

Ordinance No. 2008.14
Village of Salado
County of Bell
State of Texas
May 1, 2008

HEALTH & SANITATION ORDINANCE

AN ORDINANCE OF THE VILLAGE OF SALADO, TEXAS, AMENDING THE ORDINANCE ESTABLISHING, AMONG OTHER THINGS, SANITATION REQUIREMENTS AND ABATEMENT OF DANGEROUS WEEDS (2003.02); PROVIDING DEFINITIONS; SANITATION REQUIREMENTS; THE IDENTIFICATION AND REGULATION OF NUISANCES; PROVIDING COMPLAINT PROCEDURES; ADMINISTRATIVE ACTION; PROVIDING ABATEMENT OF DANGEROUS WEEDS; PROVIDING FOR THE ABATEMENT OF NUISANCES; PROVIDING FOR THE FILING OF LIENS TO SECURE COSTS; PROVIDING PENALTIES; PROVIDING INJUNCTIVE RELIEF AND ABATEMENT FOR VIOLATION OF ORDINANCE; CONFLICTING PROVISIONS; REPEALER; SEVERABILITY; AND EFFECTIVE DATE.

WHEREAS, the Board of Aldermen of the Village of Salado (“Board of Aldermen”) seeks to promote the health, safety and general welfare of the community by preventing death, injury, property damage and urban blight within the Village of Salado (“Village”) limits; and

WHEREAS, the Board of Aldermen finds that the existence of stagnant water and other unsanitary conditions will harbor and attract rodents and insects, will result in the production of disease, and decrease the aesthetics of the Village; and

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

WHEREAS, the Board of Aldermen finds that the inadequate construction and maintenance of private sewage treatment facilities (septic systems) will result in increased sanitation problems, will increase disease, and will increase the improper treatment and disposal of sewage and waste matter; and

WHEREAS, the Board of Aldermen finds that the existence of weeds, rubbish, brush, filth, carrion and other unsightly, unsanitary and unwholesome matter will lower the quality of life for citizens of the Village by decreasing the aesthetics of the Village, will harbor rodents, will increase illegal dumping and littering, will increase fire hazards, and will increase crime by decreasing visibility and access; and

WHEREAS, pursuant to Texas Local Government Code section 51.001 the Board of Aldermen is authorized by law to adopt an ordinance that is for the good government, peace or order of the Village and is necessary or proper for carrying out a power granted by law to the Village; and

WHEREAS, pursuant to Texas Local Government Code section 51.032 the Board of Aldermen is authorized by state law to adopt an ordinance, not inconsistent with state law, that the Board of Aldermen considers proper for the government of the Village; and

WHEREAS, pursuant to Texas Local Government Code Chapter 217 the Village has the statutory authority to define and abate nuisances and impose fines; and

WHEREAS, pursuant to the Texas Health and Safety Code the Board of Aldermen is authorized by law to regulate public health and sanitation within the Village in the areas of private sewage treatment facilities (i.e., septic systems), stagnant water, filth, carrion, weeds, dangerous weeds, and other unhealthy, unsanitary and unwholesome conditions; and

WHEREAS, the Board of Aldermen finds that it is necessary and proper for the good government, peace or order of the Village and for proper public health and sanitation in the Village to adopt an ordinance on public health and sanitation that regulates private sewage treatment facilities (i.e., septic systems), stagnant filth, carrion, weeds, dangerous weeds, and other unhealthy, unsanitary and unwholesome conditions in the Village; and

WHEREAS, the Board of Aldermen previously enacted Ordinance No. 2003.02 on February 6, 2003; and

WHEREAS, the Board of Aldermen of the Village of Salado deems it in the best interest of the Village of Salado to amend said Ordinance No. 2003.02 in its entirety and for said Ordinance No. 2003.02, to be replaced in its entirety as follows:

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE VILLAGE OF SALADO, TEXAS:

SECTION 1. The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

SECTION 2. Ordinance No. 2003.02 is amended in its entirety and shall read as provided in Attachment "A" attached hereto and incorporated herein as if fully set forth for all purposes.

SECTION 3. That this Ordinance shall become effective after its passage.

SECTION 4. This Ordinance, upon its enactment and effective date, shall repeal all conflicting provisions that may be contained in other Village ordinances or regulations. Except to the extent they apply to obligations and violations arising prior to the enactment of this Ordinance, this Ordinance expressly repeals Ordinance No. 2003.02.

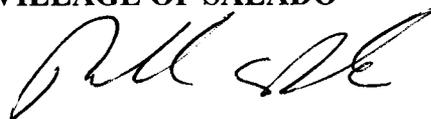
SECTION 5. All rights and remedies of the Village are expressly saved as to any and all violations of the provisions of any previous ordinances which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, 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. In the event that any one or more of the provisions, clauses, or words of this ordinance or the application thereof to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provisions, clauses, or words of this ordinance or the application thereof to any other situations or circumstance and it is intended that this ordinance shall be severable and that it shall be construed and applied as if such invalid or unconstitutional clause, section, provision, or word had not been included herein.

SECTION 7. That the meeting at which this Ordinance was enacted, was open to the public as required by the Texas Open Meetings Act, and that notice of the time, place, and subject matter of the meeting was given as required by the Texas Open Meetings Act.

