

ORDINANCE NO. 5895

AN ORDINANCE AMENDING ARTICLE I, "MINIMUM HOUSING CODE," AND ARTICLE II, "PROPERTY MAINTENANCE AND NUISANCE ABATEMENT," OF CHAPTER 32, "HOUSING AND NEIGHBORHOOD SERVICES," OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A PENALTY CLAUSE, A SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Article I, "Minimum Housing Code," and Article II, "Property Maintenance and Nuisance Abatement," of Chapter 32, "Housing and Neighborhood Services," of the Code of Ordinances of the City of Garland, Texas, as amended, is hereby amended to read as follows:

"

CHAPTER 32

NEIGHBORHOOD SANITATION AND HOUSING STANDARDS

- Art. I. Minimum Housing Code
 - Div. 1. Generally, §§ 32.01 - 32.24
 - Div. 2. Housing Standards Board, §§ 32.25 - 32.29
- Art. II. Property Maintenance and Nuisance Abatement
 - Div. 1. Property Maintenance, §§ 32.50 - 32.79
 - Div. 2. Junked Vehicles; Public Nuisance; Abatement, §§ 32.80 - 32.84
- Art. III. Fair Housing
 - Div. 1. Generally, §§ 32.85 - 32.105

ARTICLE I. MINIMUM HOUSING CODE

DIVISION 1. GENERALLY

Sec. 32.01. Definitions.

In this article:

- (A) *Approved* means complying with all applicable federal, state and local laws, regulations and ordinances. In the absence of such laws, regulations or ordinances, 'approved' shall mean in conformance with applicable nationally recognized standards or specifications.

- (B) *Approved Repairs* shall mean repairs of minimum housing standard and/or health hazard ordinances which have been performed in a workmanlike manner, to current industry standards, utilizing materials and methods commonly associated with repairs of similar nature, and which are approved by the City.
- (C) *Board* means the building and standards commission, known as the Housing Standards Board, as established under Sec. 32.25.
- (D) *City* shall mean the City of Garland, acting through its City Manager or his designee.
- (E) *Comfortable Temperature Zone* means no less than 71 degrees Fahrenheit and no more than 81 degrees Fahrenheit.
- (F) *Comprehensive Premises Inspection* means the inspection of all dwelling units, laundries, storage rooms, club houses, meeting rooms, offices, building exteriors, swimming pools and grounds of a multifamily dwelling.
- (G) *Dwelling unit* means a building or structure designed or occupied as a residence for humans.
- (H) *Habitable* means the space, floor area or room in a dwelling unit used for living, sleeping, cooking and eating but excludes bathrooms, laundry rooms, pantries, closets and other storage space, foyers, hallways and utility rooms.
- (I) *Hot water* means water heated to a temperature of at least 110 degrees Fahrenheit measured at the faucet outlet.
- (J) *Improper* means not approved, inadequate, deteriorated, defective, insufficient or not in operating condition.
- (K) *Multifamily dwelling* means a building or buildings containing three or more dwelling units.
- (L) *Operating condition* means free of leaks, safe, sanitary and in good working order.
- (M) *Owner* means a person claiming or in whom is vested the ownership, dominion or title to real property including, but not limited to, the holder of fee simple title, the holder of a life estate, the holder of a leasehold estate or tenancy for a term of five or more years, the seller under a contract for

deed and a mortgage, trustee, receiver or executor in possession or control of real property. Owner includes the term "property manager."

- (N) *Premises* means a lot, tract or parcel of real property, including any buildings and structures on the land.
- (O) *Property manager* means a person who, for any form of consideration, has managing control of a premises.
- (P) *Required* means mandated by federal, state or local law, regulation or ordinance or necessary in order to place into operating condition.
- (Q) *Violation categories* are defined as follows:
 - (1) *Life safety violation* - a violation of the nuisance code, health code, fire code, or building code that represents an imminent threat of death or injury to persons on the premises of a single family or multifamily dwelling.
 - (2) *Critical violation* - a minimum housing standard violation or a health code violation that is capable of causing or contributing to injury or illness of occupants.
 - (3) *Non-critical violation* - a minimum housing standard or minor health code violation that 1) represents defects, damage, or deterioration in or on a structure, or 2) creates a decrease in general sanitation or hygiene.

Sec. 32.02. Violations; Penalty and Report of Inspections.

- (A) The owner of a premises that is substandard commits an offense. The occupant of a substandard premises commits an offense if the occupant causes or has caused the premises to be substandard.
- (B) It shall be a violation for an owner or occupant of a single-family or multifamily dwelling to occupy, or allow the occupation of, any structure or building that has been placarded as substandard by the City.
- (C) Unless otherwise specified in this article, no culpable mental

state is required for the commission of an offense under this article.

- (D) In addition to imposing a criminal penalty, the City shall have the power to enforce any provision of this article and any applicable provision of this Code of Ordinances under the provisions of subchapters B and C of Chapter 54 of the Texas Local Government Code. No enforcement remedy shall be exclusive of any other remedy the City may have under State law or City ordinances.
- (E) Whenever a routine inspection is made for an alleged violation at a single family or multifamily dwelling, the findings shall be recorded on a form approved by the City. The owner or property manager or other person in charge of the property shall be provided a copy of the inspection report, either in person or by mail. Notice of the alleged violations has been given to an owner when a copy of the inspection report: (1) is delivered in person to any owner, manager, or person in charge of the property; or (2) two days after the copy of the inspection report is deposited with the US Postal Service, addressed to any owner, manager, or person in charge of the property, with proper postage affixed. The inspection report may establish violation categories as defined in Sec. 32.01, which shall be corrected within a time as established in Subparagraph (F). The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.
- (F) Violation categories noted during an inspection shall be corrected in a time specified by the City, or as follows, whichever is the earliest:
 - (1) Life safety violations shall be corrected within 24-hours, provided that locations with life safety violations which have been safely isolated from occupants may be repaired by the date given on the notice.
 - (2) Critical violations shall be corrected within 72 hours of notice.
 - (3) Non-Critical violations shall be corrected within 30 days or by the date of the next inspection, whichever is greater.

Sec. 32.03. Substandard Premises.

(A) A premises is substandard under this article if any one or more, in any combination, of the following conditions exists on the premises:

(1) *Inadequate sanitation:*

- (a) Lack of a bathroom or the existence of an improper bathroom.
- (b) Lack of or an improper kitchen.
- (c) Lack of hot and cold running water to plumbing fixtures.
- (d) Lack of or improper required heating mechanical ventilation or electric facilities.
- (e) Lack of required amounts of natural light and ventilation.
- (f) Lack of or improper space or floor area.
- (g) Lack of required electrical lighting.
- (h) Dampness of habitable space.
- (i) Infestation of insects, vermin or rodents.
- (j) The existence of dead trees, tree limbs, holes, excavations or other conditions reasonably capable of causing injury to a person.
- (k) Lack of or improper connection to required sewage disposal.
- (l) Lack of or improper garbage and rubbish storage and removal facilities.
- (m) Lack or improper drainage so as to prevent standing or stagnant water on the premises.

(2) *Structural hazards:*

- (a) Improper foundations.
- (b) Improper flooring or floor supports.
- (c) Flooring or floor supports of insufficient size to carry imposed loads safely.
- (d) Members of walls, partitions or other vertical supports that split, lean, list, or buckle due to defective material, deterioration, or improper construction.
- (e) Members of walls, partitions or other vertical supports that are insufficient size to carry imposed loads safely.
- (f) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material,

- deterioration, or improper construction.
- (g) Member of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety.
 - (h) Fireplaces or chimneys which list, bulge or settle due to defective material, deterioration, or improper construction.
 - (i) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads safely.
 - (j) Lack of or improper required railings, stairs, steps and balconies.
- (3) *Faulty Smoke Detectors or Insufficient Number of Properly Functioning Smoke Detectors.* Each dwelling unit within a multifamily dwelling and each rented or leased single family residential dwelling shall be equipped with a minimum of one smoke detector device on each floor in proper working order, or the number specified by the International Residential Code, whichever is greatest. Smoke detector devices shall be listed and installed in accordance with provisions of the International Residential Code and the household fire warning equipment provisions of NFPA 72. It shall be an offense for the owner or property manager of a multifamily dwelling or the owner or property manager of a rented or leased single family residential dwelling to fail to provide smoke detector(s) as required by this section. It shall further be an offense for a tenant or occupant to render a provided smoke detector inoperable through the removal of the power supply.
- (4) *Improperly Maintained Roofs.* Roofs shall be maintained in good condition to prevent buckling, rotting, curling, or other defects. In the event that an improperly maintained roof is found to be failing, the City may require the repair or replacement of the roof to prevent consequential damage to the structure. Roof replacement materials, if not replaced on the entirety of the surface, shall be of similar material of the existing roof. Roof defects, when accompanied by other minimum housing violations, shall establish grounds for an interior inspection of the dwelling to determine failure of the roof and the existence of other deficiencies related thereto.

- (5) *Hazardous wiring.* Any wiring except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in operating condition.
- (6) *Hazardous plumbing.* Any plumbing except that which conformed with all applicable laws in effect at the time of installation, which has been maintained in operating condition and which is free of cross-connections or siphonage between fixtures.
- (7) *Hazardous mechanical equipment.* Any mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in operating condition.
- (8) *Faulty weather protection:*
 - (a) Improper, crumbling or loose plaster or wall coverings.
 - (b) Lack of or improper waterproofing of exterior walls, roof, foundations or floors, including broken windows and doors.
 - (c) Lack of or improper weather protection for exterior wall coverings including lack of paint, or weathering due to lack of paint or other approved protective covering.
 - (d) Lack of or improper exterior wall coverings or roof coverings.
- (9) *Inadequate exits.* Any building, or portion thereof, not provided with adequate exit facilities as required by this article, except, those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of construction. When an unsafe condition exists due to improper location of exits, additional exits may be required to be installed.
- (10) *Improper occupancy.* Any building, or portion thereof, occupied for living, sleeping, cooking or dining purposes which were not designed or intended to be used for such occupancies.
- (11) *Unsecured buildings.* Any building that is vacant and open. A building is open if any door, window or other opening is not securely closed to prevent unauthorized entry.

