

**Office of the City Manager**

City of Richland Hills, Texas

# Memorandum

To: Honorable Mayor Bill Agan and members of the Richland Hills City Council  
From: Eric Strong, City Manager  
Date: April 15, 2014  
Subject: Code Enforcement Ordinance Updates

---

## **Council Action Requested:**

Consideration of Ordinances 1265-14, 1266-14, 1267-14, 1268-14, 1269-14 and 1270-14, updating Ordinances as they relate to the Code Enforcement division of the City

## **Background Information:**

As the City Council is aware, we have been working on updating various Ordinances that our Code Enforcement Division needs to more effectively enforce various issues we come across. The attorney has been working on these updates, and as such a memo from the attorney explaining each of the proposed updates is attached to this memo. The proposed Ordinance Updates are also attached to this memo.

**Board/Citizen Input:** N/A

**Financial Impact:** N/A

**Staff Contacts:** Eric Strong  
City Manager  
[estrong@richlandhills.com](mailto:estrong@richlandhills.com)

**Attachments:** Memo from Attorney  
Ordinance1265-14  
Ordinance 1266-14  
Ordinance 1267-14  
Ordinance 1268-14  
Sample Enforcement Letter for Ordinance 1268-14  
Ordinance 1269-14  
Ordinance 1270-14

## MEMORANDUM

**To:** Scott Mitchell, Director of Neighborhood Services, City of Richland Hills

**From:** Ashley D. Dierker  
Drew A. Larkin  
Taylor, Olson, Adkins, Sralla and Elam, LLP

**Re:** Requested amendments to nuisance ordinances.

**Date:** April 10, 2014

---

You asked our office to make certain amendments to ordinances governing nuisances. What follows is a bullet point list of the ordinances concerning the items on the list you previously provided to our office.

### Chapter 34, Article III

The following revisions were included within one ordinance:

- **Fence or Screening:** This ordinance creates a new section 34-89 titled “Dilapidated Fence or Screening”. It includes the language that you requested as to structural integrity of a fence and makes it an offense for someone to maintain a fence in a manner that constitutes a public hazard. It also gives clear language regarding what type of fence constitutes a public hazard (15 degrees or more out of plumb).
- **Abandoned or Neglected Pools:** This amends section 34-84 to include the language you suggested that speaks more clearly about insects and structural integrity.
- **Dangerous and Dead Trees:** A new section 34-90 was created to prohibit dead or damaged trees which pose a threat of personal injury or property damage.
- **Trees Obstructing Right-of-Ways:** A new section 34-91 was created to prohibit trees overhanging streets or sidewalks. Trees growing at a height of less than 13 feet above street and 8 feet above sidewalk are prohibited.
- **Tarps:** A new section 34-92 was created to prohibit tarps if such tarps are torn or worn, or not fitted and manufactured for a specific vehicle, boat, trailer, or other item.
- **Junk on Premises:** A new section 34-93 was created to prohibit certain junk on a premises within public view. The purpose of this section is to replace “Specific Nuisance” as described below, and hopefully incorporates some of the eyesore items that we recently discussed.

## Other Ordinances

The following revisions are the remaining items on your list and were drafted in separate ordinances, by subject matter:

- **Automobile Sales in Residential Areas & Off Street Parking:** These two items on your list were addressed in one ordinance amendment. The ordinance provides for an amendment to section 34-291 to govern the off street parking issue and includes the proposed language you requested. It also provides for a new section 34-293 prohibiting auto sales in certain areas within the City.
- **Inoperable Vehicles:** This ordinance adds a new section 34-273 to allow citizens the opportunity to make necessary arrangements for inoperable vehicles by giving them 15 days to repair as you requested.
  - We did not include the amendment to the definition of “antique vehicle” in this ordinance because we do not believe that the City is able to enforce a provision that amends that definition. The state statutes that govern junked vehicles and allow cities to draft procedures allowing removal of junked vehicles mandate that any procedures adopted cannot apply to an “antique vehicle” *as defined in the state statutes*. This means that even if you changed the definition of an antique vehicle in your ordinances, your procedures to remove a junked vehicle would not apply if that vehicle met the definition of an antique vehicle found in the state statute. However, the City’s procedures for removal do not apply only if the vehicle or the storage area is maintained in an orderly manner, not a health hazard, and screened from ordinary public view. So if you have a vehicle that meets the definition of an “antique vehicle” because it is more than 25 years old and it is not maintained in an orderly manner or it is not properly screened from view, then your procedures would still apply to that vehicle.
- **Immediate Abatement and Combination of Procedures for Nuisance and Weed Abatement:** This ordinance combines the provisions regarding nuisance abatement that are currently found in sections 34-51 through 34-56 and sections 34-106 through 34-110 into one places in new sections located at 34-2 through 34-9. Also included in this ordinance is a section allowing immediate abatement within 24 hours if needed. This new immediate abatement section is located in section 34-7 of the proposed ordinance. Also included is a form 7-day notice of violation letter for code enforcement officers to use when attempting to enforce the various nuisance ordinances located in chapter 34. Also included is a sample notice letter incorporating the procedures.
- **Boarding-up Structures:** A new Article XVI for Chapter 14 was created to provide the permitting process for boarding-up buildings and structures. The language provided in your list was used with minimal revisions. I would like to note that in one of our recent conversations, you mentioned that the vacant building ordinance was hard to enforce. I think this ordinance could be equally as challenging to enforce, and I am not sure there is a good practical solution.

- **Garage Sales:** Several sections in chapter 58, Article III were revised to achieve the following: (1) remove 24 hour permit pulling requirement; (2) Churches are limited to the same amount of sales as commercial entities; and (3) Multiple garage sales are permitted on the same street at the same time, provided each location has been issued a permit.

Omitted items

The following revisions from your list were not included:

- **Specific Nuisance:** The city wanted to declare unlawful and illegal activities as a public nuisance. I do not think that it is appropriate or necessary to do so. Chapter 125 of the Texas Civil Practice & Remedies Code provides a civil abatement method for properties with a history of tolerated criminal activity. Additionally, I think it would best if these types of activities were handled by the police department—no matter which remedy the city seeks, the police would first need to make a determination that these activities were in fact illegal.
- **Substandard Ordinance:** The city desired a catch-all that would allow a building to be classified as substandard if it were an eyesore of such nature that the peaceful enjoyment of ownership of surrounding property would be affected. The substandard ordinance should only address buildings and structures which are unsafe, not buildings or conditions which are unsightly.
- **Burned Structures:** This item was not addressed because the city's substandard ordinance already provides abatement procedures for a burned structure, assuming such structure is deemed substandard.