PASSED AND APPROVED this, the 1 day of May, 2008, by a 5 (ayes) to 0 (nays) and 0 (abstentions) vote of the Board of Aldermen of Salado, Texas.

VILLAGE OF SALADO



Rick Ashe, Mayor

ATTEST:



Dianna Zulauf, Village Secretary

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HEALTH AND SANITATION ORDINANCE

SECTION 1. POPULAR NAME

- A. This Ordinance may be cited as the "Health and Sanitation Ordinance."

SECTION 2. DEFINITIONS

- A. When used in this Ordinance, the following terms, phrases, words and their derivations shall have the meaning ascribed to them in this Ordinance; provided that, unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage, and so as to give this ordinance its most reasonable application.
1. Board of Aldermen and Board shall mean the Board of Aldermen (i.e., the governing body) of the Village of Salado.
 2. Brush shall mean all uncultivated shrubs, bushes and small trees.
 3. Code Officer shall mean the person or persons officially designated by the Board of Aldermen to assist the Board of Aldermen in implementing and enforcing this Ordinance. Such person or persons may be a member of the Board of Aldermen, an employee of the Village, a person or persons contracted by the Village or a person or persons otherwise designated by the Village to serve in this capacity, and such assistance shall include, but is not limited to, investigating alleged violations of this Ordinance.
 4. Dangerous weeds shall mean weeds that have grown higher than forty-eight (48) inches and are an immediate danger to the life, health, or safety of any person, as provided by Texas Health and Safety Code section 342.008, as may be amended.
 5. Designee shall mean an official agent of the Village appointed by resolution of the Board of Aldermen.
 6. Earth and Construction Materials shall mean earth, rocks, bricks, concrete, other similar materials and waste materials resulting from construction or remodeling.
 7. Garbage shall mean rubbish, trash, kitchen and household waste, ashes, bottles, cans, rags, paper, food, food containers, lawn trimmings, tree trimmings, hedge trimmings, leaves, grass, weeds and refuse, and all decayable wastes, including animal and vegetable matter.
 8. Hazardous Waste shall mean solid or liquid waste, in any amount, which is defined, characterized, identified or designated as hazardous by the United States Environmental Protection Agency or appropriate State Agency by or pursuant to Federal or State law, or waste, in any amount, which is regulated under Federal or

State law, including motor oil and radiator, engine crank case, transmission or differential fluid, gasoline, paint, paint cans, toxic or corrosive materials or any material found harmful to personnel or equipment as determined by the Board of Alderman or their designee.

9. Junk shall mean all worn out, worthless and discarded material, in general, including, but not limited to, scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metals and their alloys, and bones, rags, glass, paper, cordage, cloth, rubber, rope, tinfoil, bottles, old cotton, machinery, tools, construction materials, appliances, furniture, fixtures, utensils, boxes or crates, pipe or pipe fittings, automobile or airplane tires, dismantled motor vehicles, boats, boat trailers, boathouses or travel trailers or parts thereof, or other manufactured goods or odds and ends that are worn out, worthless, deteriorated, obsolete, discarded material or other wastes, especially those that are unusable in their existing condition.
10. Litter shall mean any quantity of non-containerized paper, metal, plastic, glass, or miscellaneous solid waste which may be classed as trash, debris, rubbish, refuse, garbage, or junk not placed in a solid waste container.
11. Lot shall mean any tract, block or other parcel of land, or portion thereof, located within the City limits of the Village of Salado
12. Motor Vehicle shall mean every vehicle, car, boat or similar vehicle that is, or was originally, designed to be self-propelled.
13. Objectionable, unsightly or unsanitary matter shall mean any matter, condition or object which is or should be objectionable, unsightly or unsanitary to a person of ordinary sensitivities.
14. Person shall mean and include an individual human, partnership, co-partnership firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.
15. Private sewage treatment facilities include, but are not limited to, sewers, privies, septic systems and on-site sewage facilities.
16. Refuse shall mean garbage and heterogeneous accumulation of worn out, used up, broken, rejected, discarded or worthless materials.
17. Rubbish shall mean all refuse, trash, garbage, debris, rubble, junk, rejected tin cans, old vessels of all sorts, useless articles, abandoned pipe, waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded clothing, used and discarded shoes and boots, combustible

waste, pulp and other products used for packaging or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, textiles and objects of all sorts, and in general all litter.