Sec. 32.04. Required standards.

(A) Room, space and floor area.

- (1) *Ceiling heights.* Habitable space shall have a ceiling height of not less than seven (7) feet except as otherwise permitted in this section. Kitchens, halls, bathrooms and toilet compartments shall have a ceiling height of not less than seven (7) feet measured to the lowest projection from the ceiling. Where exposed beam ceiling members are spaced at less than forty-eight (48) inches on center, ceiling height shall be measured to the bottom of those members. Where exposed beam ceiling members are spaced at forty-eight (48) inches or more on center, ceiling height shall be measured to the bottom of the deck supported by those members provided that the bottom of the members is not less than seven (7) feet above the floor.

In a room with a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the area thereof. No portion of a room measuring less than five (5) feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof. In a room with furred ceiling, the prescribed ceiling height is required in two-thirds of the area thereof, but in no case shall the height of the furred ceiling be less than seven (7) feet.

- (2) (a) *Floor area.* Every dwelling unit shall have at least one hundred fifty (150) square feet of habitable floor area for the first occupant. Other habitable rooms except kitchens shall have an area of not less than seventy (70) square feet. Where more than two (2) persons occupy a room used for sleeping purposes the required floor area shall be increased at the rate of fifty (50) square feet for each occupant in excess of two (2).
- (b) Nothing in this subsection shall prohibit the use of an efficiency living unit within a multifamily dwelling that meets the following requirements:
- (i) The unit shall have a living room of not less than two hundred twenty (220) square feet of

habitable floor area. An additional one hundred (100) square feet of floor area shall be provided for each occupant of such unit in excess of two (2).

(ii) The unit shall be provided with a separate closet.

(iii) The unit shall be provided with a kitchen sink, cooking appliances and refrigeration facilities each having a clear working space of not less than thirty (30) inches in front.

(iv) The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

(3) *Width.* No habitable room other than a kitchen shall be less than seven (7) feet in dimension. Each water closet stool shall be located in a clear space not less than thirty (30) inches in width. A clear space in front of the water closet stool of not less than twenty-four (24) inches shall be provided.

(4) *Capacity.* A dwelling unit shall be occupied by no more than four (4) individuals who are unrelated by blood, marriage, or adoption. The maximum number of persons, whether related or unrelated, who may occupy a dwelling unit is:

(a) Three (3) persons for an efficiency or one-bedroom dwelling unit;

(b) Five (5) persons for a two-bedroom dwelling unit;

(c) Seven (7) persons for a three-bedroom dwelling unit; and

(d) Nine (9) persons for a four-bedroom dwelling unit.

The occupancy limits of this subsection may be increased by two (2) persons for each bedroom in excess of four. Nothing contained in this subsection shall prohibit an owner or landlord from imposing more restrictive occupancy limits.

(B) Light and ventilation.

- (1) *Natural light and ventilation.* All habitable rooms within a dwelling unit shall be provided with natural light by means of exterior glazed openings with an area not less than the greater of one-tenth of the floor area of such room or ten (10) square feet. All bathrooms, water closet compartments, laundry rooms and similar rooms shall be provided with natural ventilation by means of operable exterior openings with an area not less than the greater of one-twentieth of the floor area of such room or one and one-half (1 1/2) square feet. All habitable rooms within a dwelling unit shall be provided with natural ventilation by means of operable exterior openings with an area of not less than the greater of one-twentieth of the floor area of such room or five (5) square feet.
- (2) *Origin of light and ventilation.* Required exterior openings for natural light and ventilation shall open directly onto a street or public alley or a yard or court located on the same lot as the building or when allowed by other law. Required exterior openings may open into a roofed porch where the porch:
 - (a) Abuts a street, yard or court;
 - (b) Has a ceiling height of not less than seven (7) feet; and
 - (c) Has a longer side at least sixty-five (65) percent open and unobstructed.

A required exterior opening in a room may open into a vent shaft which is open and unobstructed to the sky and not less than (4) feet in least dimension. No vent shaft shall extend through more than two (2) stories.

For the purpose of determining light and ventilation requirements, any room may be considered as a portion of an adjoining room when one-half of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area on the interior room or twenty-five (25) square feet, whichever is greater.

- (3) *Mechanical ventilation.* In lieu of required exterior

openings for natural ventilation, a mechanical ventilation system may be provided. Such system shall be capable of providing two (2) air changes per hour in all habitable rooms and in public corridors. One-fifth of the air supply shall be taken from outside. In bathrooms, water closet compartments, laundry rooms and similar rooms, a mechanical ventilation system, shall be connected directly to the outside and shall be capable of providing five (5) air changes per hour.

- (4) *Hallways.* All public hallways, stairs and other exit ways shall be adequately lighted at all times in accordance with the requirements of the Building Code.
- (5) *Screens.* All exterior windows designed to be openable on dwellings leased or rented to another person shall be provided with an approved screen, in good condition, and installed in a manner that protects against the entrance of insects; provided that a window of a dwelling in which a window air conditioner is installed may be exempted from this provision if the window is insect-proof.

(C) Sanitation.

- (1) *Dwelling Units.* Every dwelling unit shall be provided with a bathroom equipped with facilities consisting of a water closet, lavatory and either a bathtub or shower.
- (2) *Kitchen.* Every dwelling unit shall be provided with a kitchen and kitchen sink. Wooden sinks or sinks of similarly absorbent material are prohibited.
- (3) *Fixtures.* All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system. All plumbing fixtures shall be connected to an approved system of water supply and provided with hot and cold running water under adequate pressure necessary for normal operation. All tubs, lavatories and commodes shall be of an approved glazed earthenware type or of a similar approved nonabsorbent material.
- (4) *Room separations finish.* Every water closet, bathtub or shower required by this article shall be installed in a room which will afford privacy to the occupant. A room in which a water closet is located shall be separated from food preparation or food storage rooms. Every bathroom

shall have an approved moisture-resistant finish on the flooring or subflooring.

- (5) *Floor Coverings.* When in the opinion of the City, the floor covering of a dwelling unit, which is leased or rented to a party other than the owner, is in a condition that normal cleaning will not reduce mold spore and bacterial concentrations to safe levels, the floor covering shall be replaced with new floor covering which conforms to the currently-adopted version of the International Building Code.

(D) Mechanical requirements.

- (1) *Heating.* Every dwelling unit shall be provided with approved heating facilities in operating condition capable of maintaining a room temperature of seventy-one (71) degrees Fahrenheit at a point three (3) feet above the floor in all habitable rooms.
- (2) *Electrical power.* Where electrical power is available within three hundred (300) feet of a dwelling unit, the dwelling unit shall be connected to such electrical power. Every habitable room shall contain at least two (2) supplied electrical convenience outlets or one (1) convenience outlet and one (1) supplied electrical light fixture. Every water closet compartment, bathroom, laundry room, furnace room and public hallway shall contain at least one (1) supplied electric light fixture. Electric circuits and outlets shall be maintained in operating condition and shall be sufficient to safely carry a load imposed by normal use of appliances.
- (3) *Water heaters.* All water heaters shall be installed in accordance with the Plumbing Code and shall be provided with an over-temperature safety device manufactured, listed and installed in accordance with applicable nationally recognized safety standards for such devices. Every water heater shall have a discharge line the same diameter as the outlet and shall drain to the exterior of the building. If it is not reasonably possible to drain the discharge line to the exterior of the building, the line shall terminate not less than six (6) inches nor more than eight (8) inches from the floor. No water heater which depends upon direct combustion of fuel for heat shall be installed in any room used for sleeping or

in a bathroom, nor in any closet or other confined space opening into a sleeping room or bathroom. In buildings constructed prior to the adoption of this ordinance, the water heater may be installed in any location as long as approved safety dividers or shields are properly in place for the water heater and the installation does not create an additional hazard.

- (4) *Ventilation for fuel-burning devices.* Each heating and cooking device that burns solid fuel shall be properly connected to a chimney or flue. Chimney, flue and vent attachments shall be maintained in operating condition.
- (5) *Air Conditioning.* Refrigerated air equipment shall be provided in multifamily or single-family structures rented or leased to a party other than the owner and shall be maintained in operable condition and must be capable of maintaining the inside of the dwelling unit at a comfortable temperature zone, not to exceed a maximum temperature of 81 degrees Fahrenheit from May 1 through October 1.

It shall be an affirmative defense to this section if the outdoor ambient temperature exceeds 101 degrees Fahrenheit and the indoor ambient temperature can be maintained at no less than 20 degrees below the outdoor ambient temperature.

- (6) Each owner of a multifamily dwelling which utilizes a cooling tower as a functional portion of an HVAC system shall, at the owner's expense, perform annual testing of the cooling tower for the presence of Legionella pneumophila. The testing shall be performed by a third-party entity using analytical and collection procedures approved by the City. In the event that the property owner cannot provide a proper sampling technique, the property owner, on a form provided for such use by the City, may request that the sample be obtained and tested by the City of Garland Health Department and reimburse same for incurred expenses. The owner shall provide the laboratory test report to the City within 10 days of receipt for negative results and within 48 hours of receipt for positive test results.
- (7) When, in the opinion of the City, there is epidemiologic, microbiological, or physical evidence of the presence of

a bacterial or fungal pathogen within the water supply, cooling tower(s), or HVAC system of a multifamily dwelling, the owner shall, at the owner's expense, utilize a third-party testing entity and perform tests for human pathogens. The owner shall test for any pathogens specified by the City utilizing analytical procedures approved by the City. The owner shall provide the original document of the test results to the City within 48 hours of receipt by the owner.

(E) Exits.