**ORDINANCE NO. 1265-14**

**AN ORDINANCE OF THE CITY OF RICHLAND HILLS, TEXAS AMENDING CHAPTER 34, "ENVIRONMENT"; DECLARING CERTAIN SWIMMING POOLS, FENCES, TREES, TARPS, AND JUNK TO BE PUBLIC NUISANCES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Richland Hills, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City Council has previously adopted regulations related to the keeping of property in such a manner that constitutes a public nuisance within the City; and

**WHEREAS**, the City Council of the City of Richland Hills, Texas, desires to amend and clarify these provisions; and

**WHEREAS**, the City Council of the City of Richland Hills, Texas, has determined that the adoption of the amendment herein is in the best interest of the public health, safety and general welfare and therefore deems it advisable to enact this ordinance.

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

**SECTION 1.**

The Code of Ordinances, City of Richland Hills, is hereby revised by amending section 34-84 of Article III "Unhealthy, Unsightly, and Unsanitary Conditions" of Chapter 34 to read as follows:

**"Section 34-84. Miscellaneous Sanitation Nuisances.**

- (a) A person commits an offense if the person permits any land area, tank, alley, gutter, swimming pool, or open receptacle containing water, or a source of water to become stagnant, foul, nauseous, offensive or unpleasant, or provide harborage for mosquitoes, flies, or other insects.
- (b) A person commits an offense if the person maintains a swimming pool, hot tub, and their related accessory structures in an unsafe, unsecured, unclean, unsanitary, or unsound condition.

- (c) A person commits an offense if the person permits any land area, tank, alley, gutter, swimming pool, or open receptacle containing water, or a source of water to become stagnant, foul, nauseous, offensive or unpleasant, or provide harborage for mosquitos, flies, or other insects.
- (d) A person commits an offense if the person owns or is in control of property which has an overflowing septic tank or has sewage leaking from any pipes onto the premises.”

## **SECTION 2.**

The Code of Ordinances, City of Richland Hills, is hereby revised by adding section 34-89 of Article III “Unhealthy, Unsightly, and Unsanitary Conditions” of Chapter 34 to read as follows:

### **“Section 34-89. Dilapidated Fence or Screening.**

- (a) The maintenance of a screening fence or screening device that is not reasonably plumb and structurally sound constitutes a public hazard to persons or property and is hereby declared to be a nuisance.
- (b) A person commits an offense if he or she maintains a screening fence or screening device in a manner that constitutes a public hazard to persons or property. All screening fences shall be maintained reasonably plumb and structurally sound. Any screening fence or screening device that is severely deteriorated and constitutes a public hazard to persons or property or is 15 degrees or more out of plumb shall be repaired, replaced, or removed.”

## **SECTION 3.**

The Code of Ordinances, City of Richland Hills, is hereby revised by adding section 34-90 of Article III “Unhealthy, Unsightly, and Unsanitary Conditions” of Chapter 34 to read as follows:

### **“Section 34-90. Dead or Damaged Trees.**

- (a) It shall be unlawful for any person owning, leasing, claiming, occupying, or having supervision or control of any real property, occupied or unoccupied, improved or unimproved, within the corporate limits of the city, to permit or allow any dead or damaged tree which poses a threat of personal injury or property damage to grow or exist upon such real property.
- (b) It shall be the duty of any person owning, leasing, claiming, occupying, or having supervision or control of any real property, occupied or unoccupied, improved or unimproved, within the corporate limits of the city to cut, or cause to be cut, and remove, or cause to be removed, all such dead or damaged trees from such property as may be necessary to comply with the provisions of this section.

- (c) Any such dead or damaged trees which pose a threat of personal injury or property damage shall be presumed to be objectionable, unsightly, and unsafe, and are hereby declared a public nuisance.
- (d) For the purposes of this section, the city's arborist, or in the absence of such position, the official designated by the city manager, will be responsible for making the determination that a tree is dead or damaged and poses a threat of personal injury or property damage."

#### **SECTION 4.**

The Code of Ordinances, City of Richland Hills, is hereby revised by adding section 34-91 of Article III "Unhealthy, Unsightly, and Unsanitary Conditions" of Chapter 34 to read as follows:

#### **"Sec. 34-91. Trees Obstructing Rights-of-Ways.**

- (a) It shall be unlawful for any person owning, leasing, claiming, occupying, or having supervision or control of any real property, occupied or unoccupied, improved or unimproved, within the corporate limits of the city, to permit or allow trees or tree limbs to grow upon any such real property, or along the sidewalk or street adjacent to the same between the property line and the curb, or if there is no curb between the property line and the edge of the street, if any portion of the tree or tree limbs are growing at a height less than 13 feet six inches above the pavement of the roadway or eight feet above the pavement of the sidewalk, or if any portion of the tree or tree limbs are growing in a manner that interferes with or causes an obstruction to motorists using the roadway or pedestrians using the sidewalk.
- (b) A tree or tree limb shall be deemed to interfere with or cause an obstruction to motorists or pedestrians if it obscures the motorists' or pedestrians' view of any street intersection, sign or traffic control device or if it otherwise causes or creates a hazard that could reasonably cause property damage or personal injury.
- (c) It shall be the duty of any person owning, leasing, claiming, occupying, or having supervision or control of any real property, occupied or unoccupied, improved or unimproved, within the corporate limits of the city to cut, or cause to be cut, and remove, or cause to be removed, all such trees or tree limbs from such property or along the sidewalk or street adjacent to the same between the property line and the curb, or if there is no curb, between the property line and the edge of the street, as often as may be necessary to comply with the provisions of this section.
- (d) All trees or tree limbs which are growing at a height less than required by this section or in a manner that interferes with or causes an obstruction to motorists or pedestrians using the roadway or sidewalk shall be presumed to be objectionable, unsightly, and unsafe, and are hereby declared a public nuisance."

