and securely tie all loose materials which normally fit into containers, but which are excess as a result of special circumstances, such as holidays, so as to repel animals, prevent materials from blowing or scattering, and place such materials beside the containers.

(d) Owners or residents of residential property shall keep containers covered at all times.

(e) The owner or user of any container which does not conform to prescribed standards or which has defects likely to hamper collection or injure the person collecting the contents or the public generally shall replace the container after receiving written notice of such defects from the City. Failure to do so within five (5) days of such notification shall constitute a violation of this section.

(f) The owner of containers used for collection shall take necessary precautions so that the contents do not become litter when placing and removing them.

(g) It shall be unlawful for any resident to deposit household solid waste in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians.

Section 5. Commercial Solid Waste Containerization; Removal.

(a) All owners of establishments and institutions which generate solid waste for collection by approved contractors shall obtain adequate containers approved by the City and shall keep said containers in such a manner that they are not visible from adjacent public or private property.

(b) Owners described in subsection (a) shall keep containers covered at all times.

(c) The owner or user of any container which does not conform to prescribed standards or which has defects likely to hamper collection or injure the person collecting the contents or the public generally shall replace the container after receiving written notice of such defects from the City. Failure to do so within five (5) days of such notification shall constitute a violation of this section.

(d) It shall be unlawful for any owner, manager, or employee of a commercial establishment or institution to deposit solid waste from that establishment or institution in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians.

Article IV. Nuisances and Offensive Conditions on Private Property.

Section 1. Prohibited Conduct. It shall be unlawful for an owner, occupant, lessee or renter of any lot or parcel of ground within the City limits (herein cumulatively referred to as "owner" or "occupant") to:

(a) fail to maintain such property:

- (1) free of accumulations of brush, earth and construction materials, garbage, litter, junk, refuse, rubbish, solid waste, trash, weeds, unwholesome matters and any other objectionable, unsightly, or unsanitary matter of whatsoever nature;
- (2) free and clear from weeds and tall grass from the line of such property, including the sidewalks, to the established curb line next adjacent thereto;
- (3) free of drain holes and depressions in which water collects or to fail to regrade any lots, grounds or yards or any other property owned or controlled by the owner or occupant which shall be unwholesome or have stagnant water thereon, or which from any other cause, is in such condition as to be liable to produce disease;

- (4) free from filth, carrion or other impure or unwholesome matter of any kind, on any portion of the property under the owner or occupant's control, including any house, building, establishment, lot yard or ground owned or occupied, especially any such filth, carrion or other impure or unwholesome matter that exudes any noxious, foul or offensive odor that is detectable past or beyond the boundary of the property upon which the matter is located;
- (5) free of discharge of sewage or hazardous wastes into the soil or subsurface soil without proper containment thereto; or
- (6) in any manner that is inconsistent with this Ordinance.

(b) suffer, allow or permit any person to bring or transport onto the property any filth, carrion, decaying animal or vegetable matter, or other impure or unwholesome matter of any kind, that exudes any noxious, foul or offensive odor that is detectable past or beyond the boundary of the property that is under the ownership or control of the owner or occupant; or

(c) operate or conduct any business or activity on the property in a manner that causes or results in any noxious, foul or offensive odor that originates on the property, or that emanates from any source that such owner or occupant has suffered, allowed or permitted to come onto the property, being detectable past or beyond the boundary of the property that is under the ownership or control of the owner or occupant.

Section 2. Nuisance Declared and Duty to Abate. Whenever brush, earth or construction materials, garbage, litter, junk, refuse, rubbish, solid waste, trash, weeds, unwholesome matters and any other objectionable, unsightly, or unsanitary matter of whatsoever shall exist, covering or partially covering the surface of any lot or parcel of any real estate situated within the City, or when any of said lots or parcels of real estate as aforesaid shall have the surface thereof filled or partly filled with holes or be in such condition that the same holds or is liable to hold stagnant water therein, or if from any other cause shall be in such condition as to cause disease, or produce, harbor or spread disease or germs of any nature or tend to render the surrounding atmosphere unhealthy, unwholesome or obnoxious, or shall contain unwholesome matter of any kind or description, or any other conduct prohibited hereby occurs upon any lot or parcel in the City, the same is hereby declared to constitute a public nuisance, the prompt abatement of which is hereby declared to be a public necessity. Any such nuisance shall be removed from the property by the owner or other person in possession or control of such property.