18. Sewage or Wastewater shall mean a combination of waterborne wastes from residences, business buildings, institutions, and commercial and industrial establishments, together with such ground, surface and storm waters as may be present.
19. Solid Waste shall mean household garbage and refuse and commercial garbage and refuse, brush cuttings and weeds.
20. Solid Waste Service shall mean the collection and hauling of residential and business solid waste, e.g. garbage, trash and refuse, for disposal at a state licensed landfill; and the actions and services directly related thereto or necessary for the provision of such services to consumers or customers in the Village of Salado.
21. Structure shall mean the same thing as it does in the Village of Salado's Building Code Ordinance.
22. Trash shall mean "garbage."
23. Unwholesome shall mean harmful to body or mind.
24. Unwholesome Matter shall mean all stagnant water, filth, carrion, impure matters and any condition liable to produce, harbor or spread disease or germs or cause noxious, foul and offensive odors, including foodstuff or by-product thereof of any animal nature, or any fruit, vegetable or other thing which may become tainted, diseased, fermented or decayed or otherwise unwholesome or unclean.
25. Village shall mean the Village of Salado, an incorporated municipality located in Bell County, Texas, and includes any official, agent or employee acting on behalf of the Village. The term may also refer to the territory within the municipal boundaries (i.e., city limits) of the Village of Salado.
26. Waste shall mean rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural, commercial, or industrial activities.
27. Weeds shall mean all rank and uncultivated vegetable growth or matter including brush, grass, vegetation, weeds or any plant, with the exception of wildflowers, which is liable to become an unwholesome or decaying mass or breeding place for flies, mosquitoes, snakes, rats or other vermin.

SECTION 3. SANITATION REQUIREMENTS

- A. A person who is an owner, tenant, resident, occupant, agent or person having supervision of any lot, tract, or parcel of land, or a portion thereof, occupied or unoccupied within the Village must:

1. fill, drain or regulate any hole or place which contains stagnant water, an unwholesome condition, or any other condition that may produce disease, as provided by Texas Health and Safety Code section 342.001, as may be amended;
2. keep any building, establishment, or ground free of filth, carrion, refuse, rubbish or other impure or unwholesome matter, as provided by Texas Health and Safety Code section 342.003, as may be amended;
3. keep the lot, tract, parcel, or part thereof, free from dangerous weeds, weeds, rubbish, refuse, brush, and other objectionable, unsightly, or unsanitary matter, as provided by Texas Health and Safety Code sections 342.004 and 342.008, as may be amended; and
4. build, make, fill, alter, repair, clean, disinfect, maintain and regulate on-site sewage facilities, sewers, private sewage systems, and privies in accordance with the laws, regulations and requirements of Bell County, Texas, and the State of Texas, as provided by Texas Health and Safety Code section 342.002, as may be amended.

B. The duties imposed by this section apply to the entire lot and extend to the edge of the property line. The area included under this section specifically includes public rights-of-way up to the edge of the street or alley.

SECTION 4. LITTERING

A. Littering by Pedestrians and Motorists Prohibited

1. It shall be unlawful for any person to throw, discard, place, or deposit litter in any manner or amount on any public or private property within the corporate limits of the Village, except in lawfully provided containers.
2. In prosecuting the owner of a motor vehicle for violating subsection 1., proof that the litter originated from the particular vehicle described in the complaint, together with proof that the defendant named in the complaint was at the time of such violation the registered owner of said vehicle, shall constitute in evidence a presumption that the registered owner was the person who committed the violation.
3. To facilitate proper disposal of litter by pedestrians and motorists, publicly patronized or used establishments shall provide, regularly empty, and maintain in good condition adequate containers that meet standards prescribed by the Village of Salado. This requirement shall be applicable, but not limited to, fast food outlets, shopping centers, convenience stores, supermarkets, service stations, commercial parking lots, and public institutions. It is an offense to violate this section.

B. Vehicles Transporting Loose Materials

1. It shall be unlawful for any person, firm, corporation, institution, or organization to

transport any loose cargo by truck or other motor vehicle within the corporate limits of the Village unless said cargo is covered and secured in such manner as to prevent depositing of litter on public and private property.

2. Subsection 1. shall also apply to the owner or operator of the truck or other vehicle.
3. In prosecuting a person, firm, corporation, institution, organization, or owner or operator of a truck or other vehicle under subsection 1., proof that the cargo was not adequately covered and secured shall constitute in evidence a presumption of a violation of this section.

C. Loading and Unloading Operations

1. Any owner or occupant of an establishment or institution at which litter is attendant to the packing and unpacking and loading and unloading of materials at exterior locations shall provide suitable containers for the disposal and storage of such litter and shall make appropriate arrangements for its collection.
2. Further, it shall be the duty of the owner or occupant under subsection 1. to remove any litter that has not been containerized at the end of each day.

D. Responsibility to Keep Property Clean

1. The owner, agent, occupant, or lessee of private property, whether occupied or not, shall keep the exterior free of litter. This requirement applies not only to removal of loose litter, but to materials that already are, or become, trapped at locations such as fence and wall bases, grassy and planted areas, borders, embankments, and other lodging points.
2. Owners, agents, occupants, or lessees of private property that faces Village roadways and strips between streets shall keep such sidewalks and strips free of litter.
3. It shall be unlawful for a person under this section to sweep or push litter from sidewalks and strips into streets, ditches, easements or drainage ways. Owners, agents, occupants, or lessees of private property must pick up and put sidewalk and strip sweepings into household or commercial solid waste containers.
4. Non-resident owners of vacant lots or other vacant property shall responsible for or appoint a resident agent to keep that lot or other property free of litter.

E. Dumping Refuse; Other Material

It shall be unlawful for any person to dump refuse, garbage, rubbish, junk, or any other material, including, but not limited to, cement or any earth or construction materials, on or near Village streets, private property, parks, parking lots, commercial or public buildings, or on adjoining highways and rights-of-way; provided, however, the owner or resident of private property may deposit a reasonable amount of refuse or garbage on his or her private

property for soil composting purposes, so long as such is done in a manner that prevents the deposit from being blown by the wind or strewn or scattered by animals.

