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CHAPTER 90: ANIMALS

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GENERAL PROVISIONS

90.01 BIRD SANCTUARY.

(A) *Creation of bird sanctuary.* The Village Council does hereby declare and ordain that the entire area embraced within the incorporated limits of the village be, and the same is hereby designated as, a bird sanctuary.

Jones Creek - General Regulations

(B) *Prohibited acts.* From and after the effective date of this section, it shall be unlawful for any person to trap, hunt, shoot, attempt to shoot, or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests or to aid, abet, or assist in such violation in any manner.

(C) *Procedure for abating public nuisances or menaces to health or property created by starlings or similar birds.*

(1) In the event starlings or similar birds be found to be congregated in such manner and numbers in a particular locality within the incorporated limits of the village, so as to constitute a public nuisance or a menace to health or property in the opinion of the Mayor, the Mayor shall call a meeting between the Village Council and representatives of the Audubon Society, Bird Club, Garden Club, or Humane Society, or as many of said clubs as are known to him or her to exist within the village, after having given at least three days= notice to the chairperson or chief executive officer of each such club stating the time and place of said meeting.

(2) If, as a result of said meeting, no satisfactory alternative is found to abate such nuisance or to eliminate such menace to health or property, then upon the affirmative vote of the Aldermen present and voting at any regular or special meeting of the Village Council, the birds creating such nuisance or such menace to health or property may be destroyed in such numbers and in such manner as is deemed advisable by the Village Council. Such destruction shall be under the supervision of the Marshal, and such Marshal and any person acting under his or her direction shall not be prosecuted for violating division (B) above.

(D) *Erection of signs designating village as bird sanctuary.* The Mayor is hereby directed and authorized to negotiate with the appropriate persons, firms, corporations, or government agencies for the erection of signs designating the village as a bird sanctuary and authority is hereby granted for the placement of two signs on the public right-of-way of State Highway No. 36 entering the village, one to be erected adjacent to each point where the corporate limits of said village cross said highway and not on that portion of such highway designed for use by any vehicle. Provided however, no public funds of said village may be used by the Mayor in the execution of the provisions of this section.

(Ord. 45, passed 2-4-1974) Penalty, see ' 90.99

ANIMAL CONTROL

' 90.15 SHORT TITLE.

This subchapter shall be known and may be cited as the AAnimal Control Subchapter of the Village of Jones Creek, Texas@.

(Ord. 471, passed 7-15-2014)

• **90.16 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL CONTROL OFFICER. A qualified person furnished by another municipality pursuant to an interlocal agreement between that municipality and the village and/or the Marshal or any of his or her deputies.

ANIMAL SHELTER. A state approved animal shelter located in Brazoria County, Texas.

BE AT LARGE. An animal subject to the terms of this subchapter that is found off of the premises of the owner of such animal, as well as such animal that is found outside of the enclosure in which such animal is required to be kept by the terms of this subchapter or any order of the Animal Control Officer.

CAT. Any of the varieties of the domesticated animals belonging to the genus felis or any combination thereof.

DOG. Any of the varieties of the domesticated animals belonging to the genus canis or any combination thereof.

ENCLOSURE. A barn, shed, or fence constructed of wood, masonry, chain link, or any combination thereof, sufficient to restrain any animal kept therein.

HAVING CONTROL OF A PREMISES. The services furnished to such premises by or through the village are in the name of such person in the records of the village or the ownership of such premises is listed on the current tax roll of the village in the name of such person.

NIGHT. The period of time elapsing between 10:00 p.m. of one calendar day and 6:00 a.m. of the next succeeding calendar day.

NUISANCE ANIMAL. An animal that molests or attacks people; an animal that molests or attacks other animals; an animal that is repeatedly at large; an animal which barks, whines, or howls excessively; an animal which created an offensive odor; or an animal that is continuously a stray.

RESIDENTIAL PREMISES. Any premises improved with a structure which is used, in whole or in part, as a dwelling.

RUNNER CABLE. A cable or device suspended between two fixed objects that tag line can be attached to in order for an animal to have the ability to run and get exercise.

STRAY. An animal that roams, with no physical restraint, beyond the premises of such animal's owner or keeper; or an animal that has no known owner or keeper.

SWINE. Any of the ungulate mammals of the family suidae including, but not limited to, those known as hogs and pigs.

TETHER. The use of a single cable or chain attached to a stake in the ground or fixed object that prevents an animal from freely moving for exercise.