Section 3. Noxious Odors Declared Nuisance. If the owner or occupant of any lot or parcel of land within the City shall suffer, allow or permit any spoiled, rotting or decaying animal or vegetable matter to be on the property, and such spoiled, rotting or decaying animal or vegetable matter shall cause or result in a noxious, foul or offensive odor being detectable past or beyond the boundary of the property that is under the ownership or control of the owner or occupant, the same is hereby declared to be and constitute a public nuisance. Any such nuisance shall be removed from the property by the owner or other person in possession or control of such property.

Section 4. Storage of Materials. All garbage, sewage, hazardous wastes and other unwholesome materials of any kind shall be stored in containers to prevent such materials from

dispersing beyond the storage location, seepage into the ground, or permitting the escape of noxious, foul or offensive odors into the air across the boundaries of the owner or occupant's property to another property.

Section 5. Maintenance of Processing Premises. The entire yard and premises occupied by any butcher shops, meat markets, and food processing or food manufacturing establishments of any animal or vegetable matter shall be well drained, the floors shall be free of sawdust, shavings or other dust creating or filth-collecting coverings and all back rooms, sheds or yards, or other places connected by any opening with any room shall at all times be kept in a clean and sanitary condition, and free from filth, exposed refuse or garbage, trash and unrefrigerated animal or vegetable scraps. Each room and the floors, walls, ceilings, windows and doors thereof, and all the fixtures, furniture, receptacles, utensils, machinery, implements and other things, excepting receptacles used to hold refuse, in each such room, or used in connection with any such business, shall at all times be kept free from dirt, adhering foreign matter, unwholesome odors, decaying substance, cobwebs, trash, scraps, etc., and in a clean and sanitary condition. Further, all butcher shops, meat markets, and food processing or food manufacturing establishments shall comply with the following requirements:

(a) Two (2) adjacent deep vats shall be provided for in all rooms containing the actual butcher shops, meat markets, and food processing or food manufacturing establishments with hot and cold running water under pressure.

(b) No slaughtered meat, fish, poultry or meat products, and no milk, butter, cheese or dairy products shall be left open or exposed to contamination by dust, air, insects or other extraneous matter, either within or without any such room or place of business, and all fresh or uncooked meat, fish, poultry and all milk and butter shall be immediately placed and kept in a refrigerator, or icebox or cold-storage room, except when removed therefrom for the immediate purposes and operation of the business. Meats and fish shall not be kept in the same compartment with milk and butter.

(c) Each refrigeration, icebox or cold storage room shall be well constructed, tight and secure, and shall be kept reasonably dry on the inside and free from foul odors, mold and slime, and shall be kept in a clean and sanitary condition.

(d) All readily perishable products shall be kept at fifty (50) degrees Fahrenheit or below, including offal, bones and other waste products while on the property. All liquid wastes from such refrigeration equipment shall be connected to a public sewer in an approved manner.

(e) No refuse or tainted or decaying meat, fish or other substance shall be allowed to remain in any refrigerator, icebox or cold-storage compartment, unless such refrigerator, icebox or cold-storage compartment is designated and maintained exclusively for such purpose. Offal, bones or other garbage or discarded organic matter, animal or vegetable, or slops or refuse of any character whatsoever shall not be left exposed to the atmosphere of any room, but shall immediately be deposited and kept in a closed container which shall be emptied and cleaned at least once each day. All refuse and tainted or decaying meat, fish, poultry, cheese or other organic matter, whether animal or vegetable, shall be stored and removed from the property in a manner to prevent any foul,

noxious or offensive odor from being detectable past or beyond the boundary of the property that is under the ownership or control of the owner or occupant.

(f) Each room shall be kept free from flies, rats, roaches and other insects and vermin.

(g) No animals or fowl shall be kept or allowed to be kept in the same room as any food processing or manufacturing.

Section 6. Waste Transportation and Disposal. All vehicles, wagons, carts, transports and conveyances used for delivering, collecting or transporting, through the City, any offal, bones, or other garbage or discarded organic matter, animal or vegetable matter, or slops refuse of any character in an amount of greater than forty-five pounds (45 lbs.) shall keep, maintain, haul and transport the waste in an enclosed storage container that is well constructed, tight and secure, to prevent the escape of any such matter and to prevent any noxious, foul or offensive smells from escaping the confines of such storage container within the City limits.