SECTION 5. REPAIR OF MOTOR VEHICLES AND STORAGE OF MATERIALS OUTDOORS

A. Motor Vehicle Repair, Maintenance, Assemblage and the Like on Public Property

It shall be unlawful to repair, strip, assemble, or perform ordinary maintenance on a motor vehicle on public property, parking lots or any vacant lots within the City limits, except in those situations in which immediate action is necessary because the vehicle is disabled.

B. Motor Vehicle Repair, Maintenance, Assemblage and the Like on Private Property

1. It shall be unlawful to repair, strip, assemble or store a disabled motor vehicle, or parts thereof, on any private property, unless said vehicle is totally enclosed within a structure or behind a privacy fence where the vehicle is completely screened from the view of the public and is not visible from a public roadway, except in those situations in which immediate action is necessary because a vehicle is disabled and the vehicle remains for no longer than forty-eight (48) consecutive hours.
2. The above subsection does not apply to a property owner performing the above activities on the property owner's personal vehicle, if all repairs are completed within seventy-two (72) hours.

C. Refrigerators and Other Containers

1. This section applies to a refrigerator, icebox, or other airtight or semi-airtight container that has:
 - (a) A capacity of at least 1½ cubic feet;
 - (b) An opening of at least fifty (50) square inches; and
 - (c) A door or lid equipped with a latch or other fastening device capable of securing the door or lid shut.
2. No person shall place a container described in subsection 1. outside of a structure or in a warehouse, storage room, or unoccupied or abandoned structure so that it is accessible to children.

D. Residential Solid Waste Containerization; Removal

1. All owners or residents of residential property shall have sufficient container capacity to accommodate their volume of solid waste between collections.
2. Owners or residents of residential property shall deposit all items too large to fit into

containers, such as, but not limited to, appliances, furniture, and mattresses through fee-payment bulk collection service or self transport of such items to end-disposal facilities outside of the Village, or otherwise in compliance with this Code.

3. Owners or residents of residential property shall bundle and securely tie all loose materials which normally fit into containers, but which are excess as a result of special circumstances, such as holidays, so as to prevent animals from accessing its contents, prevent materials from blowing or scattering, and place such materials beside the containers.
4. Owners or residents of residential property shall keep containers kept outside for more than two (2) hours covered at all times.
5. The owner of containers used for collection shall take necessary precautions so that the contents do not become litter when placing and removing them.
6. It shall be unlawful for any resident to deposit household solid waste in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians.

E. Commercial Solid Waste Containerization; Removal

1. All owners of establishments and institutions which generate solid waste for collection by approved contractors shall obtain adequate sized containers to completely enclose the solid waste placed inside.
2. Owners described in subsection 1. shall keep containers covered at all times.
3. The owner or user of any container which does not conform to prescribed standards or which has defects likely to hamper collection or injure the person collecting the contents or the public generally shall replace the container after receiving written notice of such defects from the Village of Salado. Failure to do so within five (5) days of such notification shall constitute a violation of this section.
4. It shall be unlawful for any owner, manager, or employee of a commercial establishment or institution to deposit solid waste from that establishment or institution in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians.

SECTION 6. NUISANCES AND OFFENSIVE CONDITIONS ON PRIVATE PROPERTY

A. Nuisances Described

1. Health and sanitation nuisances are those things that render the ground, water, air, or food hazardous or injurious to human life, health, that is offensive to the senses, or that threatens to become detrimental to the public health. Any person causing, permitting, or suffering a nuisance to exist upon any premises or upon any building

occupied or controlled by him or her or in any street, alley, sidewalk, or gutter immediately adjacent to such premises shall, upon conviction, be guilty of a misdemeanor.

2. In addition to other nuisances identified herein, the following health and sanitation nuisances are specifically declared to constitute public nuisances:

- (a) Bakeries, restaurants, food markets, and other places where food is prepared, kept for sale, or served and not kept in a clean, sanitary condition, or for which a valid health certificate has not been issued and required, or in which insects, flies, rats, mice, or vermin have access to food.
- (b) The storage, sale, or transportation of spoiled or diseased meats or other foods.
- (c) The maintenance of organic material accumulations, such as manure piles in barns, stables, chicken yards, and cow lots, that are breeding places of insects, flies, or mosquitoes or convenient harborage for rats and mice.
- (d) The discharge or exposure of sewage, human excreta, wastewater, garbage, or other organic filth into or on any place in such a manner that transmission of disease from the infected material may result, or the placing or maintaining of such materials as tin cans, tires, or rubbish of any sort that might constitute a breeding place for mosquitoes or flies or offer a hiding place or protection for rodents.
- (e) Privies not protected against flies or privies and cesspools the drainage from which is likely to pollute the soil, surface water, or water supply from which water for public or private consumption is obtained.
- (f) Cellars, vaults, drains, pools, privies, sewers, yards, grounds, or premises which have become foul, nauseous, or not maintained with adequate ingress or egress or not sufficiently supported, ventilated, sewerred, drained, cleaned, or lighted.
- (g) Any transportation of garbage, human excreta, or other organic waste, except in tight covered wagons or containers which prevent leakage or access to flies.
- (h) Stagnant water on private or public premises likely to afford breeding places for mosquitoes.
- (i) Hide houses, bone boiling, or rendering establishments, tallow soap work, or other trades deleteriously affecting public health.
- (j) All carcasses; all decaying flesh, fish, fowls, fruit, or vegetables; all deposits of manure; all flesh of any kind or description whatever; all filthy or offensive water or slops in any private yard or premises; and all other

unwholesome substances upon any street, alley, public ground, or enclosure.

