

**ORDINANCE NO. 20230215B**

**AN ORDINANCE OF THE CITY OF KRESS, TEXAS  
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 August 15, 2023, at 6:00 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 **20220920F** on September 20<sup>th</sup>, 2022, as a means of controlling the weeds now wishes to replace with amended conditions.

**WHEREAS**, State Transportation Code Chapter 311 Subchapter A. Sec 311.002 and Sec 311.003 ADDITIONAL AUTHORITY OF GENERAL-LAW MUNICIPALITY authorizes.

**WHEREAS**, the City of Kress now wishes to amend said Ordinance by establishing responsibility of property owner to maintain alley and streets.

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

1. Ordinance **20220920F** passed by Kress City Council on September 20<sup>th</sup>, 2022 is now repealed.
2. The following shall be the standard for property maintenance for the City of Kress as 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 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.
- D. It shall be the duty of any person owning, occupying, claiming or having supervision or control of any occupied or unoccupied property within the city to keep the area adjacent to his property line, including the front or side parkway between the property line or sidewalk and the curb and the rear or side parkway between the property line and the alley pavement or traveled way, or if there is no curb then within ten (10) feet outside such property line, free and clear of the matter referred to in Section II. Prohibited Accumulations. Where the alleyway is not open to traffic, the parkway in such cases shall be deemed to be between the property line and the centerline of the alleyway.
- E. A person commits an offense if he is an owner, occupant, or person who claims, supervises or controls occupied or unoccupied real property within the city accumulation of any other objectionable, unsanitary or unsightly matter, including, but not limited to, rubber tires, bottles, appliances, furniture, dismantled or disassembled vehicle parts. Streets and alleys may not be obstructed by personal dumpsters or containers of any kind. Appliances shall be presumed to

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.

be abandoned after remaining as such for ten (10) days after first notice of noncompliance within the provisions of this article. Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this section.

### **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 remove.**

In the event any person owning, occupying, claiming or having supervision or control of any occupied or unoccupied real property fails to comply with the provisions of this article, it shall be the duty of the enforcement officer to issue a notice to such person, firm, or corporation describing the location and type of violation and directing the abatement of violations of this article within a ten (10) day period. This notice shall be in writing and may be served on the owner, and may be served on the occupant or agent, by handing it to him in person, or by regular mail addressed to such owner, occupant or agent at his post office address as shown on the tax roll or other official record of the city or county; or, if personal service cannot be obtained or the post office address is unknown, by publication two (2) times within ten (10) days in the official newspaper of the city, or by posting the notice on or near the front door of each building on the property to which the violation relates, or by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates if the property contains no buildings. In the event any person owning, occupying, claiming or having supervision or control of any occupied or unoccupied real property fails to comply with the provisions of this article, and in the event such person has been previously issued the ten-day notice described herein within the calendar year, then the enforcement officer may issue a citation without additional notice.

### **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

- (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.

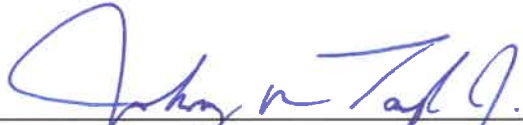
## **VIII. Savings Clause; Parts Severable**

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.

## **IX. Effective Date**

**This ordinance shall take effect upon passage.**

APPROVED and ADOPTED by the City Council of the City of Kress, Texas on the 15th day of August, 2023.

  
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Johnny M Taylor JR., Mayor

Attest:   
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Galen Owen