## SECTION 5.

The Code of Ordinances, City of Richland Hills, is hereby revised by adding section 34-92 of Article III “Unhealthy, Unsightly, and Unsanitary Conditions” of Chapter 34 to read as follows:

### “Section 34-92. Nuisance Tarps.

- (a) A person commits an offense if the person owns, or is in control of property, and uses a nuisance tarp for screening from view a vehicle, boat, trailer, outside storage or other item, or uses a nuisance tarp as a permanent screening, hung from carports, buildings, or auxiliary structures on property.
- (b) For the purposes of this section, “nuisance tarp” means any material that is torn or defective or worn or is not fitted and manufactured for a specific vehicle, boat, trailer, or other item.”

## SECTION 6.

The Code of Ordinances, City of Richland Hills, is hereby revised by adding section 34-93 of Article III “Unhealthy, Unsightly, and Unsanitary Conditions” of Chapter 34 to read as follows:

### “Sec. 34-93. Allowing Junk to Remain on Premises.

It shall be unlawful and a public nuisance for the owner of any lot or premises to allow or permit the following to remain upon such premises within public view:

- (1) broken, inoperable, deteriorated, dismantled or discarded indoor (non-weather resistant) furniture;
- (2) any broken, discarded or abandoned water heater, dishwasher, range, oven, trash compactor, washing machine, clothes dryer or similar appliance; or
- (3) any used, discarded, or broken automotive parts or equipment including engines, transmissions, electrical parts, suspension parts, vehicle body parts, batteries, tires, wheels, hubcaps or other motor vehicle parts.”

## SECTION 7.

This Ordinance shall be cumulative of all provisions of ordinances of the City of Richland Hills, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

## **SECTION 8.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining, phrase, clauses, sentences, paragraphs or sections of this Ordinance since the same would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

## **SECTION 9.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined no more than Two Thousand Dollars (\$2,000.00) for all violations involving zoning, fire safety or public health and sanitation, including dumping or refuse, and shall be fined not more than Five Hundred Dollars (\$500.00) for all other violations of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

## **SECTION 10.**

All rights and remedies of the City of Richland Hills, Texas, are expressly saved as to any and all violations of the provisions of any ordinances of the City of Richland Hills which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

## **SECTION 11.**

The City Secretary of the City of Richland Hills is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

## **SECTION 12.**

The City Secretary of the City of Richland Hills is directed to publish the caption and penalty clause of this Ordinance in the official newspaper of the City of Richland Hills, Texas, as required by Section 52.011 of the Texas Local Government Code.

## **SECTION 13.**

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.

PASSED AND APPROVED \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

\_\_\_\_\_  
THE HONORABLE BILL AGAN, MAYOR

ATTEST:

\_\_\_\_\_  
LINDA CANTU, CITY SECRETARY

EFFECTIVE DATE: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
BESTY ELAM, CITY ATTORNEY

**ORDINANCE NO. 1266-14**

**AN ORDINANCE OF THE CITY OF RICHLAND HILLS, TEXAS AMENDING CHAPTER 34, "ENVIRONMENT"; PROHIBITING AUTOMOBILE SALES IN CERTAIN AREAS WITHIN THE CITY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Richland Hills, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City Council has previously adopted regulations related to the parking of certain vehicles and advertising the same for sale within the City; and

**WHEREAS**, the City Council of the City of Richland Hills, Texas, desires to amend and clarify these provisions; and

**WHEREAS**, the City Council of the City of Richland Hills, Texas, has determined that the adoption of the amendment herein is in the best interest of the public health, safety and general welfare and therefore deems it advisable to enact this ordinance.

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

**SECTION 1.**

The Code of Ordinances, City of Richland Hills, is hereby revised by amending section 34-291 of Article VII "Parking on Unapproved Surfaces" of Chapter 34 to read as follows:

**"Section 34-291. Parking restrictions generally.**

- (a) No vehicles, trailers or recreational equipment shall be parked or stored on any lot within the city except in accordance with the following provisions:
  - (1) On nonresidential property when parked upon an approved surface;
  - (2) On residential property when parked on any side or front yard when such vehicle is parked on hard paved surface of concrete or asphalt not less than nine (9) feet by eighteen (18) feet, or at least of sufficient size to accommodate the horizontal area projected by the extreme limits of the vehicle. A vehicle may be parked or stored in the side yard, side yard adjacent to a street or rear yard provided it is screened from public view by not less than a six-foot tall solid fence. All parking

spaces constructed for the purpose of abating this nuisance shall be constructed with a driveway adjoining an existing on-site driveway and approach adjoining a public right of way;

- (3) On residential property when parked on any rear yard provided it is screened from public view by not less than a six-foot tall solid fence;
  - (4) Items parked or stored in or on a side yard shall maintain a minimum three foot clearance to the property lines; or
  - (5) No more than two vehicles shall at any one time be parked in the rear yard of a residential lot of less than one-half acre, and no more than three vehicles shall be parked in the rear yard of a residential lot of one-half acre or more in size. On residential lots greater than one acre in size, farm implements shall be exempted from the requirements of this subsection and shall not count as vehicles in calculating the maximum number allowed. Notwithstanding the foregoing, vehicles which are parked in an enclosed garage or carport shall not count as vehicles in calculating the maximum number allowed, and shall be permitted in unlimited numbers.
- (b) Any vehicle, trailer or recreational equipment that is parked or stored in violation of subsection (a) of this section, is hereby declared to be a nuisance.
- (c) A person commits an offense if the person, on property under that person's control, parks or stores or allows to be parked or stored, in violation of subsection (a) of this section, any vehicle, trailer or recreational equipment.”

## **SECTION 2.**

The Code of Ordinances, City of Richland Hills, is hereby revised by adding section 34-293 of Article VII “Parking on Unapproved Surfaces” of Chapter 34 to read as follows:

### **“Section 34.293. Automobile Sales in Certain Areas.**

- (a) The owner or person entitled to possession of any real property commits an offense by allowing the parking of an automobile, boat, trailer or any other type of vehicle on any public street, playground, park, athletic field, or schoolyard with any type of sign or writing on the vehicle, which offers the vehicle for sale.
- (b) The owner or person entitled to possession of any real property commits an offense by allowing the parking of an automobile, boat, trailer, or any other type of vehicle upon any private property, including parking lots or driveways of residential or commercial lots with any type of sign or writing upon the vehicle which offers the vehicle for sale.
- (c) It is a defense to prosecution under this section if the vehicle is offered for sale upon real property zoned for automobile sales or if the vehicle is offered for sale on private

residential property and no more than two vehicles have been offered for sale from that property within any one calendar year.”