- (k) Sweeping or depositing of trash, paper, or rubbish into any street, alley, public thoroughfare, or other public place.
- (l) Burning any substance that may cause or produce an offensive smell, smoke, or odor capable of annoying persons living in the vicinity or persons passing along the streets, alleys, or public thoroughfares.
- (m) Permitting or allowing weeds, filth, or rubbish of any kind to remain on any sidewalk in front of or at the side of any premises or in the street adjacent to the premises, or upon any alley that may be at the rear or side of the premises.
- (n) Constructing or causing to be constructed any matter that obstructs any alley or gutter, drain, or public ground, except such articles as are permitted by Village Ordinance.
- (o) Buildings, barns, sheds, garages, filling stations, construction camps, junk yards, camp houses, or any part thereof, which are in such a dilapidated or filthy condition as to harbor vermin or endanger the life or health of persons living in the vicinity or the public generally.
- (p) Displaying food in the open air, unless in proper cases constructed so as to protect such food from insects, flies, dust, filth, dogs, rodents, and insects.
- (q) Every trade, business, or occupation injurious to the health or comfort of persons who reside in the vicinity, and any can or receptacle containing water or slops that have become stagnant, offensive or unwholesome.
- (r) Conducting any business or enterprise that allows paper, paper cups, or any other debris to escape from such premises or building and litter any sidewalk, alley, street, or other public place or private property.
- (s) Allowing weeds, grass, or other uncultivated plants to attain a height greater than twelve (12) inches on any lot or tract of land under two (2) acres within the Village.
- (t) Allowing rubbish, brush, or any other unsightly, objectionable, or unsanitary matter to grow or accumulate on any lot within the Village.

B. Prohibited Conduct

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

1. fail to maintain such property:

- (a) free of accumulations of brush, earth and construction materials, garbage, litter, junk, refuse, rubbish, solid waste, trash, weeds, unwholesome matters and any other objectionable, unsightly, or unsanitary matter of any nature whatsoever;
- (b) free and clear from weeds and tall grass from the line of such property, including the sidewalks, to the established curb line adjacent to the property;
- (c) free of drain holes and depressions in which water collects or to fail to re-grade any lots, grounds or yards or any other property owned or controlled by the owner or occupant which shall be unwholesome or have stagnant water thereon, or which from any other cause, is in such condition as to be liable to produce disease;
- (d) free from filth, carrion or other impure or unwholesome matter of any kind, on any portion of the property under the owner or occupant's control, including any house, building, establishment, lot yard or ground owned or occupied, especially any such filth, carrion or other impure or unwholesome matter that exudes any noxious, foul or offensive odor that is detectable past or beyond the boundary of the property upon which the matter is located;
- (e) free of discharge of sewage or hazardous wastes into the soil or subsurface soil without proper containment thereto;
- (f) in any manner that is inconsistent with this Ordinance; or
- (g) in violation of any provision of the International Property Maintenance Code as adopted by the Village of Salado.
- (h) suffer, allow or permit any person to bring or transport onto the property any trash, garbage, filth, carrion, decaying animal or vegetable matter, or other impure or unwholesome matter of any kind, that exudes any noxious, foul or offensive odor that is detectable past or beyond the boundary of the property that is under the ownership or control of the owner or occupant; or
- (i) operate or conduct any business or activity on the property in a manner that causes or results in any noxious, foul or offensive odor that originates on the property, or that emanates from any source that such owner or occupant has suffered, allowed or permitted to come onto the property, being detectable past or beyond the boundary of the property that is under the ownership or control of the owner or occupant.

C. Noxious Odors Declared Nuisance

If the owner or occupant of any lot or parcel of land within the Village shall suffer, allow or permit any spoiled, rotting or decaying animal or vegetable matter to be on the property, and such spoiled, rotting or decaying animal or vegetable matter shall cause or result in a noxious, foul or offensive odor being detectable past or beyond the boundary of the property

that is under the ownership or control of the owner or occupant, the same is hereby declared to be and constitute a public nuisance. Any such nuisance shall be removed from the property by the owner or other person in possession or control of such property.

D. Storage of Materials

All garbage, sewage, hazardous wastes and other unwholesome materials of any kind shall be stored in containers to prevent such materials from dispersing beyond the storage location, seepage into the ground, or permitting the escape of noxious, foul or offensive odors into the air across the boundaries of the owner or occupant's property to another property.

