

**ORDINANCE NO. 20220920F**

**AN ORDINANCE OF THE CITY OF KRESS, TEXAS AMENDING ORDINANCE #108, REGULATING PROHIBITED ACCUMULATIONS OF UNCULTIVATED VEGETATION, FALLEN TREES, LIMBS, BRUSH, UNDERGROWTH AND TRASH; DEFINING PROHIBITED ACCUMULATIONS AS PUBLIC NUISANCES; ESTABLISHING PROCEDURE FOR GIVING NOTICE OF PUBLIC NUISANCES TO PROPERTY OWNERS; AUTHORIZING THE CITY TO ABATE PUBLIC NUISANCES; IMPOSING RESPONSIBILITY ON PROPERTY OWNERS FOR COSTS OF ABATING PUBLIC NUISANCES, AND ESTABLISHING PROCEDURE TO COLLECT COSTS INCLUDING STATEMENT FOR AMOUNT DUE, LATE FEES FOR FAILURE TO PAY; REPEALING PRIOR INCONSISTENT ORDINANCES; CONTAINING A SAVINGS CLAUSE AND DECLARING AN EMERGENCY.**

At the regular City Council Meeting of the City Council of the City of Kress, Swisher County, Texas, held on September 20, 2022 at 6:30 pm, there being a quorum of the City Council present, upon motion duly made and seconded the following Ordinance was adopted, to-wit:

**WHEREAS**, the City Council of the City of Kress passed Ordinance #108 on April 27<sup>th</sup>, 1992, as a means of controlling the weeds

**WHEREAS**, the City of Kress now wishes to amend said Ordinance by restricting the height of Uncultivated Vegetation to twelve (12) inches and to assess to the property owner the same landfill fee charged to the City for delivery of trash to the landfill.

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

1. That Paragraph A. of Section I, is amended by replacing "shall maintain proper control over weeds" with "shall keep weeds no higher than twelve (12) inches "; and
2. That the remainder of the Ordinance shall be restated in its entirety, as amended, to read as follows:

## **I. Definitions**

- A. Person means individual, firm, corporation, partnership, or association of individuals.
- B. Trash means any rubbish including but not limited to, refrigerators, stoves, or other appliances, furniture, tires, cans, garbage, newspapers, refuse, junk, or other debris.
- C. Uncultivated vegetation means weeds, grass or other vegetation, excluding trees, flowers, or shrubs that are not regularly or systematically cut, mowed, pruned, fertilized, or otherwise attended or nurtured so as to induce or maintain a controlled pattern of growth.

## **II. Prohibited Accumulations**

- A. No person that owns, occupies or has supervision or control over real property located within the City of Kress, Texas, whether occupied or unoccupied, whether improved or unimproved, shall allow Uncultivated Vegetation to grow to a height greater than twelve (12) inches on the property. This restriction shall not apply to parks or other natural areas designated by the City.
- B. No person that owns, occupies, or has supervision or control over real property located within the City of Kress, Texas, whether occupied or unoccupied, whether improved or unimproved, shall not allow fallen trees, fallen tree limbs or branches, brush, or undergrowth to accumulate on the property. This restriction shall not apply to parks or other natural areas designated by the City.
- C. No person that owns, occupies, or has supervision or control over real property located within the City of Kress, Texas, whether occupied or unoccupied, whether improved or unimproved, shall allow Trash to collect on the property.

## **III Nuisance**

An accumulation or collection of Uncultivated Vegetation, fallen trees, fallen tree limbs or branches, brush, or undergrowth or Trash which is prohibited by paragraph II of this Ordinance constitutes a public nuisance. A culpable mental state is not required for the prohibited accumulation to be a public nuisance.