### **SECTION 3.**

This Ordinance shall be cumulative of all provisions of ordinances of the City of Richland Hills, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

### **SECTION 4.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining, phrase, clauses, sentences, paragraphs or sections of this Ordinance since the same would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

### **SECTION 5.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined no more than Two Thousand Dollars (\$2,000.00) for all violations involving zoning, fire safety or public health and sanitation, including dumping or refuse, and shall be fined not more than Five Hundred Dollars (\$500.00) for all other violations of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

### **SECTION 6.**

All rights and remedies of the City of Richland Hills, Texas, are expressly saved as to any and all violations of the provisions of any ordinances of the City of Richland Hills which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

### **SECTION 7.**

The City Secretary of the City of Richland Hills is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

**SECTION 8.**

The City Secretary of the City of Richland Hills is directed to publish the caption and penalty clause of this Ordinance in the official newspaper of the City of Richland Hills, Texas, as required by Section 52.011 of the Texas Local Government Code.

**SECTION 9.**

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.

PASSED AND APPROVED \_\_\_\_ DAY OF \_\_\_\_\_, 2014.

\_\_\_\_\_  
THE HONORABLE BILL AGAN, MAYOR

ATTEST:

\_\_\_\_\_  
LINDA CANTU, CITY SECRETARY

EFFECTIVE DATE: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
BESTY ELAM, CITY ATTORNEY

**ORDINANCE NO. 1267-14**

**AN ORDINANCE OF THE CITY OF RICHLAND HILLS, TEXAS AMENDING CHAPTER 34, "ENVIRONMENT"; REGULATING CERTAIN VEHICLES WITHIN THE CITY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Richland Hills, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City Council has previously adopted regulations related to junked or abandoned vehicles located within the City; and

**WHEREAS**, the City Council of the City of Richland Hills, Texas, desires to amend and clarify these provisions; and

**WHEREAS**, the City Council of the City of Richland Hills, Texas, has determined that the adoption of the amendment herein is in the best interest of the public health, safety and general welfare and therefore deems it advisable to enact this ordinance.

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

**SECTION 1.**

The Code of Ordinances, City of Richland Hills, is hereby revised by adding section 34-273 of Article VI "Junked, Wrecked or Abandoned Property" of Chapter 34 to read as follows:

**"Section 34.273. Vehicle awaiting repair.**

- (a) Notwithstanding any other provision in this article, each single-family or two-family residence is permitted to park not more than one junked vehicle that is awaiting repair for a period not to exceed 15 days.
- (b) Each single-family or two-family residence may park or store not more than one junked vehicle pursuant to subsection (a) herein provided the vehicle is properly screened from public view in all directions by a permanent screening fence of masonry or wood of redwood, cedar or other wood material that is approved for outdoor applications, not less than six (6) feet in height."

## **SECTION 2.**

This Ordinance shall be cumulative of all provisions of ordinances of the City of Richland Hills, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

## **SECTION 3.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining, phrase, clauses, sentences, paragraphs or sections of this Ordinance since the same would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

## **SECTION 4.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined no more than Two Thousand Dollars (\$2,000.00) for all violations involving zoning, fire safety or public health and sanitation, including dumping or refuse, and shall be fined not more than Five Hundred Dollars (\$500.00) for all other violations of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

## **SECTION 5.**

All rights and remedies of the City of Richland Hills, Texas, are expressly saved as to any and all violations of the provisions of any ordinances of the City of Richland Hills which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

## **SECTION 6.**

The City Secretary of the City of Richland Hills is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

**SECTION 7.**

The City Secretary of the City of Richland Hills is directed to publish the caption and penalty clause of this Ordinance in the official newspaper of the City of Richland Hills, Texas, as required by Section 52.011 of the Texas Local Government Code.

**SECTION 8.**

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.

PASSED AND APPROVED \_\_\_\_ DAY OF \_\_\_\_\_, 2014.

\_\_\_\_\_  
THE HONORABLE BILL AGAN, MAYOR

ATTEST:

\_\_\_\_\_  
LINDA CANTU, CITY SECRETARY

EFFECTIVE DATE: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
BESTY ELAM, CITY ATTORNEY

**ORDINANCE NO. 1268-14**

**AN ORDINANCE OF THE CITY OF RICHLAND HILLS, TEXAS AMENDING CHAPTER 34, "ENVIRONMENT"; PROVIDING FOR THE ABATEMENT OF NUISANCES WITHIN THE CITY; PROVIDING THE AUTHORITY TO FILE A LIEN IN CERTAIN CASES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Richland Hills, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City Council has previously adopted procedures for abatement of general nuisance violations and also for abatement of tall grass and weed abatement; and

**WHEREAS**, the City Council of the City of Richland Hills, Texas, desires to consolidate these provisions into one section within the Code of Ordinances; and

**WHEREAS**, the City Council of the City of Richland Hills, Texas, has determined that the adoption of the amendment herein to consolidate the abatement procedures is in the best interest of the public health, safety and welfare and therefore deems it advisable to enact this ordinance.

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

**SECTION 1.**

The Code of Ordinances, City of Richland Hills, is hereby revised by amending Article I of Chapter 34 by designating a "Division 1" to encompass Section 34-1 "Definitions" and adding Division 2 "Abatement Procedures for Violations" to read as follows:

**"DIVISION 2.  
Abatement Procedures**

**Section 34-2. Applicability of Division.**

This Division applies to violations of Article II and Article III of this Chapter.