E. Waste Transportation and Disposal

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

F. Limitation on Height of Grass and Weeds

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

G. Discharge of Sewage and Hazardous Wastes

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

H. Prima Facie Evidence

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

SECTION 7. NUISANCE WATER REGULATIONS

A. Accumulations of Water Prohibited

1. It shall be unlawful for any person to have, keep, maintain, cause, or permit within the Village any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless the collection of water is treated to prevent breeding.
2. The collections of water specified in subsection 1. are those contained in ditches, pools, ponds, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs (except livestock troughs in frequent use), urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, automobile tires, tanks, or flush closets, or other similar water containers.
3. The Village deems the natural presence of mosquito larvae in standing or running water as sufficient evidence that mosquitoes are breeding.
4. It is unlawful for any person to fail to prevent mosquito breeding within seven (7) days after the Code Officer gives the person written notice of a violation of this section.
5. The Code Enforcement Officer shall approve one or more of the following methods of treatment of collections of water to prevent mosquito breeding:
 - (a) Screening with wire netting of at least sixteen (16) meshes to the inch each way or with any other material which will prevent the ingress or egress of mosquitoes;
 - (b) Emptying of unscreened containers every seven (7) days, together with thorough drying or cleaning;
 - (c) Application of a larvacide approved by and under the direction of the Code Officer or pest control company;
 - (d) Cleaning and keeping ponds and other collections of water sufficiently free of vegetable growth and other obstructions and stocking with mosquito-destroying fish;
 - (e) Filling or draining ponds or other collections of water to the Code Enforcement Officer's satisfaction or his or her authorized representative; and/or
 - (f) Removing or destroying tin cans, tin boxes, broken or empty bottles, tires, and similar containers likely to hold water.
 - (g) The Village of Salado is authorized to take all necessary measures and costs to prevent or halt the conditions responsible for mosquito breeding and levy a lien against a person's property for all costs incurred by the Village if the

person responsible for conditions giving rise to the breeding of mosquitoes fails or refuses to take measures necessary to prevent mosquito breeding within seven (7) days after the Code Officer gives the person due notice.

B. Collection of Water Containing Bacillus Coli Declared Public Nuisance

Any person maintaining or allowing to be maintained a well, pool, spring, or collection of water within the Village containing the bacillus coli germ or bacteria on premises owned or controlled by him or her shall be guilty of a misdemeanor for a public nuisance.

C. Collection of Water Containing Bacillus Coli to be eliminated

The Code Enforcement Officer shall instruct a person owning or controlling a well, pool, spring, or collection of water within the Village contaminated with bacillus coli on their property to seal, fill, or drain such well, pool, spring, or water collection so that it can no longer be used for drinking, bathing, or domestic purposes.

D. Impairing of Drainage ways Prohibited

It shall be unlawful for any person to throw or place in any street, alley, drainage ditch, or gutter any trash, tin, shavings, refuse, or other matter that prevents the free passage of water or that causes it to stagnate. It is unlawful for any person installing or repairing water, gas, or service pipes to leave any street, alley, drainage ditch, or gutter in a condition that impairs the drainage.

E. Public Toilets to be kept in Sanitary Condition

All owners or persons in charge of public buildings, filling stations, camps, and other places of public assemblage shall provide clean and sanitary, sufficient and suitable, and well-lighted and ventilated toilet accommodations for each sex. Such accommodations must be kept in a thoroughly clean and sanitary condition.

SECTION 8. COMPLAINT PROCEDURES

A. Any Village resident or property owner may file a complaint alleging a violation of this Ordinance. The complaint must:

1. be in writing;
2. provide sufficient details about the alleged violation;
3. be signed by the complainant; and
4. be filed with the Code Officer or the Village Secretary.

B. The Code Officer, on his/her own knowledge or on the basis of a complaint by a Village resident or property owner, shall investigate the alleged violation.

1. The Code Officer may enter and inspect the private residence where the violation

is alleged to have occurred, at any reasonable time, pursuant to Texas Health and Safety Code section 161.011, as may be amended, upon receiving:

- (a) permission obtained from a lawful adult occupant of the residence; or
 - (b) an authorization to inspect the residence for a specific public health purpose by a magistrate or by an order of a court of competent jurisdiction on a showing of a probable violation of this Ordinance.
2. Pursuant to subsection 1. above, the Code Officer may enter private or public property where the violation is alleged to have occurred in order to examine the alleged violation and to remove or direct removal of the violation, if necessary.
 3. The Code Officer determines there is a violation of this Ordinance, the Code Officer shall submit to the Village Attorney a written report of violation. The Village may then initiate official action to remedy the violation and enforce the terms of this Ordinance.

SECTION 9. ADMINISTRATIVE ACTION

- A. The Village may proceed administratively to remove an alleged violation of this Ordinance by giving notice to the owner of the property where the alleged violation occurred, in accordance with the following procedures as set out in Texas Health and Safety Code section 342.006, as may be amended:
 1. The notice will inform the property owner that the owner has seven (7) days from receipt of the notice to comply with the violation, and if this action is not taken, the Village may, but is not obligated to:
 - (a) authorize that the necessary work be done or improvements made; and
 - (b) pay for the expenses incurred in having the work done or improvements made, and charge the expenses to the property owner.
 2. The notice must be given personally to the property owner in writing or by certified mail return receipt requested addressed to the owner at the owner's address as recorded in the records of the Bell County Central Appraisal District, as may be appropriate; or
 3. If notice by personal service cannot be obtained, the Officer may give notice by:
 - (a) publication of the notice, at least once, in a newspaper of general circulation, as defined by Subchapter C, Chapter 2051, Texas Government Code, as may be amended;
 - (b) posting the notice on or near the front door of each building on the property to which the violation relates, or