UNRESTRAINED DOG OR CAT. A dog or cat found to be at large.

VICIOUS DOG OR CAT. One which makes an unprovoked attack on a person that causes bodily injury or which commits other unprovoked acts and such acts cause a person to reasonably believe that the dog or cat will attack and cause bodily injury to that person.

WILD ANIMAL. Any mammal, amphibian, reptile, or fowl of a species that is wild by nature and that, because of its size, vicious nature, or other characteristic, is dangerous to human beings. Such animals shall include, but not be limited to, lions, tigers, leopards, panthers, bears, wolves, wolf-dog hybrids, cougars, coyote-dog hybrids, raccoons, skunks (whether deodorized or not), apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, rhinoceroses, alligators, crocodiles, caymans, fowl larger than a macaw, all forms of venomous reptiles, and any snake that will grow to a length greater than eight feet. The term shall also include any animal listed as an Endangered species under the federal Endangered Species Act of 1973, being 16 U.S.C. ' ' 1531 et seq., as amended, or any fowl protected by the federal Migratory Bird Treaty Act, being 16 U.S.C. ' ' 703 - 712. The term **WILD ANIMAL** shall exclude gerbils, hamsters, guinea pigs, mice, and domesticated rabbits.

(Ord. 471, passed 7-15-2014)

• 90.17 PRIMA FACIE PROOF.

(A) In any action tried under this subchapter in the Municipal Court of the village, or any other court of competent jurisdiction, proof that the utilities furnished to any premises situated within the village is listed in the utility records of the village in a person=s name; or, any premises is listed on the then current tax roll of the village in the name of any person shall, in either case, be prima facie proof that such person is the owner or person having control of such premises.

(B) In any prosecution in the Municipal Court of the village, or any other court of competent jurisdiction, proof that a dog or cat is confined within a fence or other enclosure located upon any residential premises in the village; restrained by a chain, rope, or other device upon a residential premises in the village; or seen on any residential premises in the village during portions of any three out of five consecutive days shall, in any case, be prima facie evidence that such dog or cat is knowingly and intentionally being kept, possessed, harbored, or allowed to remain upon such premises by the owner or person having control of such premises.

(C) In any prosecution in the Municipal Court of the village, or any other court of competent jurisdiction, proof that a dog or cat has been seen at large without its owner or some other person being

in control of it shall be prima facie evidence that such dog or cat has been repeatedly at large; proof that the barking, whining, or howling of a dog or cat has disturbed a person residing in the neighborhood of land on which such dog or cat is kept, harbored, or allowed to remain upon shall be prima facie evidence that such dog or cat has barked, whined, or howled excessively; and proof that an odor coming from land on which a dog or cat is being kept, harbored, or allowed to remain upon can be smelled by a person residing in the neighborhood of the land where such dog or cat is being kept, harbored, or allowed to remain upon shall be prima facie evidence that such odor is created by such dog or cat and that it is offensive.

(D) In any prosecution in the Municipal Court of the village, or any other court of competent jurisdiction, proof that an animal has been confined within a fence or other enclosure located upon any premises in the village; restrained by a chain, rope, or other device upon any premises in the village; or seen on any premises in the village during portions of any three out of five consecutive days shall be, in any case where such animal is subsequently found to roam with no physical restraint beyond such premises, prima facie evidence that the owner or occupant of such premises is the owner or keeper of such animal and that such owner or keeper knowingly and intentionally allowed such animal to continuously stray.

(Ord. 471, passed 7-15-2014)

▪ **90.18 DECLARATION OF A NUISANCE.**

The following are hereby found and declared to be a public nuisance: the keeping of swine within the village; the keeping, possessing, harboring, or allowing to remain on any premises under such person=s control a dog or cat that is repeatedly at large, a dog or cat which barks, whines, or howls excessively, or a dog or cat which creates an offensive odor; an animal that is continuously allowed to stray; and a vicious dog or cat.

(Ord. 471, passed 7-15-2014)

▪ **90.19 KEEPING OF SWINE.**

(A) No owner of any premises located in the village shall permit any swine to be kept on such premises or the owner of any swine shall not keep the same within the village.

(B) It is an affirmative defense to the application of division (A) above if:

(1) The swine in question are not permitted to be at large but are kept on premises of sufficient size to permit the same to be kept within an enclosure located at least 600 feet from the nearest common boundary line between the premises on which the enclosure is located and any adjoining premises; and

(2) The enclosure in which the swine are kept is of sufficient size, is maintained in a clean and sanitary manner, and filth is not allowed to accumulate.

