

ORDINANCE NO. 2016-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DALHART, TEXAS: AMENDING THE DALHART MUNICIPAL CODE, CHAPTER 6 ARTICLE V, TO REVISE PROCEDURES AND REGULATIONS CONCERNING SUBSTANDARD DANGEROUS STRUCTURES; REPEALING CHAPTER 13 SECTION 13-24 RELATING TO THE ACCUMULATION OF SOLID WASTE AND VEGETATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR CONTINUATION OF PRIOR LAW; PROVIDING PENALTY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

WHEREAS, the Dalhart City Council finds that substandard structures and properties with an accumulation of refuse, trash, debris, junk, materials, uncultivated vegetation and similar matter, pose an immediate and substantial threat to public safety and welfare in numerous ways: fire fuel; breeding of mosquitoes, mice, snakes, and other vermin and insects; harboring of vagrants, runaway minors, stray animals, drug dealers and users; and poor aesthetic appearance- all of which singly and jointly tends to devalue neighboring properties and encourages crimes such as graffiti, vandalism, and others; and

WHEREAS, the Council desires to expedite the notice and hearing process on such properties to the extent feasible, while also giving due regard to private property rights of the owners, occupants, and lien holders of such properties; and,

WHEREAS, this ordinance is adopted pursuant to Sections 217.042, 54.032, and 54.043 of the Texas Local Government Code, defining nuisances and establishing an alternative adjudication process while still assuring due process in the enforcement of such ordinance relating to dangerously damaged or deteriorated buildings or conditions caused by accumulations of refuse, vegetation and other matter, and as otherwise provided for in Section 54.032 thereof;

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

SECTION 1. That the Dalhart Municipal Code, Chapter 6 Article V Section 6-88 through 6-95 be and hereby is amended to read as follows:

Sec. 6-88 - Abatement of substandard structures.

(a)

Definitions; Declaration of Nuisance.

(1)

Definitions. In this Section, the following meanings apply.

Good Repair. Means (1) that a premises is safe and habitable for its ordinary intended use; or, (2) that materials, equipment, and systems used in, on or under any structure are sound, stable, and performing the function for which intended without substantial defect that is detrimental to normal or intended operation or functionality. It does not mean or include purely cosmetic or aesthetic aspects of a structure, equipment, system, or material.

Interested Persons. Means jointly and severally any and all persons holding or claiming a legal interest in land or improvements thereon as either owner, tenant, occupant, lien holder, or other party with a legal interest discoverable by reasonable diligence.

Structure. That which is built or constructed or a portion thereof.

(2)

Declaration. All Structures are hereby declared to be Dangerous Structures which are:

(a)

Structurally unsafe; or

(b)

Not provided with adequate egress; or

(c)

Which constitute a fire hazard; or

(d)

Are otherwise unfit for human habitation and are dangerous to human life, or which by way of existing use constitute a hazard to safety or health or public welfare, by reason of inadequate maintenance, or dilapidation, or obsolescence, or fire hazard, or abandonment; or

(e)

Regardless of its structural condition, unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or by children, animals, or vermin; or

(f)

Boarded up, fenced, or otherwise secured in any manner but: (1) the building constitutes a danger to the public even though secured from entry; or (2) the means used to secure the building are inadequate to prevent unauthorized entry or use of the building.

All such Dangerous Structures are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in this Article. This Declaration of Nuisance and all terms of this Article shall be applicable to and enforceable within the city limits.

(b)

Initial Notice; service.

(1)

The Building Official and/or Fire Marshal shall examine or cause to be examined every Structure or portion thereof suspected to be substandard and, if such is found to be a Dangerous Structure, the Building Official and/or Fire Marshal shall give Interested

Persons in such Dangerous Structure written notice stating the defects found to exist and may revoke the certificate of occupancy.

(2)

The Initial Notice from the Building Official and/or Fire Marshal shall require the Interested Persons in the Dangerous Structure or premises to temporarily secure the structure from entry by persons and animals and repair or abate the defects without delay and no later than the tenth (10th) day after receipt of the notice. Such notice may also require the Dangerous Structure or portion thereof to be vacated forthwith and not occupied until the required repairs and improvements are completed, inspected and approved by the Building Official and/or Fire Marshal. Failure to secure, repair, or abate defects within the specified time may result in the Building Official and/or Fire Marshal to cause the work to be done and charge the costs against the property or its owner.