- (1) Every dwelling unit shall have access directly to the outside or to a public corridor.
- (2) Every sleeping room below the fourth story shall have at least one operable window or exterior door for emergency egress or rescue. The units shall be operable from the inside to provide a full, clear opening without the use of separate tools. All egress and rescue windows from sleeping rooms shall have a minimum net clear opening of five (5) square feet on the first floor and five and seven-tenths (5.7) square feet on other floors. The minimum net clear opening height dimension shall be twenty-four (24) inches. The minimum net clear opening width dimension shall be twenty (20) inches. Where windows are provided as a means of egress or rescue, they shall have a finished sill height not more than forty-four (44) inches above the floor.

Sec. 32.05. Responsibilities of owner, manager or occupant.

(A) An owner of a premises remains liable for violations of this article even though an occupant of those premises is responsible for the premises and regardless of any agreement between the owner and another that imposes or attempts to delegate responsibility for the premises to the other.

(B) Offenses.

- (1) The owner of a premises which is substandard commits an offense.
- (2) The occupant of a substandard premises commits an offense if the occupant causes or has caused the premises to be substandard.

- (C) *Approved Repairs.* All corrections of minimum housing standard violations and health hazards shall be completed using approved repairs.

Sec. 32.06. Termination of Utility Services.

- (A) The City may initiate termination of utility services, or a hold on reconnecting or reinstating utility services that have been terminated, as the case may be, to or for a dwelling unit that is substandard, or unfit for human habitation by certifying, in writing, that the dwelling unit is substandard or unfit for human habitation.
- (B) Upon initiating a utility termination or hold, the City shall promptly notify the owner by written notice. The owner may appeal the request by serving the City with a written notice of appeal within (5) days of receipt of notice.

Sec. 32.07. Multifamily License.

- (A) A person who rents or leases three or more residential dwelling units to another person or persons which are part of a multifamily dwelling must obtain and maintain a current and valid multifamily license. The requirement to obtain a multifamily license shall apply to persons who rent or lease to other persons three or more dwelling units at a single premises or at a single apartment complex.
- (B) As a condition of obtaining and maintaining a valid multifamily license, an owner shall comply with all applicable sections of Articles III (Nuisance Abatement), V (Noise Control), and VI (Semi-Public Swimming Pools) of Chapter 22 (Health) of Garland's Code of Ordinances. All provisions of Chapters 22 and 32 which are applicable to dwelling units of a multifamily dwelling apply equally to related non-dwelling structures of a premises, including but not limited to offices, storage rooms, laundry facilities, club houses, and swimming pool related buildings. An applicant for a license shall file with the City a written application, on the form provided for that purpose, signed by the owner or the property manager. Applicants with multifamily dwellings at more than one location, shall file a separate application for each location. The following terms, conditions and requirements shall apply to the issuance of any license under this

division:

- (1) The following information shall be required in the application: Name, address, telephone number of owner, property manager and mortgagee; trade names of the multifamily dwelling; name and addresses of all registered agents where an applicant is other than a natural person or sole-proprietor; zoning categories; number of dwelling units broken down as number of efficiencies, one bedroom, two bedrooms, three bedrooms, and four bedrooms; habitable space in each unit; and habitable space in each bedroom.
- (2) All licenses are valid for one year from the date of issuance unless suspended or revoked for violations of this Chapter.
- (3) Upon a change of ownership of the multifamily dwelling, a new license shall be obtained within thirty (30) days of the change with the fee charged on a prorated basis. The owner shall notify the City within thirty (30) days of a change of ownership or property manager. An owner of a multifamily dwelling shall file with the City the trade name of his multifamily dwelling. It shall be unlawful for any person to use or permit to be used more than one trade name at a single location.
- (4) The annual fee for a license, including a license renewal, is eight dollars and fifty cents (\$8.50) per dwelling unit, with a minimum of fifty dollars (\$50.00) per multifamily dwelling. The fee for a license issued during the year shall be prorated on the basis of a whole month. The fee for issuance or replacement for lost, destroyed or mutilated licenses is ten dollars (\$10.00).
- (5) The owner shall designate on the application a natural person who shall be the agent for purposes of notice and other communications provided in this chapter.
- (6) The owner shall present evidence that the multifamily dwelling complex has been treated for insects, rodents and vermin by a certified person, licensed under the Texas Structural Pest Control Act, within the preceding six (6) months.
- (7) The owner shall certify that all dwelling units are

equipped with a smoke detector device in proper working order.

- (8) Any application for license that does not provide all of the information in Subsection (1) above shall be considered incomplete. No person who has submitted an incomplete application shall receive a multifamily license. It shall be an offense to submit an incomplete application to the City.

- (C) A license issued pursuant to this chapter shall be posted and displayed in the multifamily dwelling office or a conspicuous place to which occupants have access. A replacement license may be issued for one lost, destroyed or mutilated upon application on the form provided by the City. A replacement license shall have the word 'replacement' stamped across the face and shall bear the same number as the one it replaces.

- (D) A multifamily dwelling license is not assignable or transferable.

- (E) (1) Application for the operation of a multifamily dwelling license constitutes consent for the City to inspect individual dwelling units to determine compliance with this Chapter. Agents of the City, after proper identification, shall be permitted to enter any multifamily dwelling unit within the City of Garland for the purpose of making inspections to determine compliance with this Chapter. For purposes of inspecting an occupied multifamily dwelling, the City shall (a) obtain permission from the renter prior to entering or (b) enter using the license or permit holder's authority to inspect the license or permit holder's property (after allowing the license or permit holder to provide a 24-hour notice-of-inspection to the tenant). No less than annually, the City shall inspect a representative sample, as determined by the City, of those individual dwelling units specified in the most recent multifamily license application. When a representative sample reveals that greater than twenty percent of inspected dwelling units are substandard, the City may perform a comprehensive premises inspection to determine compliance with this Chapter.

- (2) In the event that more than two (2) inspections authorized by this Chapter are required for a noted violation, then the property owner shall be charged a one

hundred dollar (\$100.00) reinspection fee for the third and each subsequent inspection.

- (F) *Suspension of License.* A multifamily license may be temporarily suspended by the City for (1) repeated failure of the license holder to comply with the requirements of this Chapter, (2) for possessing one or more substandard units that have been substandard for greater than 60 days, or (3) for possessing a multifamily dwelling that represents an imminent threat to occupants. The license holder shall be notified in writing that the license is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided, if a written request for a hearing is provided to the City by the license holder.
- (G) *Reinstatement of Suspended License.* Any person whose license has been suspended may, at any time, make written application for a reinspection for the purpose of reinstating the license. Within ten (10) days following receipt of a request, which shall include a statement signed by the applicant that in the applicant's opinion, all of the violations that caused suspension of the license have been corrected, the City shall make a reinspection. Upon reinspection, if all life safety, critical, and non-critical violations have been corrected, the license shall be reinstated.
- (H) *Revocation of License.* For serious or repeated violations of any of the requirements of this Chapter, or for interference with the City or any of his/her agents in the performance of their duties, the multifamily dwelling license may be permanently revoked after the City has provided an opportunity for a hearing. Prior to such action, the City shall notify the holder of the license in writing, stating the reasons for which the license is subject to revocation and advising that the license shall be permanently revoked at the end of ten (10) days from the service of such notice unless a request for a hearing is filed with the City, by the license holder, within such ten (10) day period. A license shall be suspended for cause pending its revocation or a hearing relative thereto.
- (I) *Hearings.* The City Manager shall assign one or more Hearings Officer(s) to conduct hearings provided for in this section at a time and place designated by the Hearings Officer(s). Based on the record of such hearing, the Hearings Officer(s) shall make a finding and shall sustain, modify, or rescind any

official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the license holder by the City.

Sec. 32.08. Reduction or vacation of occupancy.

- (A) The City shall, by certified mail, return receipt requested, send to the last known address of the owner, lessee and occupant of the structure, notice of a hearing to consider:
- (1) Reduction of occupancy load of a structure or portion of a structure that is overcrowded; or
 - (2) Vacation of a structure or portion of a structure that is unsanitary or unsafe and, therefore, presents a danger to the health, safety or welfare of occupants.

In order to protect the health, safety and welfare of the occupants of a substandard structure with readily apparent structural hazards that constitute imminent danger, the City may order the immediate vacation of the structure.

- (B) The City may place or cause to be placed a placard on a structure or dwelling unit that is unsanitary or unsafe warning of its dangerous condition. A person commits an offense if:
- (1) Without authority from the City, the person removes or destroys a placard placed by the City;
 - (2) The person occupies a vacant structure or dwelling unit on which the City has placed a placard; or
 - (3) As owner of a structure or dwelling unit, the person authorizes a person to occupy a vacant structure or dwelling unit on which the City has placed a placard.

Prior to the removal of the placard, the owner of such structure shall contact the City and request an inspection. The fee for removal of the placard placed on single-family structures (including garages and accessory buildings) shall be fifty dollars (\$50.00), and one hundred dollars (\$100.00) for each multi-family unit. Should the structure/unit fail a final inspection, the fee shall still apply and be collected again at the time the placard is finally removed. The fee shall be payable to the City of Garland.

- (C) A public hearing to consider reduction of occupancy load or vacation of a structure shall be held before the Board not less than ten (10) days after receipt of notice by the owner, lessee and occupants or not less than five (5) days after the notice is returned undelivered. A hearing may be initiated by anyone having evidence of overcrowding and signing a complaint form provided by the City. The complainant shall present evidence of the overcrowded conditions of the structure and the owner, lessee or occupant may present evidence.
- (D) The Board shall order reduction of the occupancy load if it finds the structure or dwelling unit is overcrowded or vacation of a structure or dwelling unit if it finds the structure is dangerous to the health, safety or welfare of the residents. Notice of the order to reduce the occupancy load or to vacate shall be given to the occupants and the owner. If any party is aggrieved by the decision of the Board, the person may appeal the decision to a district court within ten (10) days, where the matter shall be tried on the basis of a substantial evidence rule.
- (E) Each occupant of a structure or dwelling unit that has been ordered vacated shall vacate the structure or dwelling unit within a specified time determined by the Board. No person shall occupy a structure or dwelling that has been ordered vacated. The occupants of a structure or dwelling unit that has been ordered reduced in occupancy load shall reduce the occupancy to the number ordered by and within the time specified by the Board.