(Ord. 471, passed 7-15-2014) Penalty, see ' 90.99

• 90.20 LICENSING OF DOGS AND CATS.

(A) It shall be unlawful for any person within the corporate limits of the village to own, keep, possess, harbor, or allow to remain on any premises under such person=s control any dog or cat without having such animal licensed. Upon licensing, a tag will be furnished. All dogs and cats six months of age or older shall be licensed and the tag must be attached to the collar or harness of the animal at all times.

(B) License tags must be obtained from the Village Secretary/Administrator or his or her designee. Proof of rabies vaccination shall be required before issuance of license tag. The fee to be charged for the tag shall be established by resolution of the Village Council.

(C) It shall be unlawful for any person to remove any license tag issued under this section or any collar from any dog or cat without the written consent of the owner of such dog or cat.
(Ord. 471, passed 7-15-2014) Penalty, see ' 90.99

• 90.21 SEIZURE, IMPOUNDMENT, AND REDEMPTION.

(A) It shall be the duty of the Animal Control Officer to seize any unrestrained dog or cat and to confine such dog or cat in an animal shelter for 72 hours in the case of a dog or cat not wearing a collar to which a current license tag is attached, and 120 hours in the case of a dog or cat wearing a collar to which a current license tag is attached.

(B) The person entitled to the possession of a dog impounded under division (A) above, upon proper application within the specified time limits after the impounding of such dog or cat, shall be entitled to have the impounded dog or cat released to such person; provided such dog or cat is not infected or thought to be infected with rabies upon displaying proof of a current rabies vaccination, proof of a current license, and payment of current pickup and shelter fees.

(C) Reasonable fees will be charged for the redemption of dogs or cats and for all costs and services rendered by the Animal Control Officer and the animal shelter. The Animal Control Officer and the animal shelter shall keep a current schedule of fees to be charged and such fees shall be approved by the Village Council and the animal shelter. All fees and monies for pickup and daily fees will be collected by the village and deposited in the General Fund to be used to defray the costs of providing animal control within the village.

(Ord. 471, passed 7-15-2014)

• 90.22 LIMITATION ON THE SEIZURE OF ANIMALS.

The Animal Control Officer may not go onto any private premises to seize a dog or cat for want of a current license tag without first securing a warrant of arrest for the owner of such premises, which

shall be served in the manner provided by law.
(Ord. 471, passed 7-15-2014)

▪ **90.23 NUMBER OF CATS OR DOGS.**

No limitation on the number of dogs or cats is imposed. However, the Village Council reserve the right to amend this section in the future should a limitation be deemed necessary.
(Ord. 471, passed 7-15-2014)

▪ **90.24 NUISANCE ANIMALS.**

It shall be unlawful for any person within the corporate limits of the village to own, keep, possess, harbor, or allow to remain upon any premises under such person=s control any nuisance animal be it dog, cat, or wild animal.
(Ord. 471, passed 7-15-2014) Penalty, see ' 90.99

▪ **90.25 RABID OR BITING ANIMALS.**

(A) The Animal Control Officer shall have the right to destroy any dog or cat reasonably suspected of being rabid which is found within the corporate limits of the village. The head of any dog or cat destroyed pursuant to this section shall be sent by the Animal Control Officer directly to a lab approved by the state=s Department of Health and Human Services for examination.

(B) All dogs or cats alleged by sworn complaint to have bitten any person within the village shall be either seized by the Animal Control Officer or voluntarily taken by owner to a veterinarian licensed to practice in the state having an office within the geographical boundaries of the county. The owner or person in control of such dog or cat at the time of seizure shall be responsible for all fees charged by such veterinarian. If the dog or cat is determined by such veterinarian to be rabid, such dog or cat shall be destroyed. If the dog or cat is determined by such veterinarian not to be rabid, the owner or person in control of such dog or cat at the time of seizure shall be so notified and may redeem such dog or cat upon payment of all fees due to such veterinarian. If the owner or person in control at the time of seizure is unknown or fails to respond within 24 hours of such notice, the dog or cat shall be taken by the Animal Control Officer to the designated animal shelter for disposition in accordance with the provisions of ' 90.21.
(Ord. 471, passed 7-15-2014)

▪ **90.26 VICIOUS ANIMALS.**

(A) Any dogs or cats declared to be a vicious dog or cat by the Municipal Judge, by written notice to the owner or person in control of such dog or cat, may not thereafter be owned, kept, possessed, harbored, or allowed to remain upon any premises in the village except in the manner designated in such

notice.