(3)

Service of notice is sufficient if it is deposited into the U.S. mail with proper postage for certified mail return receipt requested or is personally delivered to the Interested Persons in the property. In addition, the Building Official and/or Fire Marshal shall file in the real property records of the county clerk in the county where the property is situated, a copy or summary of the Initial Notice and the existence of the proposed condemnation proceeding, in a form acceptable to the County Clerk.

(4)

The Building Official and/or Fire Marshal shall cause to be posted at or on any Dangerous Structure ordered to be vacated, a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY, Building Official and/or Fire Marshal, City of Dalhart." Such notice shall not be removed without written permission of the Building Official and/or Fire Marshal except for the purpose of making the required repairs or demolishing the building with proper permits. The Building Official and/or Fire Marshal shall also cause the Dangerous Structure to be secured from unlawful entry if the Interested Persons who received the Initial notice fail, refuse or neglect to so secure the place by the tenth day after receipt of such notice.

(c)

Provisional permit; opportunity to cure or remove structure.

(1)

If the Interested Persons in the property cannot secure the Dangerous Structure and remedy the defects within ten (10) days after receipt of the notice, but desires more time to do so, then the Interested Persons must apply for a provisional permit within the ten (10) days from the date such notice is received. A provisional permit authorizes the Interested Persons to either remove the structure in accordance with this Code of Ordinances or take such corrective remedial work that can be substantially complete within sixty (60) days, as agreed in writing with the Building Official and/or Fire Marshal.

(2)

The Building Official and/or Fire Marshal shall issue a provisional permit for the agreed corrective work or removal of the structure when the Interested Persons (i) demonstrates the structure has been temporarily secured as required in the notice letter; (ii) tenders a plan and schedule of work that is feasible to accomplish within sixty (60) days or less, in consideration of: the season; availability of materials; skills of the owner or availability of skilled or licensed contractors in the local market; the scope and amount of work to be performed; and other objective factor reasonably bearing on likelihood of success of the endeavor; (iii) demonstrates reasonably adequate financial resources to accomplish the agreed corrective work within sixty (60) days, such as cash on hand, revenue stream, pre-approved loan, line of credit or a combination of these or other liquid resources readily available to allow substantial completion within sixty (60) days; and, (iv) pays the required fee of three hundred forty-five dollars (\$345.00) for the permit.

(3)

Abatement Inspection. Apart from any ordinarily required construction inspection as required by another applicable code, the Building Official and/or Fire Marshal shall cause an abatement re-inspection of the property after the 60th day, and shall issue a written determination that either: finds substantial completion of the work authorized by the provisional permit (and thereupon may grant an extension of the provisional permit as provided for above or issue a standard building permit and other permits for additional work to continue on the Structure); or, finds that there is not substantial compliance and the condemnation process provided in this Article shall continue.

(d)

Prosecution. Failure, refusal or neglect of the Interested Persons in a Dangerous Structure to abate such a nuisance after the Initial Notice of violation is an offense punishable in accordance with Section 1-6. However, the Building Official and/or Fire Marshal shall delay filing of any charges in municipal court until such as time as there is probable cause to believe that the Interested Persons shall fail, neglect or refuse: (1) to comply with the Initial Notice of violation and need to secure or to repair the Dangerous Structure; or (2) to demolish the Dangerous Structure or portion thereof; or, (3) to timely and substantially complete the terms of a provisional permit, then the Building Official and/or Fire Marshal may proceed to prosecute same in the Dalhart Municipal Court.

(e)

Notice of Condemnation Hearing.

(1)

In the event that the Interested Persons shall fail, neglect or refuse: (1) to comply with the Initial Notice of violation to repair or rehabilitate; or (2) to demolish the Dangerous Structure or portion thereof; or, (3) to timely and substantially complete the terms of a provisional permit, then the Building Official and/or Fire Marshal shall notify the City Manager of such fact.

(2)

The City Manager shall cause to be presented to an elected judge a resolution setting a date for a condemnation hearing, which allows for not less than ten (10) days notice to the Interested Persons in the property, and ordering that a written notice of such hearing be promptly sent to such person(s) at the last known address for such person(s), and by publication of a notice of such hearing one (1) time in a newspaper of general circulation in the City prior to the date of such hearing. In addition, the Building Official and/or Fire Marshal may post notice of the hearing on the property.

(f)

Conduct of Hearing.

(1)

The Mayor shall announce the case and administer an oath or affirmation to all persons desiring to testify in the matter.