**Section 34-3. Authority of City to Abate Nuisance Violation.**

- (a) The city manager or the city manager's designee is hereby authorized to enter upon property within the City and abate any violation of this chapter. Except as provided otherwise in sections 34-5, 34-6, or 34-7, prior to such abatement, the city manager or the city manager's designee shall give notice to the owner and any known lienholder of any property upon which a violation of this chapter exists that the owner is in violation of this chapter, and provide an opportunity to abate such violation.
- (b) Such notice shall conform to the following provisions:
  - (1) A description of the property on which the violations are to be abated, which method of description may include any of the following: (i) a legal description of the property by lot and block or by metes and bounds, as applicable; (ii) a physical mailing address of the property; or (iii) any other description which is reasonably calculated to inform the owner of the property of the location of the property;
  - (2) A description of each violation on the property, including a reference to the specific section(s) of this Code which is being violated;
  - (3) A statement that if the violation is not abated within seven days of service of the notice, the city intends to abate such violation on the property and that the owner will be liable for all fees and expenses incurred by the city in abating the violation;
  - (4) A statement that if the city is required to abate the violation, and if the fees and expenses incurred by the city are not paid within ten days of the date of notice of such fees and expenses, the city will file a lien against the property for such fees and expenses, and that the city may thereafter foreclose on the property;
  - (5) A statement that if the owner or lienholder wishes to contest the existence of the violation or other matter pertaining to the violation or property, the owner or lienholder must request a hearing by submitting a written request for such hearing to both the municipal court clerk and the city code enforcement officer within seven days of service of the notice; and
  - (6) A statement that if any owner or lienholder fails to timely request a hearing, such owner or lienholder shall be deemed to have waived any complaints or objections that could have been raised at such hearing.
- (c) The notice required by this section must be in writing and served on the owner and any known lienholder of the property on which the violation exists. It may be served in any manner permitted by applicable law, including but not limited to the following:

- (1) Personally served;
- (2) Mailed to the owner at the owner's address as recorded in the records of the Tarrant Appraisal District, by regular and certified mail, return receipt requested, and to any known lienholder at the lienholder's last known mailing address, by regular and certified mail, return receipt requested; or
- (3) If personal service as described above cannot be obtained, by one or more of the following methods:
  - a. By publication at least once;
  - b. By posting the notice on or as near as practicable to the front door of each building on the property on which the violation exists; or
  - c. If there are no buildings on the property on which the violation exists, by posting the notice on a placard attached to a stake driven into the ground on the property at a location visible from a public street or right-of-way or other principal means of access to the property.
- (d) The address as recorded in the records of the Tarrant Appraisal District shall be deemed sufficient and correct, and notice served by mail at such address in accordance with this section shall be deemed sufficient, regardless of whether such notice is actually received, and regardless of whether such notice is returned marked "refused" or "unclaimed" or other notation indicating that it was not actually delivered.
- (e) Notice served by mail shall be deemed served on the third day following mailing, regardless of when actual delivery is shown to have occurred. Notice served by publication is deemed served on the date of publication. Notice served by posting on the property is deemed served on the day of posting.
- (f) If any owner or lienholder requests a hearing within seven days of service of the notice to such owner or lienholder, the municipal court shall conduct a hearing. Such request must be in writing and must be received by both the municipal court clerk and the city code enforcement officer prior to the expiration of seven days from the date of service of such notice. If two or more property owners or lienholders request a hearing, the municipal court shall combine such matters into one proceeding, and shall hold one hearing.
- (g) At a hearing under this article, both the person requesting the hearing and the city may offer testimony, present any witnesses, and offer other evidence relevant to any of the following issues:
  - (1) The existence of the violation; and
  - (2) Any other matter determined by the municipal court to be relevant to the city's authority to abate the violation and which has not been waived.

- (h) The failure to serve any owner or lienholder with notice shall not constitute a defense under this article for any other owner or lienholder.
- (i) Any owner or lienholder who is properly served with notice as provided in this section who fails to timely request a hearing available under this section shall be deemed to have waived any complaints or objections that could have been raised at such hearing, even if any other owner or lienholder of the property timely requests a hearing. Any owner or lienholder who was not properly served with notice as provided in this section but who appears and is permitted by the municipal court to participate in a hearing requested by another owner or lienholder, shall be deemed to have waived any objection to any defect in notice.

#### **Section 34-4. Failure to Comply with Abatement Notice.**

If the owner of the property does not comply with a notice to abate a violation of this chapter issued by the city manager or the city manager's designee within seven days after the date the notice is served, the city manager or the city manager's designee may enter the property and abate or correct the violation or retain a private commercial contractor or another public entity to do so.

#### **Section 34-5. Abatement of Subsequent Violations of Like Kind or Nature.**

- (a) In a notice provided for in section 34-3, the city manager or the city manager's designee may inform the owner and any known lienholders that if the owner commits another violation of the same kind or nature that poses 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 enter the property and correct or abate the violation or retain a private commercial contractor or another public entity to do so. Such notice shall be served by any of the following methods:
  - (1) By all of the following:
    - a. Certified mail, return receipt requested;
    - b. Regular mail; and
    - c. Posting the notice on the property; or
  - (2) By personally delivering the notice.
- (b) If a violation covered by a notice under this section occurs on or before the first anniversary of the date of such notice, then the city manager or the city manager's designee may enter upon such property without notice and abate or correct the violation. In the event that the city manager or the city manager's designee abates a violation pursuant to this section, the city manager or the city manager's designee may seek

recovery of its fees and expenses incurred in abating the violation as provided in section 34-8.

**Section 34-6. Abatement of Weeds or Grass in Excess of 48 Inches.**

- (a) The city manager or the city manager's designee may abate, without notice, weeds or grass that:
  - (1) Have grown higher than 48 inches; and
  - (2) Are a danger to the public health or safety.
- (b) In the event that the city manager or the city manager's designee abates a violation pursuant to this section, the city manager or the city manager's designee may seek recovery of its fees and expenses incurred in abating the violation as provided in section 34-8.

**Section 34-7. Immediate Abatement Authorized in Certain Circumstances.**

Nothing in this chapter shall prohibit the requirement for abatement of any nuisance within twenty-four (24) hours when a nuisance has been declared an immediate threat to health and safety by any enforcement personnel.

**Section 34-8. Assessment of Expenses and Lien.**

- (a) All fees and expenses incurred by the city to abate or correct violations of this chapter shall be charged to the owner of the property. Such charge for fees and expenses may include all of the following that are applicable:
  - (1) All expenses incurred by the city to retain a private contractor to abate the violation or to rent equipment used to abate the violation;
  - (2) An administrative fee or charge as provided in the city fee schedule contained in appendix A of this Code;
  - (3) A reasonable fee for the use of any equipment owned by the city used in abating the violation, calculated by a survey, sampling, or estimate of what a private commercial vendor would charge for leasing or renting such equipment; and
  - (4) Charges for time incurred by city personnel, calculated at either: (i) the hourly cost to the city for employing such personnel, including all payroll taxes, insurance and other benefits multiplied by the number of hours spent on such abatement, including preparation and travel time; or (ii) a reasonable charge, based upon a survey, sampling, or estimate of what a reasonable private commercial contractors would have charged to perform such work.