(B) In determining whether or not to declare a dog or cat to be a vicious dog or cat, the following shall be taken into consideration by the Municipal Judge:

(1) Whether or not the dog or cat is alleged to have bitten any person at any time;

(2) The circumstances surrounding the occasion giving rise to the need for such determination indicating the temper or ferocity of the dog or cat;

(3) The reputation of the dog or cat in the community with regard to its temper or ferocity; and

(4) The general menace of the dog or cat to the public.

(Ord. 471, passed 7-15-2014)

• **90.27 WILD ANIMALS.**

Wild animals may not be owned, kept, possessed, harbored, or allowed to remain upon any premises in the village without a special permit from the Village Council.

(Ord. 471, passed 7-15-2014) Penalty, see ' 90.99

• **90.28 TETHERING OF ANIMALS.**

(A) It shall be unlawful for a person to allow a dog or cat to be confined on any premises in the village by using a tethering device that does not allow for free movement of the animal.

(B) In the place of tethering a dog or cat, a runner can be used as long as the tag line does not exceed one-twentieth of the animal's body weight and it allows the animal free access to food and water.

(Ord. 471, passed 7-15-2014) Penalty, see ' 90.99

• **90.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

(B) Any person found guilty of violating ' 90.01(B) shall be guilty of misdemeanor and, upon conviction, assessed a fine of not less than \$1 nor more than \$100.

(C) (1) Any person found guilty of violating any provision of ' ' 90.15 through 90.28 shall be

guilty of a misdemeanor and assessed a fine not to exceed \$2,000.

(2) Each day during which a violation of ' ' 90.15 through 90.28 shall occur, and each day in which any condition which has resulted from any such violation is allowed to continue, shall be a separate offense and punished as such.

(3) In addition to filing a complaint against any person for a violation of ' ' 90.15 through 90.28 in its Municipal Court, the village hereby expressly reserves the right and shall have the right to file a civil action in any court of competent jurisdiction under the laws of the state seeking to have any act or omission of any person which is contrary to the provisions of ' ' 90.15 through 90.28 prohibited or corrected by writ of injunction, or seeking to recover damages therefor, or both.
(Ord. 45, passed 2-4-1974; Ord. 471, passed 7-15-2014)

CHAPTER 91: JUNK VEHICLES

Section

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- 91.01 Short title
- 91.02 Purpose
- 91.03 Conflicting statutes
- 91.04 Definitions
- 91.05 Administration; notices
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- 91.20 Public nuisance
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Procedure for Abatement

- 91.40 Notice of nuisance
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 - 91.42 Decision, order, and notice thereof
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-
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GENERAL PROVISIONS**▪ 91.01 SHORT TITLE.**

This chapter shall be known and may be cited as the Junked Vehicle Chapter of the Village of Jones Creek, Texas@.
(Ord. 394, passed 9-19-2006)

▪ 91.02 PURPOSE.

This chapter is being adopted to declare junked vehicles, as defined herein, and parts thereof, to be public nuisances and to adopt procedures for the abatement and removal thereof from private property, public property, or public rights-of-way and for the disposition thereof.
(Ord. 394, passed 9-19-2006)

▪ 91.03 CONFLICTING STATUTES.

(A) Nothing contained in this chapter shall cause any rights heretofore vested to be altered, affected, or impaired in any way and all such rights may be hereafter enforced as if this chapter had not been adopted.

(B) This chapter is cumulative of, and in addition to, all other ordinances of the village on the same subject and all such other ordinances are hereby expressly saved from repeal. Provided however, where this chapter conflicts or overlaps with any other ordinance, whichever imposes the more stringent regulations or penalties, as the case may be, shall prevail.
(Ord. 394, passed 9-19-2006)

▪ 91.04 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANTIQUE VEHICLE. A passenger car or truck that is at least 25 years old.

COLLECTOR. Any owner of one or more antique or special-interest vehicles who collects, purchases, acquires, trades, or disposes of special-interest or antique vehicles or parts of them for his or her own use in order to restore, preserve, and maintain an antique or special-interest vehicle for historic interest.

DEMOLISHER. Any person whose business is to convert a motor vehicle into processed scrap or

scrap metal, or otherwise to wreck or dismantle motor vehicles.

ENFORCEMENT OFFICER. The employee or employees of the village designated by the Mayor pursuant to ' 91.05.