(2)

The Building Official and/or Fire Marshal or designee shall present photographs, documents, and other relevant and material testimony and evidence concerning (i) the conditions existing on and at the property; (ii) problems and nuisances arising out of same, (iii) the notices sent or effort to locate Interested Persons; and (iv) the existence and status of any provisional permit or reasons for denial of same by the Building Official and/or Fire Marshal. At the conclusion of the Building Official and/or Fire Marshal's testimony, the Mayor shall admit the file into the record of the proceeding and for individual review and questioning by any City Council member.

(3)

The Interested Persons in the property shall then have the right to cross-examine the Building Official and/or Fire Marshal or designee and challenge any aspect of the evidence or testimony offered by the Building Official and/or Fire Marshal. The Interested Persons shall then be allowed to offer direct testimony, photos, and other relevant and material evidence in support of that person's position or in opposition to the Building Official and/or Fire Marshal.

(4)

Any other person desiring to offer testimony about the matter shall then be heard by the City Council.

(5)

If the Interested Persons who were sent notice of the hearing fails, refuses, or neglects to appear at the hearing, then such person is deemed to admit liability for the defects and violations stated in the initial notice.

(6)

The City Council may adopt such other procedural rules it deems reasonable and helpful for the conduct of such hearings. The Mayor shall, in consultation with the City Attorney as needed, rule on all procedural questions in order to do substantial justice with due regard

for notions of fair play, judicial efficiency, private property rights, and public health and safety concerns posed by the condition of property.

(7)

Upon conclusion of all testimony from interested persons, the Mayor shall close the hearing. The City Council shall publicly deliberate its decision, giving due consideration to and weighing the following factors: validity of the violations as alleged by the Building Official and/or Fire Marshal; the severity of such violations and any corresponding danger to the public; due regard for private property rights; fair opportunity for the Interested Persons to have been notified of the problems and a corresponding opportunity to repair, remediate, or remove the defects or Dangerous Structure; weighing the private property interests of neighbors affected by further delay or deterioration of the subject property; and any other relevant consideration unique to the circumstances of that case but which may materially affect due process and equal protection of involved persons. The City Council shall then announce its decision during that meeting and issue its resolution order:

(i)

Finding that the Structure is not a dangerous one or one marked by accumulation of vegetation, debris or trash, and ordering the matter be dismissed and City to dismiss the notice filed in the county real property records; or,

(ii)

Finding the Structure or any other improvement of any kind, or any part thereof, is dangerous and ordering its removal ten (10) days after notice of decision; or,

(iii)

Finding the Structure is a danger and ordering its removal ten (10) days after notice of decision, however, further finding that good cause exists to grant a reprieve on that order to allow the Interested Persons in the property to seek to qualify for and obtain a provisional permit during that period, and if obtained then the reprieve shall continue for the duration of such permit or successor permit, as provided in this Section. The reprieve granted under this subsection shall expire upon the later of the expiration of time to apply for and obtain a provisional permit or the expiration of such permit. If at expiration of the reprieve the Building Official and/or Fire Marshal finds that the defects that gave rise to the finding of a Dangerous Structure have been abated, then the prior order of the City Council to remove the Structure is moot; or, if the defects remain, then the Building Official and/or Fire Marshal shall proceed to carry out the City Council's prior order to remove the Dangerous Structure; or,

(iv)

Finding good cause exists to defer the adjudication of the case and directing reinstatement or extension of a prior provisional permit, for a period of time determined by the City Council not exceeding sixty (60) days from date of the hearing. If at the end of the deferral period, the Building Official and/or Fire Marshal finds that there has been no substantial progress toward abatement of the defects, then such fact shall be reported to the City Manager who shall request the City

Council to set a new hearing and proceed with an adjudication of whether the Structure is dangerous or not, in accordance with the procedures of subsection (e).

(g)

Notice of Decision. A copy of the decision (resolution, order, or other document) of the City Council shall be promptly sent to the Interested Persons in the Dangerous Structure or Premises in the same manner provided in subsection (b)(3) of this Section.

(h)

Default; assessment of costs; lien; law suit.

(1)

If the Interested Persons shall fail, refuse, or neglect: (i) to remove or remedy the Dangerous Structure in accordance with the City Council's resolution order not later than ten (10) days after notice of same is sent or posted; or (ii) either to apply for or to timely and substantially perform the terms of a provisional permit or extended provisional permit as ordered by the City Council, (iii) or to timely and fully comply with the terms of a deferred adjudication, then the Building Official and/or Fire Marshal shall proceed to execute the City Council's finding and order to remove the Dangerous Structure.