- (b) The city manager or the city manager's designee shall serve the owner of any property upon which the city has abated a violation of this article notice, that the City abated the violation and that the owner is liable for all fees and expenses incurred by the city, and that it is the city's intent to file a lien against the property if the amount shown in such notice is not paid within ten days of the date of such notice. The city manager or the city manager's designee shall also serve a copy of such notice to any known lienholder. Such notice must be in writing and shall include the following:
- (1) A statement that the city abated such violations on the property;
  - (2) A description of the property on which the violation was abated, which method of description may include any of the following: (i) a legal description of the property by lot and block or by metes and bounds, as applicable; (ii) a physical mailing address of the property; or (iii) any other description which is reasonably calculated to inform the owner of the property of the location of the property;
  - (3) A description of the violation on the property which was abated, including a reference to the section of this Code violated;
  - (4) A statement that due to the abatement and the provisions of this Code, the owner owes the charges;
  - (5) An itemized statement of the fees and expenses, including the total amount of such fees and expenses;
  - (6) A statement that if such fees and expenses are not paid, the city will file a lien against the property, and that the city may thereafter foreclose on the property;
  - (7) A statement that if the owner or any lienholder of the property wishes to contest the city's entitlement to the fees and expenses, the reasonableness or correctness of the fees and expenses stated, the city's entitlement to file a lien on the property, or other matter relating to the abatement, the owner or lienholder must request a hearing by submitting a written request for such hearing to both the municipal court clerk and the city code enforcement officer within ten days of service of the notice of the fees and expenses due; and
  - (8) A statement that if any owner or lienholder fails to timely request a hearing, such owner or lienholder shall be deemed to have waived any complaints or objections that could have been raised at such hearing.
- (c) The notice described herein may be served in any manner permitted by applicable law, including but not limited to the following:

- (1) Personally served;
- (2) Mailed to the owner at the owner's address as recorded in the records of the Tarrant Appraisal District, by regular and certified mail, return receipt requested, and to any known lienholder at the lienholder's last known mailing address, by regular and certified mail, return receipt requested; or
- (3) If personal service as described above cannot be obtained, by one or more of the following methods:
  - a. By publication at least once; or
  - b. By posting the notice on or as near as practicable to the front door of each building on the property on which the violation exists; or
  - c. If there are no buildings on the property on which the violation exists, by posting the notice on a placard attached to a stake driven into the ground on the property at a location visible from a public street or right-of-way or other principal means of access to the property.
- (d) The address as recorded in the records of the Tarrant Appraisal District shall be deemed sufficient and correct, and notice served by mail at such address in accordance with this section shall be deemed sufficient, regardless of whether such notice is actually received, and regardless of whether such notice is returned marked "refused" or "unclaimed" or other notation indicating that it was not actually delivered.
- (e) Notice served by mail shall be deemed served on the third day following mailing, regardless of when actual delivery is shown to have occurred. Notice served by publication is deemed served on the date of publication. Notice served by posting on the property is deemed served on the day of posting.
- (f) If any owner or lienholder requests a hearing within seven days of service of the notice to such owner or lienholder, the municipal court shall conduct a hearing. Such request must be in writing, and be received by both the municipal court clerk and the city code enforcement officer prior to the expiration of ten (10) days from the date of service of such notice. If two or more property owners or lienholders request a hearing, the municipal court shall combine such matters into one proceeding, and hold one hearing.
- (g) At a hearing under this Article, both the person requesting the hearing and the city may offer testimony, present any witnesses, and offer other evidence relevant to any of the following issues:
  - (1) The sufficiency of any required notice of the existence of the violations and the city's intent to abate such violations;

- (2) The correctness of the amount of the charges assessed by the city to abate the violations, or the reasonableness thereof;
  - (3) If, and only if, the person requesting the hearing was not properly served with notice prior to the abatement, the existence of the violations; and
  - (4) Any other matter determined by the municipal court to be relevant to the city's entitlement to file a lien against the property and which has not been waived.
- (h) The failure to serve any owner or lienholder with notice shall not constitute a defense under this article for any other owner or lienholder.
- (i) Any owner or lienholder who was properly served with notice as provided in this section who fails to timely request a hearing available under this section shall be deemed to have waived any complaints or objections that could have been raised at such hearing, even if any other owner or lienholder did timely request a hearing. Any owner or lienholder who was not properly served with notice as provided in this section but who has actual knowledge of the contents of the notice, or who appears and participates in a hearing requested by another owner or lienholder, shall be deemed to have waived any objection to any defect in notice.
- (j) If no hearing is timely requested and if the property owner and lienholders fail to pay the charges incurred, the mayor or the mayor's designee may file a statement of such expenses containing the name of the owner (if known), the legal description of the property on which the violation was abated, and the amount of fees and expenses unpaid, with the Tarrant County Clerk, and such statement shall constitute a lien against the property on which the violations were abated. If a hearing is timely requested, the lien statement may not be filed against the property unless authorized to do so by order from the municipal court.
- (k) The lien shall accrue interest at the highest rate allowed by law for such liens from the date of filing until paid, and shall be security for the fees and expenditures stated therein, plus accrued interest.
- (l) Unless otherwise provided by law, the lien shall be inferior only to:
- (1) Tax liens; and
  - (2) Liens for street improvements.

### **Section 34-9. Issuance of Citation.**

The provision of notice in sections 34-3 through 34-8 is not a condition precedent to the prosecution of an offense alleged to have occurred under sections 34-31 or 34-81 through 34-93. Failure to provide the notice specified shall not be a defense to the prosecution of an offense alleged to have occurred under sections 34-31 or 34-81 though 34-93.

**Sections 34-10—34-30. Reserved.”**

## **SECTION 2.**

The Code of Ordinances, City of Richland Hills, is hereby revised by repealing and reserving sections 34-51 through 34-56 of Division II, “Abatement Procedure”, of Article II, “Grass and Weeds”, of Chapter 34.