Section 7. Limitation On Height Of Grass and Weeds. It shall be unlawful for any person who shall own or occupy any lot or lots in the City limits to allow weeds and/or grass to grow on such lot or lots to a height of more than twelve (12) inches. Weeds and/or grass of a height exceeding twelve (12) inches are declared a nuisance. Provided, however, this section shall not apply to property used for the growing of agricultural crops or grass if such property has not been platted into lots.

Section 8. Discharge Of Sewage and Hazardous Wastes. Any person or persons who shall allow or permit sewage or hazardous wastes to discharge into the ground or subsurface soil, which shall have the effect of causing odors or obnoxious, unhealthy and unwholesome conditions to exist, is declared to have caused a public nuisance and shall be in violation of this ordinance.

Section 9. Prima Facie Evidence. In any prosecution charging a violation of this Ordinance governing the discharge of sewage or toxic wastes, proof that the particular sewage or toxic wastes described in the complaint was discharged into the ground or subsurface soil in violation of Section 8 above, together with proof that the defendant named in the complaint was, at the time of such discharge, the registered owner or occupant of such lot or lots, shall constitute in evidence a prima facie presumption that the registered owner or occupant of such lot or lots was the person who discharged such sewage or toxic wastes when such violation occurred.

Article V. General Provisions

Section 1. Right to Abate Dangerous Conditions. Whenever an immediate danger to the health, life or safety of any person exists as a result of garbage, rubbish, junk, trash, unwholesome matter, sewage or toxic waste discharge, storage of airtight containers in an unsafe location, or weeds which have grown to a height, at any point on the property, of greater than 48 inches, the City may abate the nuisance without notice to the owner. In the event the City abates the nuisance under this section, the City shall forward notice to the owner within seven (7) days in the manner set forth in Section 3.

Section 2. Right to Inspect. The Code Enforcement Officer or designee is authorized to inspect any property within the corporate limits of the City, at any reasonable time, subject, however, to the requirements for obtaining the permission of the occupant, or obtaining a warrant for the entry and inspection of private residences.

Section 3. Violations and Notices.

(a) If an officer charged with the enforcement of this Ordinance shall determine that a person has violated any provision of this Ordinance, such officer may issue a citation.

(b) If an officer charged with the enforcement of this Ordinance shall determine that a situation exists which immediately affects or threatens the health, safety and well-being of the general public, and that immediate action is necessary, such officer may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to the owner and/or occupant of the property upon which such condition exists, as may be deemed appropriate and necessary.

(c) If an officer charged with enforcement of this Ordinance determines a situation constitutes an immediate threat to the public health, safety and welfare, and the owner or occupant of the property is absent or fails to immediately remedy the violation, the City Council may, at a regular session or at an emergency session called for the purpose of considering the issue, upon evidence heard, determine that an emergency exists and order such action as may be required to protect the public health, safety and welfare. In such event, the City may prosecute an action in any court of competent jurisdiction to recover its costs.

(d) If any owner or occupant shall fail or refuse to remedy any of the conditions prohibited by this Ordinance within seven (7) days after notice to do so, the City may do such work or cause the same to be done, and pay therefor, and charge the expenses in doing or having such work done or improvements made to the owner(s) of the property, and such charge shall be a personal liability of such owner to the City.

(e) Notices required pursuant to this Ordinance shall be in writing. Such notices may be served upon such owner and/or occupant as follows: in person by an officer or employee of the City; by letter addressed to such owner or occupant at his/her post office address; or, if personal service may not be had, or the owner or occupant's address be not known, then notice may be given by publishing a brief summary of such order at least once in the official newspaper of the City or by posting a notice on or near the front door of each building on the property upon which the violation relates, or, if no building exists, by posting notice on a placard attached to a stake driven into the ground on the property to which the violation relates. The notice shall state "Sanitary Improvements", "To Whom It May Concern" and a brief statement of the violation(s). Service of the notice by any one of the above methods, or by a combination thereof, shall be deemed sufficient notice.

(f) If an owner is mailed a notice in accordance with subsection (e) and the United States Postal Service returns the notice as "refused" or "unclaimed" the validity of the notice is not affected, and the notice is considered as delivered.

(g) Notices provided by mail or by posting as set forth in subsection (e) may provide for year round abatement of the nuisance and inform the owner that should the owner commit any other violation of the same kind that pose 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 abate the violation at the owner's expense and assess the costs against the property.