(2)

All expenses incurred by the City in the course of sending notices, removing and disposing of the Dangerous Structure or other improvements, as well as any other work performed on the premises or Structure, shall be invoiced to the owner of the property, with notice to any occupant and lien holder of record.

(3)

If the Interested Persons in the Premises shall fail, refuse, or neglect for a period of thirty (30) days to pay or discharge the expenses assessed by the City, then the City shall have a privileged lien second only to tax liens, and may file a record of such lien against such property in the appropriate county deed records, which shall bear interest at the rate of ten (10) percent per annum or as otherwise allowed by law. In no case shall the City foreclose such lien by forced sale, except as may otherwise be prescribed by applicable state law.

(4)

Apart from any other action, right, or remedy mentioned in this section, the City Attorney may file a civil law suit for any or all of the following: injunctive relief, declaratory judgment against the nuisance, for recovery of expenses incurred with interest.

(i)

Appeal. The findings and decision of the City Council or the Court of Record may be appealed to 69th Judicial District Court within thirty (30) days after rendering of the decision, for a trial in accordance with City of Dallas v. Stewart, No. 09-0257 (Tex.) (op. on reh., Jan. 2012).

(j)

Other Authority. Nothing in this section is intended as and shall not be construed as any limitation on the legal authority, right to enter, right to abate, or the procedures related thereto, that may be exercised by the Building Official and/or Fire Marshal or other government official acting in the scope

of duty, as to any substandard building, or other condition existing on a premises that poses a clear and imminent hazard to human life, health, or safety.

Sec. _____ ALTERNATIVE ENFORCEMENT: ACTION TO COMPEL REPAIR OR DEMOLITION OF STRUCTURE

a) The City may, in lieu of other procedures provided for herein, bring an action in the District Court of Dallam or Hartley County, Texas for the repair or demolition of a structure or to obtain approval to remove the structure and recover the removal costs. (Sections 54.012 and 54.018, Texas Local Government Code). In that action the City may also bring a claim for civil penalties under Section 54.017 of Texas Local Government Code and an action *in rem* against the structure that may result in a judgment against the structure as well as a judgment against the defendant. A notice of *lis pendens* may be filed in the real property records of the Dallam or Hartley County Clerk upon the filing of the action.

b) To recover civil penalties under Section 54.017 of Texas Local Government Code, the City must prove that (1) the property owner was notified of the requirements of the Chapter and the owner's need to comply with the requirements; and (2) after notification, the property owner committed an act in violation of this Chapter or failed take action necessary for compliance with this Chapter.

c) The civil penalty may not exceed \$1,000 per day.

d) On a showing of substantial danger of injury or an adverse health impact to any person or to the property of any person other than the defendant, the City may obtain against the owner or owner's representative with control over the premises an injunction that:

(1) prohibits specific conduct that violates this Chapter; and

(2) requires specific conduct that is necessary for compliance with this Chapter.

It is not necessary for the City to prove that another adequate remedy or penalty for a violation does not exist or to show that prosecution in a criminal action has occurred or has been attempted.

e) The City may use an enforcement action to compel repair or demolition of a structure even if the City has proceeded with the administrative process for enforcement provided elsewhere in this Chapter.

(Code 1960, § 5-4; Ord. No. 5610, § 1, 7-17-86; Ord. No. 7317, § 1, 2-14-2012)

State Law reference— Authority to define and prohibit nuisances, V.T.C.A., Local Government Code § 217.042, and § 54.043 pertaining to alternate adjudication procedures.

• **Sec. 13-24 - Unlawful accumulations; definitions; nuisance; notice; abatement by city; lien.**

(a)

Definitions. For purposes of this section, the following terms shall have the meaning shown:
Excess Vegetation. Whether living, dormant, or dead:

- (i) All grasses, weeds, and other plants in excess of twelve (12) inches in height that are cultivated and growing in rank profusion; or
- (ii) Noxious weeds; or
- (iii) Uncultivated brush or weeds in excess of twelve (12) inches in height; or
- (iv) Shrubs and tree limbs that overhang or obstruct public Sidewalks, Streets, or Alleys in violation of other provisions of this Code of Ordinances.
Provided however, the term Excess Vegetation shall not include cultivated flowers, gardens, and lawns.