## **SECTION 3.**

The Code of Ordinances, City of Richland Hills, is hereby revised by repealing and reserving sections 34-106 through 34-110 of Division II, “Abatement Procedure”, of Article II, “Unhealthy, Unsightly, and Unsanitary Conditions”, of Chapter 34.

## **SECTION 4.**

This Ordinance shall be cumulative of all provisions of ordinances of the City of Richland Hills, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

## **SECTION 5.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining, phrase, clauses, sentences, paragraphs or sections of this Ordinance since the same would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

## **SECTION 6.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined no more than Two Thousand Dollars (\$2,000.00) for all violations involving zoning, fire safety or public health and sanitation, including dumping or refuse, and shall be fined not more than Five Hundred Dollars (\$500.00) for all other violations of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

## **SECTION 7.**

All rights and remedies of the City of Richland Hills, Texas, are expressly saved as to any and all violations of the provisions of any ordinances of the City of Richland Hills which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and

all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**SECTION 8.**

The City Secretary of the City of Richland Hills is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

**SECTION 9.**

The City Secretary of the City of Richland Hills is directed to publish the caption and penalty clause of this Ordinance in the official newspaper of the City of Richland Hills, Texas, as required by Section 52.011 of the Texas Local Government Code.

**SECTION 10.**

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.

**PASSED AND APPROVED \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.**

\_\_\_\_\_  
THE HONORABLE BILL AGAN, MAYOR

ATTEST:

\_\_\_\_\_  
LINDA CANTU, CITY SECRETARY

EFFECTIVE DATE: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
BESTY ELAM, CITY ATTORNEY

[city letterhead]

[date]

Owner of Property  
Address  
Richland Hills, Texas, Zip Code

**NOTICE OF VIOLATION**

Dear [name of property owner],

Pursuant to section 34-2 of the Richland Hills Code of Ordinances, the City has determined that the property located at [Address, Richland Hills, Texas, Zip Code] contains numerous violations of the City's Code of Ordinances. Specifically, the following violations have been documented:

- [description of violation(s) and a specific reference to the section number that is being violated]

**You have seven (7) calendar days from the date of service of this notice to abate the above described violations.** If the above violations are not abated within seven (7) calendar days, the City intends to abate such violation(s) on the property and you, as the owner of the property, will be liable for all fees and expenses incurred by the City in abating said violations.

If the City is forced to abate the above listed violations, the City will send a notice of the amount owed to the City to the above listed address. The amount indicated must be paid within ten (10) calendar days of the date listed on the notice. If the fees and expenses incurred by the City to abate the violations are not paid within ten (10) calendar days of the date of notice of such fees and expenses, the City will file a lien against your property for such fees and expenses. Thereafter, the City may foreclose on the property to recover the cost of the lien.

**If you wish to contest the existence of the above listed violation(s), you must request a hearing by submitting a written request to the Municipal Court Clerk and the Code Enforcement Officer within seven (7) calendar days of the date of service of this notice.** Your failure to timely request a hearing shall waive any complaints or objections that could have been raised at such hearing.

Pursuant to section 34-7 of the Code of Ordinances, you may be issued a citation and prosecuted at any time for any or all of the violations listed above. Please contact me should you have any questions.

Sincerely,

[name], Code Enforcement Officer

**ORDINANCE NO. 1269-14**

**AN ORDINANCE OF THE CITY OF RICHLAND HILLS, TEXAS AMENDING CHAPTER 14, "BUILDINGS AND BUILDING REGULATIONS" BY ADDING A NEW ARTICLE XVI "BOARDED-UP BUILDINGS AND STRUCTURES"; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Richland Hills, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, there has been an increase in boarded-up buildings and structures within the City; and

**WHEREAS**, buildings that are boarded can discourage economic development, become an attractive nuisance for children, and an invitation to vagrants and criminals, and affect nearby businesses and residences and their property values; and

**WHEREAS**, so that the City can better monitor boarded-up buildings and ensure their maintenance, security, repair, and return to economic usefulness, the City Council wishes to establish a boarding-up permit process.

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

**SECTION 1.**

The Code of Ordinances, City of Richland Hills, is hereby revised by amending Chapter 14 "Buildings and Building Regulations" by adding a new Article XVI "Boarded-up Buildings and Structures" to read as follows:

**"XVI. BOARDED-UP BUILDINGS AND STRUCTURES**

**Section 14-531. Boarding-up Buildings and Structures.**

- (a) No person, firm, association or corporation shall erect, install, place, or maintain boards over the doors, windows or other opening of any building or structure or otherwise secure such opening by a means other than the conventional method used in original construction and design of the building or structure without first obtaining a valid boarding-up permit in accordance with this section. Any properties with boards existing at the time of the adoption of this section will have sixty (60) days from the date of the

adoption of this section to submit an application to the city's Neighborhood Services Department for a permit to continue to board.

- (b) The Neighborhood Services Department may issue a boarding-up permit only upon satisfaction of the following conditions:
  - (1) Submission of a written application by the owner of the property or his authorized representative, including the following information:
    - (i) Name, address and telephone number of the owner;
    - (ii) Name, address and telephone number of any local agent of the owner;
    - (iii) Tax parcel identification number of the premises on which the structure is situated;
    - (iv) Common address of the structure; and
    - (v) Other information as may be required by the Department;
  - (2) Payment of the required permit fee by the owner of the property or his/her authorized representative as set forth in Appendix A; and
  - (3) Submission of a written statement or plan by the owner of the property or his authorized representative specifying:
    - (i) Length of time the owner expects the boarding-up to continue;
    - (ii) Proposed plan to secure or board up the structure including a detailed description regarding the manner and materials; and
    - (iii) Proposed maintenance plan detailing the monitoring and maintenance of the structure and premises.
- (c) The city may conduct an inspection of the subject property to ensure that the structure is boarded up in accordance with the approved plan as described in section 14-531(b)(3).
- (d) A permit issued pursuant to this section shall authorize the boarding-up or other securing of a building or structure for a period of six (6) months. An owner of a property desiring to continue to board his property beyond the six (6) month term must submit a renewal application to renew the permit and continue to meet the requirements for the issuance of a new permit. The permit may be renewed within thirty (30) days of the expiration of the original upon payment of necessary fees. A new permit must be obtained if the original permit is not renewed within thirty (30) days of the expiration of the original permit.