## **IV. Notice to Property Owners**

- A. If a public nuisance exists as defined by paragraph III of this Ordinance then the City shall send a copy of this Ordinance and written notice to each Person who owns an interest in the property.
- B. The notice shall:

1. Identify the location of the property;
2. Describe the condition(s) which create(s) the public nuisance;
3. Include the following statement:

The Enforcement Officer for the City of Kress has determined that a public nuisance exists on your property in violation of City Ordinance #20220920F . A copy of the City Ordinance is enclosed. The property is identified in paragraph one of this Notice. The condition, which constitutes a public nuisance, is described in paragraph two of this Notice. If you do not take whatever action is necessary to remove or eliminate the public nuisance within ten days from receipt of this Notice, then the City of Kress, at its election, may take whatever action is necessary to remove or eliminate the public nuisance. If the public nuisance is removed or eliminated by the City of at the direction of the City then you will be responsible for the cost of removing or eliminating the public nuisance, according to the schedule of costs in Section V of the enclosed Ordinance.

C. The notice and a copy of this Ordinance shall be given to each Person who owns an interest in the property by personal delivery or by certified mail, return receipt requested at the Person's dwelling house, usual place of abode, or regular place of business or employment. The notice and a copy of this Ordinance shall also be sent by certified mail to the owner of the property at the address listed in the records of the Swisher County Appraisal District.

D. If the City is unable to provide the owner with the notice and a copy of this Ordinance by personal delivery or by certified mail then the notice shall be published at least once in a local daily newspaper of general circulation and posted in a conspicuous place on the property.

## **V. Abatement of Public Nuisance**

If a public nuisance continues for more than ten days after the owner of the property has been notified pursuant to paragraph IV of this Ordinance, then the City may take whatever action is necessary to remove or eliminate the public nuisance, or have the public nuisance removed or eliminated.

**VI. Schedule of Costs and Fines, Statement, Late Fee for Failure to Pay**

- (A) If the City removes or eliminates a public nuisance or has the public nuisance removed or eliminated pursuant to paragraph V of this Ordinance then the Person(s) who have an ownership interest in the property shall be responsible for the cost of removing or eliminating the public nuisance based on the following schedule of costs:

After 10 days of a demand letter being mailed by certified mail or personally hand delivered to owner and issue is not resolved, a fine will be assessed.	\$25 up to \$500 Fine
For major equipment (tractor and mower)	\$80.00 for one lot not exceeding 7,000 square feet; \$125.00 per two contiguous lots not exceeding 14,000 square feet total; \$75.00 per hour additional for more than two contiguous lots.
For equipment operators. laborers	\$30.00 per hr. x number of hrs. per laborer
Fee for transporting waste to landfill, per trip; plus fee assessed by landfill	\$65.00 + fee assessed by landfill
Late fee for failure to pay bill within 15 days of receipt	\$35.00
Tire disposal (per tire)	\$4.00
Battery disposal per battery)	\$4.00
Appliance/furniture/junk/rubbish/disposal (per appliance/item)	\$15.00

- (B) An itemized statement of costs shall be given or sent to each Person who owns an interest in the property by personal delivery or by certified mail, return receipt requested at the Person's dwelling house, usual place of abode, or regular place of business or employment. The statement shall also be sent by certified mail to the owner of the property at the address listed in the records of the Swisher County Appraisal District.
- (C) A statement, which is not paid within fifteen days after it is received, shall incur a late fee of \$35.00. In addition, the amount due shall accrue interest at the rate often (10) percent per annum beginning fifteen days after the statement is received.

(D) The City of Kress may file suit to recover the amount due in the name of the City. A certified copy of the statement shall be deemed prima fascia evidence of the amount due

**VII. Prior Ordinances Repealed**

All ordinances or parts of ordinances inconsistent with the terms of this Ordinance are repealed; provided however, the repeal shall be only to the extent of the inconsistency and, in all other respects, prior ordinances remain effective.


**VIII. Savings Clause; Parts Severable**

If any provision, section, subsection, paragraph, sentence, clause or phrase of this Ordinance or the application of this Ordinance shall be held to be unconstitutional, void or invalid, then the invalidity shall not affect the remaining provisions of this Ordinance or its application to other persons or circumstances, and to this end, all provisions of this Ordinance are severable.


APPROVED and ADOPTED by the City Council of the City of Kress, Texas on the 20th day of September, 2022.

  
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Johnny M Taylor JR., Mayor

Attest:

  
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Deelane Buske

  
\_\_\_\_\_  
Glenda Davis

  
\_\_\_\_\_  
Galen Owen

  
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Dina Vuittonet

  
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Sara Vuittonet