JUNKED VEHICLE. A vehicle, as defined in Tex. Transportation Code ' 621.001 Item (9), that is self-propelled and:

- (1) Does not have lawfully attached to it:
 - (a) An unexpired license sticker (certificate); or
 - (b) A valid motor vehicle inspection certificate.
- (2) Is wrecked, dismantled or partially dismantled, or discarded; or
- (3) Is inoperable and has remained inoperable for more than:
 - (a) Seventy-two consecutive hours, if the vehicle is on public property; or
 - (b) Thirty consecutive days, if the vehicle in on private property.

PERSON. Includes natural person, partnership, corporation, or other artificial entity recognized by law.

SPECIAL-INTEREST VEHICLE. Any motor vehicle of any age that has not been altered or modified from original manufacturer=s specifications and, because of its historical interest, is being preserved by hobbyists.

VILLAGE. The Village of Jones Creek in Brazoria County, Texas.
(Ord. 394, passed 9-19-2006)

' 91.05 ADMINISTRATION; NOTICES.

The administration of this chapter shall be by regularly salaried, full-time employees of the village designated by the Mayor, except that the removal of vehicles or their parts from property may be by any other duly authorized person. All notices required to be given by this chapter which are mailed shall be by certified mail, return receipt requested.

(Ord. 394, passed 9-19-2006)

' 91.06 APPLICATION.

It is not intended by this chapter to make provisions pertaining to abandoned motor vehicles as that

term is defined in Tex. Transportation Code ' 683.002.
(Ord. 394, passed 9-19-2006)

• **91.07 EXCEPTIONS.**

This chapter shall not apply to:

(A) A vehicle or part of a vehicle completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;

(B) A vehicle or part of a vehicle stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard; or

(C) An antique or special-interest vehicle stored by a motor vehicle collector on the collector's property if the vehicle or part of the vehicle and the outdoor storage areas, if any, are:

(1) Maintained in an orderly manner;

(2) Not a health hazard; and

(3) Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

(Ord. 394, passed 9-19-2006)

REGULATIONS

• **91.20 PUBLIC NUISANCE.**

Junked vehicles located in any place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public, tending to reduce the value of private property, to invite vandalism, to create fire hazards, to constitute an unattractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the state and the village by producing urban blight, which is adverse to the maintenance and continuing development of the village; and such vehicles are hereby declared to be a public nuisance.

(Ord. 394, passed 9-19-2006)

• **91.21 MAINTAINING NUISANCE.**

It shall be unlawful for any person to leave or permit to remain upon public or private property within the village any junked vehicle, or parts or portion of such vehicle, for any period of time in excess

of ten days.

(Ord. 394, passed 9-19-2006) Penalty, see ' 91.99

' 91.22 FAILURE TO COMPLY WITH ORDER.

It shall be unlawful for the owner or occupant of any premises on which there is located a junked vehicle, or part thereof, with respect to which an order for removal as a public nuisance has been made, as provided in ' 91.40, to remove such vehicle, or part thereof, from such premises within ten days after a certified copy of such order has been given to such owner or occupant as provided in ' 91.40.

(Ord. 394, passed 9-19-2006) Penalty, see ' 91.99

' 91.23 RELOCATION OF JUNKED VEHICLE.

It shall be unlawful for the owner or occupant of any premises, to whom written notice has been given under ' 91.40, to relocate any vehicle, or part thereof, referenced in such notice to another location within the village if such vehicle constitutes a public nuisance at the new location. If, prior to its relocation, an order to remove such vehicle, or part thereof, had already been issued and notice of same given to such owner or occupant as provided in ' 91.42, a new order for the removal of such vehicle from the premises to which it had been relocated may be issued without another hearing, and such vehicle may be removed pursuant to said new order not earlier than day 11 after notice of the new order has been given by the village as provided in ' 91.42.

(Ord. 394, passed 9-19-2006) Penalty, see ' 91.99

' 91.24 AFFIRMATIVE DEFENSE.

It shall be an affirmative defense to prosecution under either ' ' 91.22 or 91.23 if a decision favorable to the owner or occupant in question has been rendered pursuant to ' 91.41.

(Ord. 394, passed 9-19-2006)

' 91.25 VEHICLE NOT TO BE MADE OPERABLE.

After a vehicle has been removed from any premises under the provisions of ' 91.43, it shall be unlawful for any person to reconstruct or make such vehicle operable.

