

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 Update 1265-14

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## **Council Action Requested:**

Consideration of Ordinance 1265-14 amending the Code of Ordinances by declaring certain swimming pools, fences, trees, tarps and junk to be public nuisances.

## **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. This was discussed at the last meeting and referred back to Staff for a few clean-up items.

The only update to this specific item is a duplicate paragraph was removed. This ordinance accomplishes the following:

- **Fence or Screening:** This ordinance creates a new section 34-89 titled "Dilapidated Fence or Screening". It includes the language 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 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 premises within public view. The purpose of this section is to replace “Specific Nuisance” as described below, and incorporates some of the eyesore items that are not adequately addressed currently.

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

**Financial Impact:** N/A

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City Manager  
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**Attachments:** Ordinance1265-14

**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 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.

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THE HONORABLE BILL AGAN, MAYOR

ATTEST:

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

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

APPROVED AS TO FORM AND LEGALITY:

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