Sec. 32.09. Single Family Permitting and Inspection.

- (A) A person who rents or leases to another person a single-family residential dwelling shall obtain a single-family rental permit. It shall be an offense for a person to own or possess a single-family residential dwelling that is rented, or is offered for rental, who does not possess a valid permit.
- (B) An applicant for a single-family rental permit shall file with the City a written application, on the form provided for that purpose, and signed by the owner of the dwelling to be permitted. An applicant possessing single-family residential dwellings found at more than one location shall file a separate application for each location. The following terms, conditions, and requirements shall apply to the application

for permit under this section:

- (1) The application shall include:
 - (a) the name, physical street address, telephone number and driver's license number of the owner, and of any and all property managers, as that term is defined above;
 - (b) the legal name, all trade names, the registered agent, managing partner, or other person authorized to accept service of process on behalf of the owner if the owner is other than an individual; and
 - (c) the name, telephone number and driver's license number of the tenant responsible for the dwelling at the time of application.
 - (d) The applicant may designate on the application or updated application an agent for service of process who shall be the authorized agent for purposes of notice and other communications provided in this Section.
 - (e) The applicant shall certify that the single-family residential dwelling for which the application or updated application is submitted is equipped with a smoke detector device in proper working order.
- (2) Failure to submit a complete, accurate, and timely application shall be an offense.

(C) *Implementation Process at Time of Adoption.* A person who rents or leases to another person a single family residential dwelling shall file with the City a written application for a single family rental permit and pay the permit fee no later than sixty (60) days from the effective date of this ordinance.

(D) A single-family rental permit issued pursuant to this Section shall be posted and displayed in the permitted dwelling at a place in which occupants have access and where it will be conspicuous to City agents or employees upon inspection. A replacement permit may be issued for one lost, destroyed, or

mutilated upon application on the form provided by the City, plus a \$6.00 replacement fee. A replacement permit shall have the word "replacement" stamped across the face and shall bear the same number as the permit it replaces.

(E) A permit is not assignable or transferable.

(F) Inspection:

- (1) At the time of adoption, all single family rental properties will be subject to inspection for the purposes of ensuring compliance with the minimum housing standards set forth in the Code of Ordinances of the City of Garland. Failure of an owner, who is not a resident at the property, to allow an inspection of a single family rental property in a timely manner upon the request of the City shall be an offense.
- (2) The City shall not allow the continuance of a permit for any single-family rental dwelling that is not in compliance with the minimum housing standards set forth in the Code of Ordinances of the City of Garland.
- (3) Each permitted single-family rental dwelling shall be inspected by the City a minimum of once annually as a condition of the permit. Follow-up inspections shall be conducted as necessary to verify compliance with the minimum housing standards set forth in the Code of Ordinances of the City of Garland. Any inspection cycle that requires more than one follow-up inspection to determine compliance shall result in an additional \$50 reinspection fee. Should repairs not be completed in a timely manner, or should the noted deficiencies result in life-safety or critical violations, the City may take actions as outlined in subparagraphs (H)-(J) as necessary to protect the health, safety and welfare of the occupants. All complaints shall be investigated unless deemed invalid by the City. Failure of the property owner or owner's representative to make a scheduled appointment without a 24-hour cancellation notice shall be an offense.
- (4) The City is authorized to obtain a search warrant to conduct an inspection permitted by this section when consent to enter the property for the inspection has been refused or otherwise cannot be obtained; provided,

however, that no search warrant shall be obtained without probable cause to believe that a fire or health hazard or violation or unsafe building condition is present on the premises sought to be inspected. A search warrant is not authorized based solely upon the failure of an owner to obtain a permit under this section.

(G) Permit Term and Fee.

(1) Each single-family rental permit issued under this section shall be valid for one-year from its date of issuance, unless suspended or revoked for cause.

(2) Applications for permit shall include an annual permit fee of sixty-five (\$65.00) dollars.

(H) It shall be an affirmative defense to prosecution under Section 32.09(A) that the single-family residential dwelling was rented or leased for a period of less than sixty (60) days to a person who was the immediate past owner of the dwelling or who shall be the immediate next owner of the dwelling.

(I) *Suspension of Permit.* A single family rental permit may be temporarily suspended by the City for (1) repeated failure of the permit holder to comply with the requirements of the City of Garland's Code of Ordinances, (2) for maintaining the permitted unit in a substandard condition, or (3) for possessing a single family rental dwelling that represents an imminent threat to occupants. The permit holder shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided, if a written request for a hearing is provided to the City by the permit holder. If, in the opinion of the City, life-safety or critical violations exist on the premises of a single family rental property, the City may order a temporary hold on utilities and/or order the property vacated as referenced in Section 32.08(A)(3). An order to vacate may not be imposed for non-critical violations. The order to vacate may be appealed as referenced in subparagraph (L); however, such appeal shall not entitle the continued habitation of the property unless the order to vacate is rescinded by the hearings officer.

(J) *Reinstatement of Suspended Permit.* Any person whose permit has been suspended may, at any time, make written application for a reinspection for the purpose of reinstating the permit.

Within ten (10) days following receipt of a request, which shall include a statement signed by the applicant that in the applicant's opinion, all of the violations that caused suspension of the permit have been corrected, the City shall make a reinspection. Upon reinspection, if all life safety, critical, and non-critical violations have been corrected, the permit shall be reinstated.

(K) *Revocation of Permit.* For serious or repeated violations of any of the requirements of this Chapter, or for interference with the City or any of its agents in the performance of their duties, the single family rental permit may be permanently revoked after the City has provided an opportunity for a hearing. Prior to such action, the City shall notify the holder of the permit in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of ten (10) days from the service of such notice unless a request for a hearing is filed with the City, by the permit holder, within such ten (10) day period. A permit shall be suspended for cause pending its revocation or a hearing relative thereto.

(L) *Hearings.* The hearings provided for in this section shall be conducted by the City Manager or City Manager's designee at a time and place designated by the City Manager. Based on the record of such hearing, the City Manager or City Manager's designee shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the City.

Secs. 32.10 - 32.24. Reserved.

DIVISION 2. HOUSING STANDARDS BOARD

Sec. 32.25. Creation of Building and Standards Commission.

(A) There is hereby created a building and standards commission which shall be known as the 'Housing Standards Board.' All of the duties, functions and powers of the Housing Standards Board previously established are hereby vested in the Board created in this section.

- (B) The Board shall consist of nine (9) members appointed by the City Council. Members of the Board shall serve for the terms of two (2) years. Members of the Board shall annually elect a chairperson and a vice-chairperson.
- (C) Meetings of the Board shall be held at the call of the chairperson and at such other times as determined by the Board. The chairperson or, in the absence of the chairperson, the vice-chairperson may administer oaths and compel the attendance of witnesses.
- (D) The Board shall keep minutes of its proceedings showing the vote of each member on each question. The minutes shall also show whether a member was absent or failed to vote. The Board shall also keep records of its examinations and other official actions. The minutes and records shall be filed immediately with the secretary of the Board and shall be public record. The Board shall submit a summary of all action taken by the Board to the City Council on a quarterly basis.
- (E) All cases before the Board shall be heard by at least five (5) members. The concurring vote of a majority of the members voting is necessary to take action by the Board.
- (F) The City or the designated representative of the City shall present all cases to the Board.

Sec. 32.26. Jurisdiction of the Board.

The Board shall have jurisdiction to:

- (A) Hear and determine cases concerning alleged violations of ordinances:
 - (1) for the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;
 - (2) relating to the fire safety of a building or improvement; including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;

- (3) relating to dangerously damaged or deteriorated buildings or improvements; or
 - (4) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents.
- (B) Require the vacation, relocation of occupants, securing, repair, removal or demolition of a building that is dilapidated, substandard, or unfit for human habitation and which is a hazard to the public health, safety and welfare; and
- (C) Exercise such other powers and authority conferred upon the Board by law or ordinance.

Sec. 32.27 Powers of the Board.

The Board may:

- (A) Order the repair, within a fixed period, of buildings found to be in violation of an ordinance;
- (B) Declare a building substandard in accordance with the powers granted by this subchapter;
- (C) Order, in an appropriate case, the immediate removal of persons or property found on private property, enter on private property to secure the removal if it is determined that conditions exist on the property that constitute a violation of an ordinance, and order action to be taken as necessary to remedy, alleviate, or remove any substandard building found to exist;
- (D) Issue orders or directives to any peace officer of the state, including a sheriff or constable or the Director of Police Services of the City, to enforce and carry out the lawful orders or directives of the commission; and
- (E) Determine the amount and duration of a civil penalty not to exceed one thousand dollars (\$1,000.00) a day for a violation of an ordinance for a commercial or multifamily property and one hundred dollars (\$100.00) a day for a violation of an ordinance for a residential property. In assessing a civil penalty the Board shall consider the severity of the violations present, the history of compliance of the property

or the owner and the efforts taken, if any, to correct the violations.

Sec. 32.28. Proceedings Before the Board.

- (A) The City may initiate a case before the Board by filing a complaint with the Board. Any person desiring to initiate a case before the Board must first file the case with the City on forms or in a format prescribed by the City. The City shall then initiate a case if the City determines that sufficient facts and evidence exist to proceed.
- (B) Notice of all proceedings before the Board must be given:
 - (1) by certified mail, return receipt requested, to the record owners of the affected property, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk of the county in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing the lien or other applicable instruments on file in the office of the county clerk;
 - (2) to all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable; and
 - (3) by publishing the notice in a newspaper of general circulation in the City on one occasion before the tenth (10th) day before the day fixed for hearing.

The notice shall be mailed and posted before the 10th day before the date of the hearing before the Board and shall state the date, time and place of the hearing. If the proceeding concerns a substandard building, the notice shall also contain an identification of the property on which the building is located, a brief description of the violation(s) present and a statement that the City will vacate, secure, remove, or demolish the building or relocate the occupants of the building (at the owner's expense) if corrective action is not taken within the time ordered.