- (c) posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.
 4. If notice by letter is mailed to the owner and the U.S. Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected and the notice is considered as delivered.
 5. Notices provided by mail or by posting may provide for year round abatement of the nuisance and inform the owner that should the owner commit any other violation of the same kind that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the Village, without further notice, may abate the violation at the owner's expense and assess the costs against the property.
- B. If the Village incurs expenses for the work done or improvements made, the Board of Aldermen or its designee shall assess the expenses and create a lien, including possible foreclosure, against the property in the manner provided in Texas Health and Safety Code section 342.007, as may be amended.
1. The Village shall send a statement of expenses to the owner, requesting that payment be made to the Village Secretary within twenty (20) days after receipt. The expenses to be charged to the owner of the property shall include: the amount paid by the Village for the work done or improvements made; the costs of inspection; the costs of providing notice; the costs of identifying and notifying the owner of the property; and any incidental expenses.
 2. If the violator does not pay the expenses within twenty (20) days, the mayor, municipal health authority or a municipal official designated by the mayor shall file a statement of expenses with the Bell County Clerk, as applicable, stating the owner's name, if known, and the legal description of the property. A lien attaches upon the filing of the expense statement with the Bell County Clerk, as appropriate.
 3. The lien is security for the expenses incurred by the Village and interest accruing at the rate of ten (10) percent per year on the amount due from the date of payment by the Village.
 4. The lien is inferior only to tax liens and liens for street improvements.
 5. The Village or its designee may bring a suit for foreclosure in the name of the Village to recover the expenses and interest due.
 6. The Village may foreclose the lien in a proceeding brought under the Tax Code, Chapter 33, Subchapter E., as may be amended.
 7. The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the Village in doing the work or making the improvements.

- C. The Village, in the notice of violation, may inform the owner by regular mail and a posting on the property 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 Village without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice occurs within the one-year period, and the Village has not been informed in writing by the owner of an ownership change, then the Village without notice may take any action permitted by Section 6 of this Ordinance and assess its expense as provided by Section 6(B) of this Ordinance.

SECTION 10. ABATEMENT OF DANGEROUS WEEDS

- A. The Board of Aldermen or its designee, where it is determined that an immediate hazard to the safety and health of the citizens of the community exist, may, without notice, but is not obligated to, abate dangerous weeds on any lot parcel, or tract of land, or part thereof, within the Village in accordance with the procedures in this section.
- B. If the Village pays the cost of abating the weeds, the Village or its designee shall assess the expenses and, if necessary, create a lien against the lot or parcel of land, including foreclosure on the property, in the same manner and subject to the same conditions as that described in Section 9 of this Ordinance.
- C. Not later than the tenth (10th) day after the date the Village has abated the weeds, the Village shall give written notice to the owner of the lot or parcel of land in the manner required by Section 9 of this Ordinance. The notice shall contain:
1. an identification, which is not required to be a legal description, of the property;
 2. a description of the violations that occurred on the property;
 3. a statement that the Village has abated the weeds; and
 4. an explanation of the property owner's right to request an administrative hearing on the abatement of the weeds.
- D. If, not later than the thirtieth (30th) day after the date of the abatement of the dangerous weeds, the property owner files with the Board of Aldermen or its designee a written request for an administrative hearing, the Village shall hold and conduct the hearing.
1. The hearing shall be held no later than the twentieth (20th) day after the filing of the written request for a hearing, pursuant to Texas Health and Safety Code section 342.008, as may be amended.
 2. The hearing procedure is informal in that:
 - (a) the Village is not required to follow formal rules of evidence;

- (b) the owner may testify or present any witnesses or written information relating to the abatement of the weeds; and
- (c) the Village may call the Code Officer or other individuals that the Village deems appropriate, to testify.

SECTION 11. GENERAL PROVISIONS

A. Right to Abate Dangerous Conditions.

Whenever an immediate danger to the health, life or safety of any person exists as a result of garbage, rubbish, junk, trash, unwholesome matter, sewage or toxic waste discharge, or storage of airtight containers in an unsafe location, the Village may abate the nuisance without notice to the owner. In the event the Village abates the nuisance under this section, the Village shall forward notice to the owner within seven (7) days in the manner set forth in Section 9.

B. Right to Inspect.

The Code Enforcement Authority or designee is authorized to inspect any property within the corporate limits of the Village of Salado, at any reasonable time, subject, however, to the requirements for obtaining the permission of the occupant, or obtaining a warrant for the entry and inspection of private residences.