- (e) No permit shall be required to board-up a building for up to thirty (30) days in the event of a temporary emergency situation, including but not limited to damage caused by vandalism, theft, or weather. In the event an emergency situation requires a building or structure to be boarded-up for more than thirty (30) days, the owner of the building or structure or his authorized representative must obtain a valid building permit for repair or a valid boarding-up permit in accordance with this section.
- (f) The boarding of doors, windows, or other openings of any building or structure or any means of securing such openings, other than by the conventional method used in the original construction and design of the building or structure, shall be according to the specifications approved under the permit. All boarded openings shall be painted with a minimum of two (2) coats of exterior paint, which is of a color compatible with the exterior color of the building or structure.
- (g) Any structure which is boarded shall be in compliance with all applicable codes and ordinances of the city.
- (h) Any building or structure which is boarded up shall be posted with the name, permit information, and contact phone of the local agent.”

## **SECTION 2.**

This Ordinance shall be cumulative of all provisions of ordinances of the City of Richland Hills, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

## **SECTION 3.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining, phrase, clauses, sentences, paragraphs or sections of this Ordinance since the same would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

## **SECTION 4.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined no more than Two Thousand Dollars (\$2,000.00) for all violations involving zoning, fire safety or public health and sanitation, including dumping or refuse, and shall be fined not more than Five Hundred Dollars (\$500.00) for all other violations of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

**SECTION 5.**

All rights and remedies of the City of Richland Hills, Texas, are expressly saved as to any and all violations of the provisions of any ordinances of the City of Richland Hills which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**SECTION 6.**

The City Secretary of the City of Richland Hills is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

**SECTION 7.**

The City Secretary of the City of Richland Hills is directed to publish the caption and penalty clause of this Ordinance in the official newspaper of the City of Richland Hills, Texas, as required by Section 52.011 of the Texas Local Government Code.

**SECTION 8.**

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.

PASSED AND APPROVED \_\_\_\_ DAY OF \_\_\_\_\_, 2014.

\_\_\_\_\_  
THE HONORABLE BILL AGAN, MAYOR

ATTEST:

\_\_\_\_\_  
LINDA CANTU, CITY SECRETARY

EFFECTIVE DATE: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
BESTY ELAM, CITY ATTORNEY

## ORDINANCE NO. 1270-14

**AN ORDINANCE OF THE CITY OF RICHLAND HILLS, TEXAS AMENDING CHAPTER 58, “OFFENSES AND MISCELLANEOUS PROVISIONS” BY REVISING REGULATIONS FOR GARAGE SALES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Richland Hills, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City Council has previously adopted regulations related to garage sales within the City; and

**WHEREAS**, the City Council of the City of Richland Hills, Texas, desires to amend and clarify these provisions; and

**WHEREAS**, the City Council of the City of Richland Hills, Texas, has determined that the adoption of the amendments herein is in the best interest of the public health, safety and general welfare and therefore deems it advisable to enact this ordinance.

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

### SECTION 1.

The Code of Ordinances, City of Richland Hills, is hereby revised by amending section 58-88 of Article III “Garage Sales” of Chapter 58 to read as follows:

**“Sec. 58-88. Number of sales allowed per year.**

*Single-family and two-family residential property.* The owner or lessor of any single-family residential or two-family residential lot in the city, upon obtaining the permit required by section 58-89, and subject to the other restrictions of this article and other ordinances of the city, may display, offer for sale, and sell, used personal property, by conducting a garage sale, patio sale, lawn sale or similar sale, as many as four times in any calendar year.”

### SECTION 2.

The Code of Ordinances, City of Richland Hills, is hereby revised by amending section 58-89 of Article III “Garage Sales” of Chapter 58 to read as follows:

**“Sec. 58-89. Permit required.**

No person shall display, offer to sell or sell such personal property in the city without first procuring a permit from the city for each sale, at a cost as provided in appendix A, before the beginning of the display offering to sell or selling of such used personal property. Such permit shall be posted upon the sale premises during the sale.”

**SECTION 3.**

The Code of Ordinances, City of Richland Hills, is hereby revised by amending section 58-90 of Article III “Garage Sales” of Chapter 58 to read as follows:

**“Sec. 58-90. No Limitation on number of sales per block at one time.**

Multiple garage sales on the same street at the same time are allowed as long as each selling location has been issued a permit.”

**SECTION 4.**

The Code of Ordinances, City of Richland Hills, is hereby revised by amending section 58-92 of Article III “Garage Sales” of Chapter 58 to read as follows:

**“Sec. 58-92. Commercial garage sales permitted twice each year.**

It shall be a violation of this article for any church, business, or any commercial enterprise which to conduct a garage sale, patio sale, lawn sale or similar sale in the city, more than twice in any calendar year, except to the extent, if any, expressly permitted otherwise by other ordinance of the city.”

**SECTION 5.**

This Ordinance shall be cumulative of all provisions of ordinances of the City of Richland Hills, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

**SECTION 6.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining, phrase, clauses, sentences, paragraphs or sections of this Ordinance since the same would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 7.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined no more than Two Thousand Dollars (\$2,000.00) for all violations involving zoning, fire safety or public health and sanitation, including dumping or refuse, and shall be fined not more than Five Hundred Dollars (\$500.00) for all other violations of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

**SECTION 8.**

All rights and remedies of the City of Richland Hills, Texas, are expressly saved as to any and all violations of the provisions of any ordinances of the City of Richland Hills which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**SECTION 9.**

The City Secretary of the City of Richland Hills is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

**SECTION 10.**

The City Secretary of the City of Richland Hills is directed to publish the caption and penalty clause of this Ordinance in the official newspaper of the City of Richland Hills, Texas, as required by Section 52.011 of the Texas Local Government Code.

**SECTION 11.**

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.

PASSED AND APPROVED \_\_\_\_ DAY OF \_\_\_\_\_, 2014.

---

THE HONORABLE BILL AGAN, MAYOR

ATTEST:

\_\_\_\_\_  
LINDA CANTU, CITY SECRETARY

EFFECTIVE DATE: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
BESTY ELAM, CITY ATTORNEY