- (C) A copy of the final decision of the Board shall be mailed by first class mail, certified return receipt requested, to all persons to whom notice is sent under subsection (B) above. The

copy shall be mailed promptly after the decision of the Board becomes final pursuant to Sec. 32.29.

- (D) Within ten (10) calendar days after the date of the mailing described in subsection (C) above, a copy of the final decision shall be published one time in a newspaper of general circulation in the City and a copy shall be filed with the City Secretary.

Sec. 32.29. Finality of Board Order; Judicial Review.

An order of the Board is final upon execution of the order by the chairperson (or a member acting in the absence of the chairperson). A person aggrieved by a decision of the Board may appeal that decision to a district court in accordance with the provisions of Sec. 54.039 of the Texas Local Government Code.

Sec. 32.30 - 32.49. Reserved.

ARTICLE II. PROPERTY MAINTENANCE AND NUISANCE ABATEMENT

DIVISION 1. PROPERTY MAINTENANCE

Sec. 32.50. Definitions.

For the purposes of this article, all the terms used herein shall be interpreted as follows:

- (A) *Abandoned refrigerator* shall mean any refrigerator, ice box, air-tight container or semi-air-tight container possessing a capacity of one-and-one-half cubic feet or more and an opening of 50 square inches or more and which has a lid or door equipped with a latch or other fastening device capable of securing such door or lid shut, and such refrigerator, ice box, air-tight or semi-air-tight container is located outside any dwelling, building or other structure or within any warehouse or storage room or any unoccupied, unsecured, or abandoned dwelling.
- (B) *Air contaminant* means particulate matter, dust, fumes, gas, mist, smoke, vapor or odor, or any combination thereof, produced by processes other than natural.
- (C) *Air pollution* means the presence in the atmosphere of one or

more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect humans, animal life, vegetation or property, or as to interfere with the normal use and enjoyment of animal life, vegetation or property.

- (D) *Brush* shall mean scrub vegetation or dense undergrowth.
- (E) *Carrion* shall mean the dead and putrefying flesh of any animal, fowl or fish.
- (F) *Commercial solid waste container* shall mean a container used to store municipal solid waste which has a volume greater than two cubic yards.
- (G) *Filth* shall mean any matter in a putrescent state.
- (H) *Encroachment* shall mean any object, structure or vegetation which obstructs or otherwise impedes or is likely to obstruct or otherwise impede the lawful passage of traffic, vehicular and pedestrian, over any street, alley, alley easement, utility easement greater than 10 feet in width, or sidewalk in the city.
- (I) *Garage Sale* shall mean the offering for sale of personal and/or household property at a non-business location for a temporary period of time and shall also include "yard sale," "patio sale," "sample sale," or other similar terms.
- (J) *Housing Standards Board* means that Board defined in Section 32.25 of this Code.
- (K) *Improper storage* shall mean the outdoor storage, for a period greater than 24 hours, in a residential district, as defined by the Zoning Ordinance, of articles and material subject to deterioration by the elements, including but not limited to furniture and appliances other than those customarily installed or used out-of-doors, boxes, vehicle parts, and paper; any material which is stored in a disorderly manner or in such a manner as to offer harborage to vermin; any cut wood, firewood, lumber, or other building material, except masonry, which is not stored a minimum of six inches above the ground.
- (L) *Impure or unwholesome matter* shall mean any putrescible or nonputrescible condition, object or matter which tends, may or

could produce injury, death or disease to human beings.

- (M) *Institutional site garage sale* shall mean a garage sale located at a church, school, adult or child care center, hospital or other similar entity.
- (N) *Multifamily residence garage sale* shall mean a garage sale located at a residentially-zoned property which has four or more dwellings.
- (O) *Notice* shall mean given personally or delivered by US Postal Service in writing by a 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; to the occupant or person in charge, or if personal service cannot be obtained, by publication at least once in a paper of general circulation within the County of Dallas; or, by posting notice on or near the front door of each building on the property to which the violation relates, or by posting notice on a placard attached to a stake driven into the ground on the property to which the violation relates. In a notice provided under this section, the City may by regular mail and a posting on the property, or by personally delivering the notice, notify the owner 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 City may without further notice may correct the violation at the owner's expense and assess the expense against the property.
- (P) *Nuisance* shall include stagnant or unwholesome water, sinks, privies, filth, carrion, weeds, rubbish, brush and refuse, impure or unwholesome matter of any kind, sewage exposed to the atmosphere, objectionable, unsightly or unsanitary matter of whatever nature, litter as defined elsewhere in this Code, harborage for rodents or parasitic insects, open wells, abandoned refrigerators, animal pen or enclosures which have become offensive, improper storage, graffiti, encroachment, substandard premises, junk motor vehicles, junked boats, junked off-road motorcycles or junked all terrain vehicles, poison ivy, poison oak, or poison sumac (within 50 feet of an occupied dwelling,) and potable water nuisances.
- (Q) *Objectionable, unsightly or unsanitary matter* shall mean any matter, condition or object which is objectionable, unsightly or unsanitary to a person of ordinary sensitivity.

- (R) *Outdoor decorative lighting* shall mean electrical wiring with one or more bulbs or illuminated fixtures that is placed on a building or in a yard for an indefinite period.
- (S) *Open well* shall mean any well, or cistern having a depth of ten (10) feet or greater and a width not greater than six (6) feet or any manmade pit, hole or excavation not sufficiently protected or guarded so as to insure the safety of all passing by or near same.
- (T) *Potable water nuisance* means the presence of pooled or standing water from a potable water supply in a quantity and location that may provide a breeding place for mosquitoes, the discharge of potable water to adjacent property in a volume or at a rate that damages vegetation, buildings, fences or other structures on the adjacent property, or the discharge of potable water to a street or other public property that creates a hazard to traffic due to the presence of accumulated water or ice.
- (U) *Refuse* shall mean any homogeneous or heterogeneous accumulation of worn out, used up, broken, rejected or worthless materials.
- (V) *Rubbish* shall mean trash, debris, rubble, stone, fragments of building materials, mounds of dirt or rock and any other material.
- (W) *Single family residence garage sale* shall mean a garage sale located at a single family residence, duplex or triplex.
- (X) *Temporary Portable Storage Container* shall mean a portable storage building or container with an interior volume greater than 400 cubic feet and that is rented, leased, or loaned to a person and intended for short-term storage of personal property.
- (Y) *Sewage* shall mean wash water and water-carried animal, culinary, and industrial wastes; liquid waste containing human excreta, and other matter, flowing in or from a property drainage system or sewer. Excreta include feces, urine, secretions from the skin, expectoration, liquid wastes from dwellings and institutions, stables, and business buildings.
- (Z) *Source* means any point of origin of an air contaminant.

(AA) *Unmanaged Landscape Vegetation* shall mean (1) landscape trees, bushes, shrubs, vines, brush and ground cover plants that, due to lack of trimming, pruning and shaping, have become unsightly to persons of ordinary sensibilities, (2) dead trees, shrubs, vines, brush or ground cover and (3) trees that represent a safety hazard due to disease or damage.

(BB) *Weeds* shall mean uncultivated or cultivated vegetation, including grass, having a height in excess of twelve (12) inches.

Any word not herein defined shall be construed in the context used in ordinary interpretations.

Sec. 32.51. Air pollution.

A person commits an offense if he causes, suffers, allows or permits the emission or discharge of any air contaminant which causes or which will cause air pollution.

Sec. 32.52. Weeds.

A person commits an offense if he permits, suffers or allows weeds on any lot or lots, grounds or yards under his ownership or control within the city limits.

It shall be a defense to this section that such vegetation is:

(A) An agricultural crop, located on property possessing an agricultural tax exemption as issued by the Dallas County Central Appraisal District, provided that:

(1) Such crop is maintained a minimum of 50 feet from any property line adjacent to any developed non-residential property and 100 feet from any property line adjacent to developed residential property; separation by alley rights-of-way notwithstanding;

(2) Such crop is maintained a minimum of 50 feet from any property line adjacent to the right-of-way line of a major thoroughfare as defined by the City of Garland Thoroughfare Plan; and

- (3) Such crop is maintained in such a manner so as to be free from an abundance of dead plant materials which are, or are likely to be, a fire hazard.
- (B) Of natural historic or scientific significance, provided that:
 - (1) A declaration of such significance describing the particular plant or plant varieties being preserved, shall be submitted by the occupant or owner of the property to the City;
 - (2) A management plan describing how such property will be maintained in such a manner so as to preclude fire hazards and creation of conditions inimical to the public health. Such management plan shall be subject to the approval of the City; and
 - (3) Such property shall be maintained in accordance with the submitted management plan; or
- (C) Decorative flowers, vines, bushes, shrubs, plants or trees.

Sec. 32.53. Nuisance.

- (A) A person commits an offense if the person causes, suffers, or allows a nuisance on any lot or lots, grounds or yards, or any other place in the city.
- (B) *Unmanaged Landscape Vegetation.*
 - (1) It shall be an offense for a property owner or occupant to possess unmanaged landscape vegetation on any developed property.
 - (2) It shall be an affirmative defense to prosecution under this section that the unmanaged landscape vegetation
 - (a) exists within a drainage easement; and
 - (b) does not constitute a harborage for rodents which are capable of disease transmission to people.
- (C) *Discharge of Yard Waste.* It shall be an offense for any person to cause, suffer, permit or allow the discharge of yard waste to a street, alley or any appurtenance to the municipal storm sewer system.

It shall be an affirmative defense to prosecution under this section that the property owner, occupant, landscape maintenance employee or any other person (1) used manual or mechanical sweeping or vacuuming techniques to remove yard wastes from streets, alley, or any appurtenance to the municipal storm sewer system within one hour of the lawn maintenance and (2) collected yard waste in plastic or wet-strength paper bags and disposed in a lawful manner, or (3) used lawn maintenance techniques that reasonably prevented the discharge of the yard waste to a street, alley or any appurtenance to the municipal storm sewer system.