C. Violations and Notices.

1. If an officer charged with the enforcement of this Ordinance shall determine that a person has violated any provision of this Ordinance, such officer may issue a citation or may file a complaint with the municipal court and request that the violator be summoned to answer the complaint.
2. If an officer charged with the enforcement of this Ordinance shall determine that a situation exists which immediately affects or threatens the health, safety and well-being of the general public, and that immediate action is necessary, such officer may take such action as shall be necessary, including issuing citations for violations of the terms and provisions hereof to the owner and/or occupant of the property upon which such condition exists, as may be deemed appropriate and necessary.
3. If an officer charged with enforcement of this Ordinance determines a situation constitutes an immediate threat to the public health, safety and welfare, and the owner or occupant of the property is absent or fails to immediately remedy the violation, the Village Board of Alderman may, at a regular session or at an emergency session called for the purpose of considering the issue, upon evidence heard, determine that an emergency exists and order such action as may be required to protect the public health, safety and welfare. In such event, the Village may prosecute an action in any court of competent jurisdiction to recover its costs.
4. If any owner or occupant shall fail or refuse to remedy any of the conditions prohibited by this Ordinance within seven (7) days after notice to do so, the Village

may do such work or cause the same to be done, and pay and charge the expenses in doing or having such work done or improvements made to the owner(s) of the property, and such charge shall be a personal liability of such owner to the Village.

5. Notices required pursuant to this Ordinance shall be in writing in the manner set forth in Section 9.
6. Persons littering, or causing or creating a prohibited nuisance in the presence of a person authorized to enforce this Ordinance may be cited; or a complaint filed for such violation without notice of the violation, or warning, and such citation or complaint shall be filed in the Municipal Court of the Village of Salado.

D. Costs and Appeals.

In addition to any other remedy provided in this Ordinance and cumulative thereto, the Code Enforcement Authority, after giving to the owner of the property seven (7) days notice in writing, as provided in Section 9, may cause any of the work or improvements mentioned in this Ordinance to be done at the expense of the Village, the property on which such work or improvements are done, and cause all of the actual cost to the Village to be assessed on the real estate or lot on which such expenses occurred; provided that the owner of any such real estate may appeal to the Board of Adjustments from the order of the Code Enforcement Authority by filing a written statement with the Village of Salado within seven (7) days after receipt of the notice provided for above, stating that such real estate complied with the provision of this Ordinance before the expiration of a seven (7) day period. The Board of Adjustments shall set a date, within thirty (30) days from the date of the appeal, for hearing the appeal to determine whether the real estate complied with the provisions of this Ordinance before the expiration of such seven (7) day period. The authority of the Code Officer to proceed to cause such work to be done shall not be suspended while an appeal from the order is pending. If it shall be determined by the Board of Adjustments that the premises complied with the provisions of this Ordinance before the expiration of the seven (7) day period, then no personal liability of the owner shall arise nor shall any lien be created against the premises upon which such work was done.

E. Cost of Abatement Constitutes Lien.

Cumulative to the Village's remedy by fine, as set forth herein, the Village may do such work or cause the same to be done to remedy such condition to remove such matter from such owner's premises at the Village's expense and charge the same to the property and assess the same against the real estate or lot or lots upon which such expense is incurred in the manner set forth in Section 9.

SECTION 12. ABATEMENT OF NUISANCES

A. Nuisance Declared and Duty to Abate

Whenever brush, earth or construction materials, garbage, litter, junk, refuse, rubbish, solid waste, trash, weeds, unwholesome matters and any other objectionable, unsightly, or unsanitary matter of whatsoever shall exist, covering or partially covering the surface of any lot or parcel of any real estate situated within the Village, or when any of said lots or parcels of real estate as aforesaid shall have the surface thereof filled or partly filled with holes or

be in such condition that the same holds or is liable to hold stagnant water therein, or if from any other cause shall be in such condition as to cause disease, or produce, harbor or spread disease or germs of any nature or tend to render the surrounding atmosphere unhealthy, unwholesome or obnoxious, or shall contain unwholesome matter of any kind or description, or any other conduct prohibited hereby occurs upon any lot or parcel in the Village, the same is hereby declared to constitute a public nuisance, the prompt abatement of which is hereby declared to be a public necessity. Any such nuisance shall be removed from the property by the owner or other person in possession or control of such property.

SECTION 13. ENFORCEMENT

A. Civil and Criminal Penalties

The Village shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance.

B. Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding \$2,000.00. Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

C. Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the Village's right to bring a civil action to enforce the provisions of this Ordinance, and to seek remedies as allowed by law, including, but not limited to the following:

1. injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the ordinance; and
2. a civil penalty up to \$1,000.00 a day (with each day constituting a separate offense and separate violation) when it is shown that the defendant was actually notified of the provisions of the ordinance and after receiving notice committed acts in violation of the ordinance or failed to take action necessary for compliance with the Ordinance; and
3. other available relief.

D. Abatement

The Village or designee can abate a nuisance in any manner deemed expedient if the nuisance may injure or affect the public health or comfort.

1. Enforcement. The civil and criminal provisions of this Ordinance shall be enforced

by the persons or agencies designated by the Village, including, but not limited to, the Bell County Sheriff's Department, the Village of Salado Police Department, the Building Official, and the Code Officer. It shall be a violation of this Ordinance to interfere with a Code Officer, or other person authorized to enforce this Ordinance, in the performance of his or her duties.

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

SECTION 14. CONFLICTING PROVISIONS

If any provision in this Ordinance conflicts with any provision in other Village ordinances, resolutions or orders, then the stricter provision shall apply.