

ORDINANCE NO. 200

AN ORDINANCE OF THE TOWN OF ANNETTA, TEXAS REGULATING DRAINAGE DITCH AND CULVERT MAINTENANCE; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Annetta is a type A general law municipality located in Parker County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, pursuant to Chapter 217 of the Texas Local Government Code, the Town has the authority to define and declare what constitutes a nuisance and establish abatement procedures to remove a nuisance; and

WHEREAS, pursuant to Chapter 51 of the Texas Local Government Code, the Town may adopt any ordinance that is necessary for the government, interest, welfare, or good order of the Town; and

WHEREAS, pursuant to Chapter 342 of the Texas Health and Safety Code, the Town may require the draining and regulating of any place in the municipality that contains stagnant water or is in any other condition that may produce disease; and

WHEREAS, pursuant to Chapter 342 of the Texas Health and Safety Code, the Town may also require the owner of real property in the municipality to keep the property free from weeds, brush, and conditions constituting a public nuisance; and

WHEREAS, most properties within the corporate limits of the Town have drainage ditches and culverts to promote proper drainage throughout the Town; and

WHEREAS, the Town Council finds that regulating the maintenance of culverts and ditches within the Town is necessary to prevent stagnant water, reduce conditions that may produce disease, and help promote proper and efficient drainage throughout the Town; and

WHEREAS, the Town Council further finds that regulating drainage ditch and culvert maintenance is in the interest of the health, safety, and general welfare of all residents.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ANNETTA, TEXAS:

**SECTION 1.
Prohibitions and Nuisance**

(a) It shall be unlawful for any person, firm, or corporation owning any lot, tract, parcel of land, or portion thereof, occupied or unoccupied, within the corporate limits of the Town, to:

(1) install or to maintain on such premises a culvert in such a manner that traps water or earthen material in any drainage ditch, or that otherwise impedes drainage within,

along, and through a drainage ditch or culvert. For the purposes of this section, earthen material includes soil, silt, clay, sand, gravel, rock, dirt, mud, grass, weeds, trees, brush, or any other organic material.

(2) install or to maintain on such premises a drainage ditch in such a manner that traps water within the ditch, diverts water out of the ditch, or that otherwise impedes drainage within, along, or through the ditch; or

(3) permit grass, weeds or any plant that is not cultivated to grow to a height greater than twelve (12) inches on an average or to grow in rank profusion within the drainage ditches of such premises.

(b) The conditions described above are hereby declared to be a public nuisance.

SECTION 2

Abatement

(a) If the owner of property in the Town does not comply with the provisions of Section 1 within seven (7) days of notice of a violation, the Town may:

(1) do the work or make the improvements required; and

(2) pay for the work done or improvements made and charge the expenses to the owner of the property.

(b) The notice must be given:

(1) personally to the owner in writing;

(2) by letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or

(3) if personal service cannot be obtained:

(A) by publication at least once;

(B) by posting the notice on or near the front door of each building on the property to which the violation relates; or

(C) by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.

(c) If the Town mails a notice to a property owner in accordance with Subsection (b), and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.

(d) In a notice provided under this section, the Town may inform the owner by regular mail and a posting on the property, or by personally delivering the notice, 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 Town 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 under this subsection occurs within the one-year period, and the Town has not been

informed in writing by the owner of an ownership change, then the Town without notice may take any action permitted by Subsections (a)(1) and (2) and assess its expenses as provided by Section 3.

SECTION 3 **Lien and expenses**

(a) The Town may assess expenses incurred under Section 2 against the real estate on which the work is done or improvements made in accordance with this section.

(b) To obtain a lien against the property, the mayor, municipal health authority, or municipal official designated by the mayor must file a statement of expenses with the county clerk of Parker County. The lien statement must state the name of the owner, if known, and the legal description of the property. A signature on a lien statement may be a facsimile signature as defined by Section 618.002, Texas Government Code. The lien attaches upon the filing of the lien statement with the county clerk.

(c) The lien obtained by the Town is security for the expenditures made and interest accruing at the rate of ten percent (10%) on the amount due from the date of payment by the Town.

(d) The lien is inferior only to:

- (1) tax liens; and
- (2) liens for street improvements.

(e) The Town may bring a suit for foreclosure in the name of the Town to recover the expenditures and interest due.

(f) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the Town in doing the work or making the improvements.

(g) The remedy provided by this section is in addition to any penalty section of this ordinance.

(h) The Town may foreclose a lien on property under this subchapter in a proceeding relating to the property brought under Subchapter E, Chapter 33, Texas Tax Code.

SECTION 4 **Additional Authority to Abate Dangerous Weeds**

(a) The Town may abate, without notice, weeds within a drainage ditch that:

- (1) have grown higher than 48 inches; and
- (2) are an immediate danger to the health, life, or safety of any person.

(b) Not later than the tenth (10th) day after the date the Town abates weeds under this section, the Town shall give notice to the property owner in the manner required by Section 2.

(c) 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 of the ordinance that occurred on the property;
 - (3) a statement that the Town abated the weeds; and
 - (4) an explanation of the property owner's right to request an administrative hearing about the Town's abatement of the weeds.
- (d) The mayor or his or her designee shall conduct an administrative hearing on the abatement of weeds under this section if, not later than the 30th day after the date of the abatement of the weeds, the property owner files with the Town Secretary a written request for a hearing.
- (e) An administrative hearing conducted under this section shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the Town's abatement of the weeds.
- (f) A municipality may assess expenses and create liens under this section as it assesses expenses and creates liens under Section 3. A lien created under this section is subject to the same conditions as a lien created under Section 3.

SECTION 5.

This ordinance shall be cumulative of all provisions of the Town of Annetta, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

SECTION 6.

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if a phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid or unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the Town Council without the incorporation in this ordinance of the invalid or unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 7.

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 not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.


SECTION 8.

The Town Secretary is hereby directed to publish this ordinance in compliance with state law.

SECTION 9.

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 21ST DAY OF FEBRUARY, 2019.



Bruce Pinckard, Mayor

ATTEST:



Jamee Long, Town Secretary