- (D) *Outdoor Decorative Lighting.* It shall be an offense for a person to possess outdoor decorative lighting:
- (1) Which violates the currently adopted version of the National Electrical Code; or
 - (2) Which is manufactured as conforming to UL Standard 588 and which shows evidence of deterioration indicating that it has been outdoors for more than 90 days.
- (E) A person commits an offense if the person causes, suffers or permits a potable water nuisance.
- (F) It is an affirmative defense to prosecution under subsection (E) of this section if:
- (1) The source of the water creating the nuisance is not a potable water source;
 - (2) The water discharge is caused by or associated with the activities of the City including, without limitation, the maintenance of water lines and the cleaning of streets;
 - (3) The water is associated with fire-fighting or hazardous materials response activities; or
 - (4) The water is from the lawful washing of a vehicle at a residence.
- (G) *Retail Shopping Carts.*
- (1) The presence of a shopping cart on property other than the retail store owning the shopping cart is a nuisance and an offense.

- (2) The City shall impound any shopping cart found on public or private property other than the property of the retail store which owns the cart.
 - (3) Impounded shopping carts shall be held for a minimum of 14 days to allow reclamation by a lawful owner, after which time the shopping carts are the property of the City of Garland.
 - (4) Shopping carts which have been held more than 14 days shall be disposed of in a manner prescribed by the City.
- (H) *Exterior Paint.* It shall be an offense to paint a portion of the exterior of a single family dwelling, a portion of an exterior accessory structure of the single family dwelling, or any improvement to the property such as a fence, in a manner that is inconsistent with the existing color of the corresponding material that is being painted, repaired or replaced. This provision shall not prohibit the change of a color scheme if applied to the entirety of the soffit, fascia or siding, fence or other improvement, nor prohibit the use of accent colors when such color is applied to the entirety of the soffit, fascia or siding, fence or other improvement.
- (I) *Temporary Portable Storage Containers.* It shall be an offense for a person to possess a temporary portable storage container in an area zoned residential if:
- (1) the container has been on the premises more than 14 days;
or
 - (2) the container is on public property.
 - (3) It shall be an affirmative defense to prosecution to this subsection if:
 - (a) the container is used by a government agency;
 - (b) the use of temporary portable storage containers for a period greater than fourteen (14) days has been authorized by the City; or
 - (c) the container has been permitted as a Temporary Structure by the Building Official.
- (J) *Garage sales.* It shall be an offense to conduct a garage sale

that does not comply with paragraphs (J) - (L) of this section.

- (1) *Single Family Residence Garage Sale.* Each person who has a single family residence garage sale shall first obtain a single family residence garage sale permit from the City. The single family residence garage sale permit shall be obtained in person or by telephone and shall have no permit fee. A single family residence garage sale permit shall be valid for only three consecutive days, excluding holidays. No more than three single family residence garage sales shall be permitted for the same address or location in any calendar year.
- (2) *Multifamily Residence Garage Sale.* The owner or manager of a multifamily residence who has a multifamily residence garage sale shall first obtain a permit from the City. The multifamily residence garage sale permit shall be obtained in person or by telephone and shall have no permit fee. A multifamily residence garage sale permit shall be valid for only three consecutive days, excluding holidays. No more than five multifamily residence garage sales shall be permitted for the same multifamily residence (for the property licensed as a multifamily residence in accordance with section 32.07 of this chapter) or location in any calendar year. The location upon a multifamily residence where the garage sale personal or household property is displayed shall be approved by the City. Merchandise at a multifamily residence garage sale shall not be displayed within 50 feet of a public street.
- (3) *Institutional Site Garage Sale.* Each person who has an institutional site garage sale shall notify the City a minimum of 48 hours prior to the garage sale. Each notification shall identify the person in charge, the date(s) of the garage sale, the name of the institution and location of the institutional site where the garage sale will occur. No person shall have a garage sale at an institution without obtaining permission from the institution, and all proceeds shall be directed to the institution, non-profit organization(s), or any combination thereof. The number of garage sale permits issued to an institution meeting this requirements shall not be limited.

- (K) *Garage sale signs.* Each person who has a garage sale shall use no more than three off-premise signs. Each sign shall:
- (1) Not exceed eight square feet in area nor five feet in height;
 - (2) Bear the address, dates of sale, and permit number;
 - (3) Be placed off-premise on private residential property, provided the approval of the private property owner shall first be obtained; and
 - (4) Be removed no later than 9:00 P.M. on the last permitted day of the sale.
- (L) Signs placed on premises at a multifamily residence garage sale shall comply with 32.53(K) (1), (2), and (4).
- (M) *Commercial Solid Waste Containers in a Residential Zone.* It shall be an offense for a person to possess or allow the possession of a commercial solid waste container in an area zoned residential if the commercial solid waste container has been on the premises for more than 90 days.

It shall be an affirmative defense to prosecution under this subsection if the commercial solid waste container is used by a government agency or if:

- (1) the commercial solid waste container is located on a premise for which there is a current building permit; and
- (2) the commercial solid waste container is being emptied at a frequency of every 14 days or less; and
- (3) there are no nuisances on the premises.

Sec. 32.54. Encroachments.

- (A) *Definitions.* As used in this section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
- (1) *Alley* shall mean and include an alley, alley easement, or a utility easement which is ten (10) or more feet in width.

- (2) *Person* shall mean the person, as that term is defined in Section 10.03 of the Code of Ordinances, who owns, controls, or occupies real property which abuts or adjoins an alley.
- (B) No person shall cause, suffer, allow or maintain any structure, object, tree, shrub or other vegetation to encroach into, on or over an alley, street, sidewalk or other public right-of-way.
- (C) It shall be a defense to prosecution under this section that:
 - (1) the encroachment is a tree, shrub, or other vegetation which extends no further than one (1) foot into the alley nor nearer than fourteen feet from the grade of the alley or street, or eight feet from the grade of a sidewalk, or that such encroachment is a wall, fence or vegetation within an easement and that such encroachment is approved by all entities having legitimate interest in such easement, provided, however, that such approval shall not constitute abandonment of any interest in real property.
 - (2) the encroachment is within a utility easement and such easement boundary is not parallel to and contiguous with a side or rear lot line; or
 - (3) such encroachment is a wall, fence or vegetation within a utility easement and that such encroachment is approved by all entities having legitimate interest in such easement, provided, however, that such approval shall not constitute abandonment of any interest in real property.

Sec. 32.55. Open wells.

A person commits an offense if he suffers, allows, causes or permits the operation of a well or cistern without the attachment thereto of a secure covering capable of supporting 200 lbs. or if he suffers, allows, causes or permits the abandonment of a well or cistern without filling said well or cistern from its depth to the surface or plugging the same with a permanent plug at a depth of not less than ten (10) feet from the surface and completely filling the same from said plug to the surface; or if he suffers, allows, causes, or permits any pit, hole or excavation so as to threaten the safety of anyone passing by or near.

Sec. 32.56. Parking on unimproved surface and excessive driveway.

(A) *Definitions.* As used in this section:

- (1) *Approved Connection* shall mean the driving surface located between a home's driveway, alley or street and an improved or limited parking surface.
- (2) *Concrete pavers* shall mean interlocking concrete paving stones at least two inches (2") thick on a base consisting of a layer of bedding sand over a minimum four inches (4") of compacted crushed stone, cement treated base, or soil cement base.
- (3) *Improved parking surface* shall mean:
 - (a) reinforced concrete having a minimum depth of five inches (5"); or
 - (b) concrete pavers.

Runners, as defined herein, are not improved parking surface.
- (4) *Limited parking surface* shall mean:
 - (a) asphalt having a minimum depth of four inches (4") over a four inch (4") stabilized base consisting of compacted crushed stone, cement treated base, or soil cement base;
 - (b) compacted gravel or crushed rock contained within a distinct border and having a minimum depth of six inches (6");
 - (c) reinforced concrete having a minimum depth of five inches (5"); or
 - (d) concrete pavers.
- (5) *Runners* shall mean a parking surface consisting of reinforced concrete, concrete pavers or limited parking surface under the wheels of a vehicle and an unimproved area under the body of the vehicle.
- (6) *Driveway* shall mean an improved or limited parking surface which provides egress and ingress from and to an

adjacent street or alley and which is connected to a street or alley by a driveway approach.

- (7) *Front yard* shall mean that portion of a residential lot between the street and the building face of a single family, duplex, triplex, or quadraplex structure.
- (8) *Notice* has been given when written notification of a violation, in a form specified by the City:
 - (a) is delivered in person to an owner, occupant, or person in charge of the property;
 - (b) is affixed to the front door of the property; or
 - (c) two (2) days after the written notification is deposited with the U.S. Postal Service, addressed to the owner, occupant, or person in charge of the property, with proper postage affixed.

(B) *Parking on unimproved surfaces prohibited.*

- (1) A person commits an offense if, within a residential zoning district or upon property which constitutes a residential use under Ordinance 3237, as amended the person causes, suffers, permits, or allows the parking of any motor vehicle or trailer upon any surface other than:
 - (a) limited parking surface in a residential rear yard
or
 - (b) improved parking surface elsewhere.
- (2) Based on the evidence of damage to the soil structure or existing vegetation due to the traversing of vehicles to and from a limited or improved parking surface, the City may require the installation of an approved connection as necessary to mitigate standing water and vector harborage.
- (3) It is an affirmative defense to prosecution under this subsection if:
 - (a) the yard is on property which is used for agricultural purposes or zoned agricultural; or

- (b) (i) the home was built on or before January 1, 1980;
- (ii) the surface parked upon was part of the original driveway when the home was built; and
- (iii) the surface parked upon is limited parking surface and was originally composed of gravel, asphalt or macadam when the home was built.