Premises. Upon a lot, tract, or parcel of land; along the Sidewalk or Street adjacent to the Premises between the property line and the Curb, or if there is no Curb, then within ten (10) feet outside of that property line; or in an Alley or Easement adjacent to the Premises measured to the centerline of such Alley or Easement.

Trash. Animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food; ashes and similar material; boxes, bricks, broken concrete; cans, cartons, clinkers, clothing, combustible and noncombustible waste materials; construction waste, crockery; dead tree stumps, dead trees, debris, dirt, discarded appliances; excelsior; furniture designed for interior use, glass, gravel; inoperable or discarded ATV's, motorcycles, bicycles, or lawn care equipment; junk; leather, lumber; mineral matter; other bulky heavy materials; paper, plaster, plastics; rags, refuse, rubber, rubbish, rubble; sand, scrap lumber, scrap metal; shingles; residue from the burning of wood, coal, coke and other combustible materials; tires, tree branches; vehicle frames, parts or accessories; wheels; yard trimmings, or any other unsightly or unsanitary matter of whatever nature.

(b) *Duty; Offense; Declaration of Nuisance.* It shall be the duty of every person having ownership, occupancy, supervision, or control of any Premises to remove or cause to be removed all Trash and Excess Vegetation as often as may be necessary to comply with this section. It shall be unlawful for any person owning, occupying, or having supervision or control of any Premises, whether occupied or unoccupied, within the City limits, to:

- (1) Allow on such Premises the accumulation of Trash or Excess Vegetation; or
- (2)

Allow on such Premises the outdoor storage, in view from public property, any materials, equipment, merchandise of any kind, unscreened that is required by [Chapter 4-10](#) of this Code to be screened from public view;

All such conditions described in subsections (1) and (2) are hereby declared to be a public nuisance and shall be abated by cutting, trimming, or removal in accordance with this Section. A Declaration of Nuisance and all of the terms of this Section shall be applicable to and enforceable within the city limits.

(c)

Enforcement. The Building Official and/or Fire Marshal shall cause to be examined every Premises suspected of being in violation of the provisions of this section. When an apparent violation is found to exist, the Building Official and/or Fire Marshal shall give a written notice of the violations to the persons described in subsections (d) (1) or (2) of this section. Service of notice is sufficient if it is deposited into the U.S. mail with proper postage for certified mail return receipt requested or is personally delivered to the persons described hereinabove. Such notice shall describe the violation and the necessary steps to correct such violation.

(d)

Procedures. The following procedures shall apply to the several kinds of nuisance violations arising under this section:

(1)

Excess Vegetation; Opportunity to Cure; City Abatement. The Building Official and/or Fire Marshal shall give notice as required in subsection (c) to the recorded owner of the Premises. The owner shall have ten (10) calendar days from the date the initial notice of violation is mailed or served in which to mow, trim, cut or remove Excess Vegetation, or to cause such to occur. At the expiration of such ten (10) days the Building Official and/or Fire Marshal or designee may enter upon the Premises and may do necessary work or cause the same to be done, in order to abate and remove the matters mentioned in this subsection. Further, in accordance with state law, if the owner, occupant, or person in control of or having supervision of the Premises subsequently allows or commits another violation of the same kind or nature, under this subsection, that poses a danger to the public health and safety on or before the first anniversary date of the notice sent by the City per this section, then without further notice the City may enter and abate the violation at the owner's expense and assess such expense against the property, as further provided herein.

(2)

Accumulation of Trash or Display of Materials, Merchandise, or Personal Property; Opportunity to Cure; City Abatement. The Building Official and/or Fire Marshal shall give notice as required in subsection (c) to the recorded owner, occupant, or person in control of, or having supervision of the Premises. If such person(s) cannot abate the violation within ten (10) calendar days after the notice of violation is mailed or served, due to the volume or amount of Material, Personal property, or Trash present on the Premises, or for circumstances beyond the reasonable control of the person(s), then he/she may apply for

a provisional permit in accordance with the requirements of [Section 4-3-3](#) of this Code in order to obtain more time to abate the nuisance under this subsection, If the person fails, refuses, or neglects to either timely abate the violation or to obtain a provisional permit and timely perform it, then the Building Official and/or Fire Marshal may obtain an administrative search warrant to enter the premises and abate the violation by removal of the items that violate this ordinance. Provided however, if the estimated cost to the City for abating the nuisance under this subsection is one thousand dollars (\$1,000.00) or greater, then the Building Official and/or Fire Marshal may condemn and remove such only after notice to persons described hereinabove and a hearing conducted in accordance with the procedures of [Section 4-3-3\(e\)](#) through (h) (with appropriate wording changes to refer to violations of this section and removal or cleaning, instead of Dangerous Structures and abatement thereof).

