

ORDINANCE NO. 137-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HACKBERRY, DENTON COUNTY, TEXAS, PROVIDING MINIMUM STANDARDS AND REGULATIONS TO SAFEGUARD AND PRESERVE PUBLIC AND PRIVATE PROPERTY FROM GRAFFITI; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR ENFORCEMENT; PROVIDING A SAVING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is incumbent upon the City of Hackberry to provide minimum standards and regulations to help safeguard and preserve public and private property from graffiti and to provide penalties.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HACKBERRY, DENTON COUNTY, TEXAS;

SECTION I. - DEFINITIONS

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- a) **GRAFFITI** - Any unauthorized inscription, word, signature, symbol, design, or other marking of any sort which is etched, written, painted, drawn, or applied in any other way to any structure, building, tree or property of any sort or to any portion or element thereof, whether the property is public or private.
- b) **OWNER** -
 - 1. Any person with the legal right of possession to tangible property;
 - 2. Holder of fee simple title;
 - 3. Holder of life estate;
 - 4. Holder of a leasehold estate for any initial term of five (5) years or more;
 - 5. A buyer in possession, or having right of possession under a contract for deed;
 - 6. A mortgagee, receiver, executor or trustee in possession or control, or having right of possession or control, of real property; or
 - 7. Any agent who is responsible for managing, leasing or operation of property.
- c) **UNAUTHORIZED** - Without permission of the owner or his lawful agent.
- d) **GUARDIAN** - A person who, under court order, is the guardian of the person of a minor, or a public or private agency with whom a minor has been placed by a court.
- e) **MINOR** - Any person under 17 years of age.
- f) **PARENT** - A person who is a natural parent, adoptive parent, or step-parent of another person.

SECTION II. - OFFENSES

- a) It shall be unlawful for any person who shall be in any place, public or private, to deface, write or mark, cut or figure on public or privately owned buildings, permanent structures, or places located on or within the city, without authorization of the property owner.
- b) It shall be an offense for the parent or legal guardian of a child under 17 years of age to intentionally, knowingly, recklessly, insufficient control, or with criminal negligence allow the child to violate the provisions of this Ordinance.
- c) An owner of property commits a violation if he or she fails to cover, remove or allow removal of any and all graffiti from his or her property, when said graffiti is visible from public property, public right-of-way or any private property other than that on which the graffiti exists.

SECTION III. - ENFORCEMENT

- a) Enforcement shall be by the Code Enforcement Officer or the person or department to whom the Mayor delegates the enforcement responsibility.
- b) Notification. Prior to issuance of a citation issued for failure of a person to remove graffiti from property under his or her control, the owner must be given written notice of the violation, addressed to the owner at the owner's address shown on the tax rolls. If the owner's address is unavailable or the notice is returned as undeliverable, the City may issue notice by:
 - 1. publication in the official newspaper at least twice within ten consecutive days;
 - 2. Posting the notice on or near the front door of each building on the property; or
 - 3. Posting the notice on a sign staked to the ground on the property if there is no building on the property.
- c) Whenever it is necessary to make an inspection to enforce this Ordinance, or whenever the Code Enforcement Officer has reasonable cause to believe that there exists in any structure or upon any property a condition or violation which is unsafe, dangerous or hazardous or detrimental to the public interest, the Code Enforcement Officer may enter such structure or property at all reasonable times to inspect same; provided that he shall first present proper credentials and request entry, and if such entry is refused, the Code Enforcement Officer and City shall have recourse to every remedy provided by law to secure entry.
- d) The City of Hackberry representative may enter upon private property to abate the public nuisance pursuant to the provisions of this Ordinance. No person shall obstruct, impede, or interfere with any officer, employee, contractor or authorized representative of the city whenever said person is engaged in the work of abatement or is performing any necessary act preliminary to or incidental to such work as authorized or directed pursuant to this Ordinance.
- e) A citation may be issued ten (10) days after notification of the violation.
- f) An offense under this Ordinance is punishable by a fine of not less than two hundred dollars (\$200.00) nor more than two thousand dollars (\$2,000.00).

SECTION IV. - SEVERABILITY

That the sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word or provision in this Ordinance or the application thereof to any person, firm, corporation, situation or circumstance is for any reason judged invalid, the adjudication shall not affect any other section or provision of this Ordinance or the application of any other section or provision to any other person, firm, corporation, situation or circumstance, and the City Council declares that it would have adopted the valid portions and applications of the Ordinance without the invalid parts and to this end the provisions of this Ordinance shall remain in full force and effect.

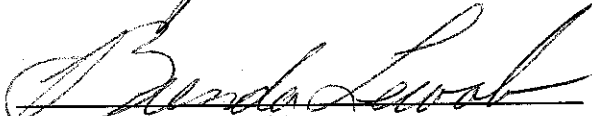
SECTION V. - SAVINGS

That this Ordinance is cumulative of all other ordinances of the City affecting solid waste/garbage/trash/refuse collection and does not repeal any of the provisions of other ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance.

SECTION VI. - EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and publication of the caption, as the law in such cases provide.

PASSED AND APPROVED BY THE CITY OF HACKBERRY, DENTON COUNTY, TEXAS, this 12th day of April, 2005.


Mayor, City of Hackberry, Texas

ATTEST:


City Secretary, City of Hackberry, Texas