(Ord. 394, passed 9-19-2006) Penalty, see ' 91.99

PROCEDURE FOR ABATEMENT

‘ 91.40 NOTICE OF NUISANCE.

The Code Enforcement Officer shall give not less than ten-days= written notice to the last known registered owner of the junked vehicle, any lien holder of record, and to the owner or occupant of the private premises, public property, or premises adjacent to the public right-of-way in question, as the case may be, stating the nature of the public nuisance, that it must be removed and abated not later than day ten after the date on which the notice was personally delivered or mailed. If the post office address of the last known registered owner of the junked vehicle is unknown, such notice may be posted on such vehicle or, if the owner is located, hand delivered. Any such written notice shall include the date, time, and place of the public hearing required by ‘ 91.41 (which hearing date shall be a day on which the office of the Mayor or his or her designee is open for business, but not earlier than day 11 after such personal delivery, posting, or mailing); and if such notice was mailed and is returned by the post office as undelivered, that action to abate the nuisance shall be continued to a date (not earlier than day 11 after the date of such return) and the conducting of such public hearing shall occur on the first day after such day 11 on which the office of the Mayor or his or her designee is open for business.
(Ord. 394, passed 9-19-2006)

‘ 91.41 PUBLIC HEARING.

A public hearing shall be held by the Mayor or his or her designee (who may not be the Building Official or Enforcement Officer, or anyone that is supervised by either of them) prior to the removal of a junked vehicle, or part thereof, as a public nuisance; but such hearing shall not be held earlier than day 11 after the date of mailing, personal delivery, or return undelivered of the notice required by ‘ 91.40, as the case may be. The designation of a designee by the Mayor shall be in writing, signed by the Mayor, and filed with and maintained by the Village Secretary/Administrator in the permanent records of the village.
(Ord. 394, passed 9-19-2006)

‘ 91.42 DECISION, ORDER, AND NOTICE THEREOF.

(A) At the conclusion of the hearing, the Mayor or his or her designee, as the case may be, shall make a written order giving the description of the vehicle, or part thereof, its vehicle identification number and license number, making a finding of whether or not such vehicle, or part thereof, is in fact a junked vehicle and a nuisance as declared in ‘ 91.20 and, if so, stating that the vehicle, or part thereof, in question is in fact a junked vehicle, or part thereof, and a nuisance requiring its removal and designating the location to which it shall be removed in accordance with Tex. Transportation Code ‘ 683.078. A copy of such decision shall be personally delivered or mailed to all persons who are entitled to notice under ‘ 91.40.

(B) If such junked vehicle, or part thereof, and such nuisance is abated or lawfully removed (and not relocated in violation of ‘ 91.23) within ten days after the date of the notice required by ‘ 91.40, no

further civil action shall be taken by the Enforcement Officer regarding such vehicle or part thereof.
(Ord. 394, passed 9-19-2006)

§ 91.43 REMOVAL AND DISPOSITION.

Not earlier than day 11 after a certified copy of any order of the Mayor or his or her designee, required by § 91.42, has been delivered, posted, or mailed to those persons or entities entitled to notice under § 91.40, if the junked vehicle, or part thereof, and nuisance described in such order has not been abated as required by such order, the Enforcement Officer, at the direction of the Mayor or his or her designee shall remove or cause the junked vehicle, or part thereof, creating the nuisance to be removed to the location designated in such order. Removal shall be in accordance with such order and with of the Tex. Transportation Code § 683.074(d) and (e). After a junked vehicle has been removed as provided in this section, it shall not thereafter be reconstructed or made operable by any person.
(Ord. 394, passed 9-19-2006)

§ 91.44 NOTICE TO DEPARTMENT OF TRANSPORTATION.

Notice shall be given to the Department of Highways and Public Transportation within five days after the date of removal identifying the vehicle, or part thereof, which was removed in accordance with Tex. Transportation Code § 683.074(b)(3).
(Ord. 394, passed 9-19-2006)

§ 91.99 PENALTY.