(h) Persons littering, in violation of Article II or causing or creating a prohibited nuisance in the presence of a person authorized to enforce this Ordinance may be cited or a complaint filed for such violation without notice of the violation, or warning, and such citation or complaint shall be filed in the Municipal Court of the City of Milano.

Section 4. Costs and Appeals. In addition to any other remedy provided in this Ordinance and cumulative thereto, the Code Enforcement Officer, after giving to the owner of the property seven (7) days notice in writing, as provided in Section 3, may cause any of the work or improvements mentioned in this Ordinance to be done at the expense of the City, and charge the utility bill of the property on which such work or improvements are done, and cause all of the actual cost to the City to be assessed on the real estate or lot on which such expenses occurred; provided, that the owner of any such real estate may appeal to the City Council from the order of the Code Enforcement Officer by filing a written statement with the Code Enforcement Officer within seven (7) days after receipt of the notice provided for above, stating that such real estate complied with the provision of this Ordinance before the expiration of a seven (7) day period. The City Council shall set a date, within thirty (30) days from the date of the appeal, for hearing the appeal to determine whether the real estate complied with the provisions of this Ordinance before the expiration of such seven (7) day period. The authority of the Code Enforcement Officer to proceed to cause such work to be done shall not be suspended while an appeal from the order is pending. If it shall be determined by the City Council that the premises complied with the provisions of this Ordinance before the expiration of the seven (7) day period, then no personal liability of the owner shall arise nor shall any lien be created against the premises upon which such work was done.

Section 5. Cost of Abatement Constitutes Lien. Cumulative of the City's remedy by fine, as set forth herein, the City may do such work or cause the same to be done to remedy such condition to remove such matter from such owner's premises at the City's expense and charge the same to the utility bill of such property and assess the same against the real estate or lot or lots upon which such expense is incurred.

(a) Expenditures plus ten (10) percent per annum interest on the expenditures from the date of such payment by the City shall be added to the next billing cycle for utility bills for the real estate or lot or lots, if not already paid. Payment shall be due and payable in full by the owner or occupant at the time of payment of such utility bill. If the property is unoccupied, no utilities shall be furnished to the property where the work occurred until such obligation, as herein set out, payable to the City for abatement of any nuisance described herein is paid in full.

(b) Upon filing with the county clerk of Milam County, Texas, of a statement by the City Secretary or designee of such expenses, the City shall have a privileged lien upon said real estate or lot or lots, second only to tax liens and liens for street improvements, to secure the

expenditure so made and ten (10) percent per annum interest on the amount from the date of such payment so made by the City.

(c) The City may, additionally, institute suit and recover such expenses and foreclose such lien in any court of competent jurisdiction, and the statement so filed with the county clerk or a certified copy thereof shall be prima facie proof of the amount expended in any such work or improvements to remedy such condition or remove any such matter.

Section 6. Enforcement. The civil and criminal provisions of this Ordinance shall be enforced by the persons or agencies designated by the City, including, but not limited to, the Milam County Sheriff's Department, the City of Milano Police Department, the Building Official, and the Code Enforcement Officer. It shall be a violation of this Ordinance to interfere with a Code Enforcement Officer, or other person authorized to enforce this Ordinance, in the performance of his or her duties.

Section 7. Penalties. Any person who shall violate any of the provisions of this Ordinance, or shall fail to comply therewith, or with any of the requirements thereof, within the City limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

Section 8. Remedies. All remedies cited herein are in addition to and not in lieu of all remedies permitted to the City by law.

Section 9. Amendment and Repeal of Conflicting Ordinances. All parts of ordinances in conflict herewith are hereby amended and repealed to the extent of such conflict only.

Section 10. Severability. If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion be inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 11. Effective Date. This Ordinance shall, upon final passage, be published in the official newspaper of the City of Milano, Texas, as required by law and shall become effective ten (10) days after the date of the last publication thereof.


Section 12. Open Meetings Act. That it is hereby officially found and determined that the meeting which this Ordinance was passed was open to the public as required by law and that the public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act; Tex. Gov't Code.

PASSED AND APPROVED on this the 17 day of NOV. 2003.

ATTEST:

Carolyn Vinton
Carolyn Vinton, City Secretary

THE CITY OF MILANO, TEXAS


Bill Barnett, Mayor