(C) *Excessive driveway prohibited.*

- (1) A person commits an offense if, within a residential zoning district or upon property which constitutes a residential use Ordinance No. 3237, as amended, the person causes, suffers, permits or allows a driveway or improved parking surface to cover more than fifty percent (50%) of a front or rear yard.
- (2) It is an affirmative defense to prosecution under this subsection that:
 - (a) a driveway is a circular drive connecting to a street or alley by at least two (2) driveway approaches, and covers no more than sixty-five percent (65%) of the yard; or
 - (b) a driveway is within a residential front yard and parking is prohibited or restricted by ordinance on that portion of the street abutting the yard, and the driveway covers no more than sixty-five percent (65%) of the yard.

(D) *Abatement and appeal.*

- (1) In the event that it is determined that a motor vehicle or trailer is parked on any surface in violation of the provisions of this section, the owner, occupant, or person in charge of the property shall correct the violation:
 - (a) after notice is given for a violation in a front yard or a violation visible from a public right-of-way; or
 - (b) within fifteen (15) days after notice is given for a violation elsewhere on the property.

(2) In the event that it is determined that a violation of the provisions of this section exist on a property, the owner, occupant, or person in charge of the property may appeal such determination to the City by filing a request in writing for a hearing with the City within thirty (30) days after notice is first given. Pendency of an appeal does not excuse correction of the violation as required in subsection (D)(1) above.

(E) *Jurisdiction on appeal.* In the event of an appeal, the order of the City shall be reviewed as outlined in Section 32.84 (C)(4). In reviewing such order, the appointed committee has jurisdiction to:

(1) Uphold the determination of the City;

(2) Approve alternative paving materials where such materials are demonstrated to meet or exceed the requirements of this section; or

(3) Grant a variance, to a requirement under this section where it is determined that, due to peculiarities of the property, such as shape or restricted area, literal enforcement of this section would result in an unnecessary hardship.

(F) *Permit required.* A permit shall be required to construct any parking surface improvement. Application for a permit to improve parking surface shall be made to the Building Inspection Department.

Sec. 32.57. Oversized and other vehicles - Restrictions in residential zones.

(A) For the purposes of this section:

(1) *catering truck* means a vehicle from which approved, prepackaged foods are sold or conveyed in such a manner that no direct food contact results.

(2) *mobile food preparation vehicle* shall mean a self-propelled mobile food unit upon which food is cooked, wrapped, packaged, processed, or portioned for service, sale, or distribution.

(3) *mobile food unit* means a vehicle-mounted food service

establishment designed to be readily movable.

- (4) *modified vehicle* means and includes a flatbed truck with or without side rails, a truck with permanently mounted equipment including, but not limited to, aerial buckets, platforms, welding equipment, mechanical or hydraulic devices designed to assist in loading or unloading freight or the transporting of other vehicles, and all other truck bodies that are not the standard truck body installed by the original truck manufacturer. The term does not include a passenger vehicle which has been altered to assist the disabled.
- (5) *oversized vehicle* means a tow-truck (wrecker), truck tractor, road tractor, semi-trailer (whether or not attached to a truck tractor or a road tractor), trailer greater than 18 feet in length (whether or not attached to a truck, truck tractor or a road tractor), passenger motor vehicle designed to carry more than 16 persons (including the driver), and includes any modified vehicle with a manufacturer's rating of 9,000 GWT (gross weight) or higher. The term does not include any motor vehicle owned or operated by a governmental entity, a vehicle for recreational use, or a vehicle owned or used by a church for church purposes.
- (6) *vehicle for recreational use* means a motor vehicle designed as a temporary living quarters for recreational travel or vacation use, a boat or personal watercraft, and a motorcycle or all-terrain vehicle designed or equipped only for off-road use. The term includes a travel trailer, camping trailer, truck camper, motor home, trailers used to carry boats, personal watercraft, motorcycles and all-terrain vehicles, and utility trailers of not more than 18 feet in length which do not contain equipment or materials that are associated with an occupation.
- (7) *residential zone* means any property zoned single family, duplex, multifamily or planned development for single family, duplex or multifamily uses. The term includes both private and public property within such zoning districts.
- (8) *utility trailer* shall mean an enclosed or open cargo trailer designed for the transportation of a variety of

products, goods, livestock or vehicles.

(B) *Parking oversized vehicles in non-industrial zones.*

- (1) A person commits an offense if the person parks or stands or allows the parking or standing of an oversized vehicle at any place within an area zoned agricultural, office, shopping center, general business, commercial, freeway, or planned development.
- (2) It shall be an affirmative defense to prosecution under this section that the oversized vehicle was:
 - (a) In the process of loading or unloading material at the address where the oversized vehicle is located; or
 - (b) With the oversized vehicle's driver on-site, waiting to be loaded or unloaded; or
 - (c) At a fueling site being fueled; or
 - (d) At a business which has a valid certificate of occupancy to utilize or repair oversized vehicles.

(C) *Parking Oversized Vehicles in Residential Zones.*

- (1) A person commits an offense if the person parks or stands or allows the parking or standing of an oversized vehicle at any place within a residential zone.
- (2) It shall be an affirmative defense to prosecution under this section that the oversized vehicle is, at the time of the offense:
 - (a) then being used in the loading or delivery of passengers or goods within a residential zone and only for such period of time as is actually necessary to accomplish such loading or delivery; or
 - (b) being used in the repair or construction of a public utility or for construction activities.

(D) A person commits an offense if the person parks or stands or allows the parking or standing of a recreational vehicle on

public property within a residential zone.

- (E) A person commits an offense if the person parks or stands or allows the parking or standing of a catering truck, mobile food unit, mobile food preparation vehicle, or utility trailer which contains equipment or materials that are associated with an occupation at any place within a residential zone.
- (F) It is an affirmative defense to prosecution under subsection (E) if at the time of the offense:
 - (1) the vehicle is a lawfully-operated and permitted vehicle selling food at a construction site within a residential zone, or
 - (2) the vehicle is associated with a service person performing work at a residence, other than the service person's residence.

Sec. 32.58. Animal nuisances.

A person commits an offense if he suffers, allows, causes or permits:

- (A) The keeping of any animal in such a manner as to endanger the public health; to annoy neighbors by the accumulation of animal wastes which cause foul and offensive odors, or are considered to be a hazard to any other animal or human being.
- (B) Any animal pen, stable or enclosure in which an animal may be kept or confined, to become offensive, as the result of animal use, to a person of ordinary sensitivities.

Sec. 32.59. Sewage.

A person commits an offense if he permits, suffers, or allows sewage to be exposed to the atmosphere on any lot or lots, grounds or yards or any other place in the city so that it is or is likely to be:

- (1) A source of flies and fly breeding; or
- (2) A source of noxious or offensive odors and conditions inimical to the public interest, dangerous or prejudicial to health; or

- (3) A source of mosquitoes and mosquito breeding.

Sec. 32.60. Duties of abutting property owners and occupants.

The owner, occupant, property manager or other agent of either the owner or occupant of real property that abuts a street, alley, public easement or public right-of-way are each jointly and severally responsible for nuisances and the abatement of nuisances under this article on such abutting areas to the center line of the abutting area or to the extent that the owner of the real property owns the fee simple title to the abutting area, whichever is greater.

Sec. 32.61. Abatement: Manner of.

- (A) After discovery of a nuisance on any real property, notice may be given to the owner of such property directing the abatement of the nuisance within seven (7) days if the City desires to perfect a lien for any expenses incurred in abating the nuisance as set forth in Texas Health & Safety Code Chapter 342.
- (B) The City may abate a nuisance relating to dangerous weeds, without notice, if such weeds have: (1) grown higher than 48 inches; and (2) are an immediate danger to the health, life or safety to any person. The City shall attempt to notify the owner of the abatement no later than 10 days after the abatement and shall allow the owner the right to appeal charges assessed to the property for the abatement. An administrative hearing shall be provided as referenced in section 32.84 (C) (4) of this chapter.
- (C) In the event that the nuisance is based upon a determination of objectionable or unsightly matter on the property, the owner, occupant or person in charge of the property shall be given seven (7) days in which to abate the nuisance.
- (D) The request for an appeal shall be made and reviewed in accordance with 32.84(C) (4) of this Chapter.
- (E) An open sanitary sewer is a nuisance and may be abated by the City in any manner the City deems proper, including, but not limited to, termination of all utility service to the property.

Sec. 32.62. Abatement liens: Manner of collection.

After notice to the owner of the property involved, if such nuisance is not abated within the time period specified, the City shall have full authority to abate such nuisance or cause same to be abated.

- (A) Such abatement shall be performed at the expense of the City for the account of the owners of the property.
- (B) All such expenses incurred in abating such nuisance shall be assessed on and against the premises on which said expenses were expended and shall include the actual costs of abating the nuisance and an administrative fee as follows:

First abating.....\$ 125.00
Second abating within 90 days of the first offense ...250.00
Third abating within 90 days of the second offense ...375.00

Subsequent abating of a nuisance within 90 days of the last abatement will increase the fee by an additional \$50.00 per offense.

- (C) On filing with the County Clerk of Dallas County, Texas, a statement signed by the Mayor, the City Manager, the Director of a City department charged with enforcing this chapter, or the Managing Director of Financial Services of expenses actually incurred in abating such nuisance plus administrative fees, the City shall have a lien against the premises to the extent of the expenses and administrative fees incurred. Such lien shall be a privileged lien, second only to tax liens and liens for street improvements. Interest at the rate of ten percent (10%) compounded annually shall accrue on the expenses and fees secured by the lien. Interest shall be calculated from the date the expenses secured by the lien were incurred by the City.
- (D) For such expenditures and interest, the City may institute suit to foreclose said lien and a statement of expenses aforesaid, or certified copy thereof, shall be prima facie proof of the amount expended in such work in abatement and the reasonableness thereof.

Sec. 32.63. Purview.

- (A) The provisions of this article shall be applicable to any nuisance within the city limits of the city and to any

nuisance outside the city limits for a distance of five thousand (5,000) feet.

- (B) The five thousand (5,000) foot provision included in Subsection (a) of this section shall have no application to a nuisance existing within the city limits of any city, town, or village incorporated under the laws of the State of Texas.