(3)

Junked or abandoned vehicles; Diseased Vegetation; Salvage Yards. The regulation and abatement of these shall be in accordance with Chapters 15 and 13 respectively, of this Code or other applicable ordinance or state law.

(e)

Costs; collection. Should the City have to enter the premises and abate or remove any violation of this section, then:

(1)

Invoice; due date; administrative charge. The invoice for the costs incurred by the City resulting from the abatement of the condition existing by reason of the failure, refusal, or neglect of the owner or other person in control of a Premises, shall be mailed to the recorded title owner of the Premises and any recorded lien holder, and must be paid within thirty (30) days after the mailing of the invoice. In addition to all other actual costs incurred, an administrative charge of seventy-five dollars (\$75.00) shall be added to cover the City's cost of inspection, re-inspection, notices, bookkeeping and other administrative expenses. The Building Official and/or Fire Marshal or designee shall provide a statement of the charges and other information needed for preparation of the invoice, in the form and process prescribed by the City's account receivable staff.

(2)

Filing lien statement with county clerk. If the invoice is not paid within the period specified in subsection (1), the City may file a statement, signed by the Building Official and/or Fire Marshal, with the county clerk of the county where the Premises is located, that shows the owner's name, description of Premises, and the actual expenses incurred by the City for the abatement plus the administrative charge. Thereupon the City shall have a privileged lien on the Lot upon which such expense is incurred, second only to tax liens and liens for Street Improvements, for the cost as specified in subsection (e)(1) of this section plus interest of ten (10) percent per annum or as otherwise allowed by law from the date payment is due.

(3)

Suit for recovery and foreclosure. For all costs incurred, administrative charge, and interest, suit may be instituted by the City Attorney or designee for recovery and foreclosure to be had in the name of the City, as allowed by law.

(4)

Proof of amount. The statement filed by the Building Official and/or Fire Marshal or designee as provided in subsection (e)(1) of this section, or a copy of the invoice shall be prima facie proof of the amount expended and due for any work performed by the City.

(f)

Additional Authority to Abate Dangerous Weeds.

(1)

Pursuant to state law, the City may abate, without notice, Dangerous Weeds, meaning weeds that have grown higher than forty-eight (48) inches and are an immediate danger to the health, life, or safety of any person. Such Dangerous Weeds are hereby declared to be a nuisance and the terms of this subsection shall be specifically applicable to and enforceable within the city limits.

(2)

Not later than the 10th day after the date the City abates Dangerous Weeds under this section, the City shall give notice to the property owner in the manner required by subsection (d)(1) of this section. The notice shall contain:

(i)

An identification, which is not required to be a legal description, of the property;

(ii)

A description of the violations of the ordinance that occurred on the property;

(iii)

A statement that the City has abated the weeds; and

(iv)

An explanation of the property owner's right to request an administrative hearing about the City's abatement of the weeds.

(3)

The Director of Public Works shall conduct an administrative hearing on the abatement of weeds under this section if, not later than the 30th day after the date of the abatement, the property owner files with said official a written request for a hearing.

(4)

An administrative hearing conducted under this section shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relevant to the City's abatement of the Dangerous Weeds.

(5)

The City may assess the actual costs and administrative fees and create liens under this subsection in the same manner and amounts that it assesses expenses and creates liens under subsection (e) of this section. A lien created under this subsection is subject to the same conditions as a lien created under subsection (e) of this section.

SECTION II

REPEALER

All ordinances that are in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City of Dalhart not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION III

SEVERABILITY

It is hereby declared to be the intention of the City Council of the City of Dalhart that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and if any phrase, clause, sentence, paragraph or section in this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not effect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

SECTION IV

PENALTIES

Any person who violates any of the provision of Section I of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$1,000.00.

SECTION V

EFFECTIVE DATE

This ordinance shall take effect on and after adoption and publication as required by law.

PASSED AND APPROVED this _____ day of _____, 2015 by a vote of _____ (ayes) to _____ (nays) to _____ (abstentions) of the City Council of the City of Dalhart.

ATTEST:

CITY OF DALHART, TEXAS

FRANCES CHILDERS, City Secretary

By: _____
PHILLIP HASS, Mayor