Any violation of this chapter shall be a misdemeanor punishable by a fine not to exceed \$500, and each day any such violation continues or occurs shall constitute a separate offense.
(Ord. 394, passed 9-19-2006)

CHAPTER 92: HEALTH AND SANITATION

Section

Property Maintenance

- 92.01 Short title
- 92.02 Obstructing drainage prohibited
- 92.03 Intentional obstruction
- 92.04 Use of another=s trash can prohibited
- 92.05 Proof of violation
- 92.06 Conflict with statutes

Hazardous Trees

- 92.20 Short title
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Weeds

- 92.35 Short title
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- 92.37 Duty of owner/occupant
- 92.38 Remedies on failure to comply
- 92.39 Proof of violation
- 92.40 Conflict with statutes

- 92.99 Penalty

Cross-reference:

Junk vehicles, see Chapter 91

Nuisances, see Chapter 93

PROPERTY MAINTENANCE**‘ 92.01 SHORT TITLE.**

This subchapter shall be known and may be cited as the AProperty Maintenance Subchapter of the Village of Jones Creek, Texas@.
(Ord. 277, passed 7-16-1992)

‘ 92.02 OBSTRUCTING DRAINAGE PROHIBITED.

(A) From and after the passage of this subchapter, it shall be unlawful and shall be a Class C misdemeanor for any person, firm, or corporation owning property within the village, or any tenant of such owner of such property which abuts a drainage or street ditch to permit trash, rubbish, debris, tree limbs, scrap material, or any kind of rubble to remain in the drainage ditch or street ditch in front of his or her property, or to in any manner obstruct or cause to be obstructed the natural flow of runoff waters in the village.

(B) It shall further be unlawful for any person, firm, or corporation to place trash, rubbish, debris, tree limbs, scrap material, or any kind of rubble in the drainage ditches including, but not limited to, ditches along and beside streets in the village limits and such offense shall be a Class C misdemeanor.
(Ord. 277, passed 7-16-1992) Penalty, see ‘ 92.99

‘ 92.03 INTENTIONAL OBSTRUCTION.

It shall further be unlawful for any person, firm, or corporation to knowingly and intentionally obstruct, or cause to be obstructed, the drainage ditch and/or drainage structures in the village. A violation of this section shall be a Class C misdemeanor.
(Ord. 277, passed 7-16-1992) Penalty, see ‘ 92.99

‘ 92.04 USE OF ANOTHER=S TRASH CAN PROHIBITED.

It shall be unlawful for any person, firm, or corporation to utilize the trash dumpster or trash receptacle of any other person, firm, or corporation without the consent of the person, firm, or corporation either owning or having the right to control such trash dumpster or trash receptacle, and a violation of this section shall be a Class C misdemeanor.
(Ord. 277, passed 7-16-1992) Penalty, see ‘ 92.99

▪ **92.05 PROOF OF VIOLATION.**

In any prosecution in the Municipal Court of the village, or any other court of competent jurisdiction, proof that any person committed an act prohibited by this subchapter or omitted an act required by this subchapter shall be prima facie evidence that such act or omission was done knowingly. (Ord. 277, passed 7-16-1992)

▪ **92.06 CONFLICT WITH STATUTES.**

This subchapter is cumulative of, and in addition to, all other ordinances of the village on the same subject and all such other ordinances are hereby expressly saved from repeal, but where this subchapter conflicts or overlaps with any other ordinance of the village, whichever imposes the more stringent regulations or penalties, as the case may be, shall prevail. (Ord. 277, passed 7-16-1992)

HAZARDOUS TREES

▪ **92.20 SHORT TITLE.**

This subchapter shall be known and may be cited as the AHazardous Tree Subchapter of the Village of Jones Creek, Texas@. (Ord. 128, passed 10-16-1980)

▪ **92.21 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

OCCUPANT. Any person in possession of real property whether as the owner or as a tenant of the owner thereof.

OWNER. Any person holding legal or equitable title to any real property.

WEEDS, RUBBISH, TREES, TREE LIMBS OR BRANCHES, BRUSH, SHRUBBERY, OR OTHER OBSTRUCTIONS OR OBSTACLES. Includes weeds and grass, or either of them, rubbish, brush, trees or tree limbs or branches, shrubbery, or any other obstacles or obstructions to the use of, travel on, or view of or on any public streets, alleys, or other public places within the corporate limits of the village, including anything growing on or located on real property, or anything growing over or above the streets, alleys, or public places within the village limits.
(Ord. 128, passed 10-16-1980)

• **92.22 OBSTRUCTIONS TO ROADS/PUBLIC PLACES.**

It shall be unlawful for the owner or occupant of any real property within the corporate limits of the village or for any person to allow or place weeds, rubbish, brush, trees or tree limbs or branches, shrubbery, or any other obstructions or obstacles to grow or be located on, over, or above the streets, alleys, or other public places within the limits of the village; or upon the real property of said owner or occupant within the village limits, adjacent to said public streets, alleys, or other public places, when such weeds, rubbish, trees, tree limbs or branches, shrubbery, or any other obstructions or obstacles obstruct, inhibit, or interfere with the use of, travel on, or view of or on the streets, alleys, or public places within the corporate limits of the village.
(Ord. 128, passed 10-16-1980) Penalty, see ' 92.99