Sec. 32.64 False Reports to Health or Code Compliance Official; Interference

- (A) A person commits an offense if the person files a complaint alleging a health or code compliance violation, when, at the time of its filing, the person knows or should have known that the complaint is false.
- (B) It shall be an offense for a person to interfere with an employee or agent of the City in the performance of his or her duties.

Sec. 32.65. Litter; throwing prohibited.

- (A) No person shall throw, leave, or deposit refuse or rubbish in or on a public or private place.
- (B) It is especially provided that this prohibition and proscription shall include items thrown, blown, or falling from motor vehicles. This provision shall not be interpreted as a limitation on the general prohibition contained herein.

Sec. 32.66. Placement in garbage receptacles.

Nothing contained herein shall be construed to prohibit the placement of garbage, trash, and refuse in containers for collection so long as placement is made within the confines of acceptable containers and is made so as to insure the prevention of the contents from being scattered by natural elements; such as, wind and rain, and reasonably calculated to prevent the contents from being scattered by animals.

Secs. 32.67 - 32.79. Reserved.

DIVISION 2. JUNKED VEHICLES, JUNKED BOATS, JUNKED OFF_ROAD
MOTORCYCLES, AND JUNKED ALL_TERRAIN VEHICLES;
PUBLIC NUISANCE; ABATEMENT

Sec. 32.80. Purpose of this Division.

This division establishes procedures conforming to Subchapter E of Chapter 683 of the Texas Transportation Code for the abatement and removal from private or public property or a public right-of-way of a junked vehicle or a part of a junked vehicle, junked boat, junked off-road motorcycle or a junked all-terrain vehicle as a public nuisance.

Sec. 32.81. Definitions.

For purposes of this division, certain words used herein have the following meanings:

- (A) *Antique Vehicle* means a passenger car or truck that is at least 25 years old.
- (B) *City* shall mean the City of Garland, acting through its City Manager or his designee.
- (C) *Junked All-Terrain Vehicle* means an all-terrain vehicle that is:
 - (1) Wrecked, partially dismantled or discarded; or
 - (2) Inoperable
- (D) *Junked Boat* means a boat or personal watercraft that is:
 - (1) Wrecked, partially dismantled, or discarded; or lacking a watertight hull; or
 - (2) is currently inoperable for its intended use as originally assembled.
- (E) *Junked Off-Road Motorcycle* means an off-road motorcycle that is:
 - (1) Wrecked, partially dismantled, or discarded; or
 - (2) Inoperable.
- (F) *Junked vehicle* means a vehicle that is self-propelled and:
 - (1) does not have lawfully attached to it:
 - (a) an unexpired license plate; or

- (b) a valid motor vehicle safety inspection certificate; and
- (2) is:
 - (a) wrecked, dismantled, partially dismantled, or discarded; or
 - (b) inoperable and has remained inoperable for more than:
 - (i) 72 consecutive hours, if the vehicle is on public property; or
 - (ii) 30 consecutive days, if the vehicle is on private property.
- (G) *Motor Vehicle Collector* means a person who:
 - (1) owns one or more antique or special interest vehicle; and
 - (2) acquires, collects or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.
- (H) *Special Interest Vehicle* means a motor vehicle of any age that has not been changed from the original manufacturer's specifications and, because of its historical interest, is being preserved by a hobbyist.

Sec. 32.82. Junked Vehicle, Junked Boat, Junked Off-Road Motorcycle or a Junked All-Terrain Vehicle, Declared to be Public Nuisance.

A Junked Vehicle, Junked Boat, Junked Off-Road Motorcycle or a Junked All-Terrain Vehicle, including any part thereof, that is visible from a public place or public right-of-way:

- (1) is detrimental to the safety and welfare of the public;
- (2) tends to reduce the value of private property;
- (3) invites vandalism;
- (4) creates a fire hazard;

- (5) is an attractive nuisance creating a hazard to the health and safety of minors;
- (6) produces urban blight adverse to the maintenance and continuing development of municipalities; and
- (7) is a public nuisance.

Sec. 32.83. Offense.

- (A) A person commits an offense if the person maintains a public nuisance described by Section 32.82.
- (B) A person commits an offense if the person parks or stands, or allows the parking or standing of a vehicle, on private property within public view in a residential zone if the vehicle:
 - (1) Has one or more flat tires; or
 - (2) Is missing one or more wheels; or
 - (3) Is supported by one or more jacks, jack stands, blocks or other means.
- (C) An offense under this section is a misdemeanor punishable by a fine not to exceed two-thousand dollars (\$2000.00).
- (D) The Garland Municipal Court shall order abatement and removal of the nuisance upon conviction.

Sec. 32.84. Affirmative Defenses; Administration of Procedures; Abatement Procedures; Junked Vehicle, Junked Boat, Junked Off-Road Motorcycle and Junked All-Terrain Vehicle Disposal.

- (A) *Affirmative Defenses.* It shall be an affirmative defense to prosecution under Section 32.83, and to the abatement procedures established by this chapter, that the junked vehicle, junked boat, junked off-road motorcycle, junked all-terrain vehicle or vehicle part:
 - (1) is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
 - (2) is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or is an antique or special interest vehicle stored by a motor vehicle collector on

the collector's property, if the vehicle or part and the outdoor storage area, if any, are:

- (a) maintained in an orderly manner;
 - (b) not a health hazard; and
 - (c) screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery; or
- (3) for a prosecution under Section 32.83(B), has had a flat tire, missing wheel or supported by a jack, jack stand, block or other means for less than 72 hours.

(B) *Administration of Procedures.*

- (1) *Designee for Administration of Procedures.* The procedures set forth in this chapter shall be administered by regular full-time employees of the City. However, any authorized person may remove a nuisance.
- (2) *Powers of Entry.* The City may seek an owner's consent to enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance. The City is authorized to obtain a search warrant to conduct an inspection permitted by this section when consent to enter the property for the inspection has been refused or otherwise cannot be obtained; provided, however, that no search warrant shall be obtained without probable cause to believe that a fire or health hazard or violation or unsafe building condition is present on the premises sought to be inspected.

(C) *Abatement Procedures.*

- (1) *General.*
 - (a) *Prohibition against Reconstruction or Making Operable after Removal.* No vehicle removed under the authority of this chapter may thereafter be reconstructed or made operable.
 - (b) *Hearing Required* - No vehicle shall be removed as a nuisance from private property under the authority of this chapter without a hearing. If no hearing is

requested by a person for whom notice is required under subsection (c)(2) below, a date for a hearing shall be determined by the City and notice of the hearing shall be sent to those to whom notice is required under subsection (c)(2) below. The notice shall be sent certified mail, with a five-day return receipt, or attached to the vehicle.

(c) *Notification of Texas Department of Public Safety.* The City shall notify the Texas Department of Public Safety not later than the fifth day after the removal of a junked vehicle, junked boat, junked off-road motorcycle, junked all-terrain vehicle, by identifying the vehicle or part of the vehicle removed.

(2) *Notice required.* Prior to the abatement or removal of a public nuisance under this chapter, the City shall provide not less than ten (10) days' notice of the nature of the nuisance by certified mail with a five-day return requested to:

(a) the last known registered owner of the nuisance;

(b) each lienholder of record of the nuisance; and

(c) the owner or occupant of;

(i) the property on which the nuisance is located,
or

(ii) if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.

If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, hand delivered. In addition, if a notice is returned undelivered, any action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

(3) *Content of Notice.* Any notice sent in connection with the abatement and removal of a public nuisance under this chapter must state the following:

- (a) that the nuisance must be abated and removed not later than the 10th day after the date on which the notice was mailed; and
 - (b) that any request for a hearing must be made before the 10-day period expires.
- (4) *Hearing.*
- (a) *Designation of Hearing Officials.* The City Manager shall assign one or more Hearings Officers to conduct all hearings under this chapter and to issue orders for the enforcement of its provisions. Each hearing shall be adjudicated by one Hearings Officer.
 - (b) *Request by Owner of Nuisance.* Any request for a hearing under this section should be directed in writing to the director of the department charged with enforcement of this section. If a hearing is requested by a person for whom notice is required under subsection (c)(2) above, the hearing shall be held not earlier than the 11th day after date of the service of the notice.
 - (c) *Presumption on Inoperability.* At any hearing conducted pursuant to this chapter, the junked motor vehicle, junked boat, junked off-road motorcycle or junked all-terrain vehicle, is presumed to be inoperable, unless demonstrated otherwise by the owner.
 - (d) *Contents of Order for Removal.* If the information is available at the location of the nuisance, any resolution or order requiring removal of the nuisance must include the vehicle's:
 - (i) description;
 - (ii) vehicle identification number; and
 - (iii) license plate number.
- (D) *Junked Vehicle Disposal.* A junked vehicle, junked boat, junked off-road motorcycle or junked all-terrain vehicle, including any part thereof, may be removed to a scrapyard, a motor vehicle demolisher, or a suitable site operated by a municipality or county.

- (E) *Relocation of Vehicle of No Effect.* The relocation of a junked vehicle, junked boat, junked off-road motorcycle or junked all-terrain vehicle, that is a public nuisance to another location within the City after a proceeding for the abatement and removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.
- (F) *Authority for Immobilization of Vehicle, Junked Vehicle, Junked Boat, Junked Off-Road Motorcycle or Junked All-Terrain Vehicle.*
- (1) Pursuant to the State Transportation Code 684.054, the City may immobilize a vehicle using a mechanical means approved by the City if the vehicle is found in violation of this chapter.
 - (2) A vehicle owner or operator may have the immobilization device removed upon acceptance of a Class C misdemeanor citation from a City official or Police Officer."

Section 2

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 3

That Chapter 32, "Housing and Neighborhood Services," of the Code of Ordinances of the City of Garland, Texas, as amended, shall remain in full force and effect, save and except as amended by this Ordinance.

Section 4

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 5

That this Ordinance shall be and become effective immediately.

PASSED AND APPROVED this the _____ day of _____, 2005.

CITY OF GARLAND, TEXAS

Mark Monroe, Mayor Pro Tem

ATTEST:

City Secretary