• **92.23 CONFLICT WITH STATUTES.**

This subchapter is cumulative of, and in addition to, all other ordinances of the village on the same subject and all such ordinances are hereby expressly saved from repeal. Provided however, where this subchapter and another ordinance conflict or overlap, whichever imposes the more stringent regulations or penalties, as the case may be, shall prevail.
(Ord. 128, passed 10-16-1980)

WEEDS

• **92.35 SHORT TITLE.**

This subchapter shall be known and may be cited as the AWeed Lot Subchapter of the Village of Jones Creek, Texas@.
(Ord. 110, passed 7-16-1979)

• **92.36 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly

indicates or requires a different meaning.

OCCUPANT. Any person in possession of real property as the tenant of the owner thereof.

OWNER. Any person holding legal or equitable title to any real property.

WEEDS, RUBBISH, BRUSH, OR OTHER UNSIGHTLY, OBJECTIONABLE, OR UNSANITARY MATTER OR DEBRIS. Includes weeds and grass, or either of them, over 12 inches in height, as well as accumulations of lawn clippings, dead leaves, cut trees or tree limbs, and any other unsightly, objectionable, or unsanitary matter or debris of whatever nature, but does not include compost maintained according to specifications issued by the Building Official or waste material placed for collection in accordance with the applicable ordinances of the village.

(Ord. 110, passed 7-16-1979)

• **92.37 DUTY OF OWNER/OCCUPANT.**

(A) It shall be unlawful for the owner or occupant of any real property within the corporate limits of the village to allow weeds, rubbish, brush, or any other unsightly, objectionable, or unsanitary matter or debris to accumulate or grow thereon.

(B) It shall be unlawful for the owner of such real property to fail to correct or remove any such accumulation or growth within ten days after the notice provided for in ' 92.38 has been given to such owner.

(Ord. 110, passed 7-16-1979; Ord. 331, passed 4-15-1999)

• **92.38 REMEDIES ON FAILURE TO COMPLY.**

(A) The notice mentioned in ' 92.37(B) shall be given in writing by the Code Enforcement Officer and shall inform the owner of such real property that, if any growth of grass or weeds over 12 inches in height or any accumulation of rubbish, brush, or other objectionable, unsightly, or unsanitary matter of whatever nature is not corrected or removed by such owner within ten days after such notice is given, the village, without further notice, may correct or remove, or cause the same to be corrected or removed, at the expense of the owner and assess such expense against such real property. If sent by certified mail, return receipt requested, the notice may inform 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 such notice, the village, without further notice, may correct the violation at the owner=s expense and assess such expense against such real property.

(B) The notice provided for in division (A) above shall be given:

(1) Personally to the owner in writing;

- (2) By letter addressed to the owner at the owner=s post office address; or
- (3) If personal service cannot be obtained or the owner=s post office address is unknown:

- (a) By publication at least twice within ten consecutive days;

- (b) By posting the notice on or near the front door of each building on the property to which the violation relates; or

- (c) By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates if the property contains no buildings.

(C) If the owner of any real property on which there exists any growth of grass or weeds over 12 inches in height or any accumulation of rubbish, brush, or other objectionable, unsightly, or unsanitary matter of whatever nature fails to correct or remove the same within ten days after the notice provided for in this section has been given, the village may correct or remove, or cause the same to be corrected or removed, and pay therefor and charge the expenses incurred in doing or having the same corrected or removed to be assessed against such real property by filing with the County Clerk a statement giving the amount of such expenses, the date or dates on which the work was done, the name of the owner, if known, and the legal description of the real property; and a privileged lien against such lot, second only to tax liens and liens for street improvements, shall attach upon the filing of such statement with the County Clerk, securing such expenses and interest thereon at 10% per annum from the date such expenses are paid by the village. The statement so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount so expended by the village and the reasonableness thereof. For any such expenditures and interest, suit may be instituted and recovery and foreclosure of such lien may be had in the name of the village in a proceeding relating to such lot brought under Tex. Tax Code Ch. 33, Subchapter E.

(D) If a violation occurs within one year after the owner of such real property has been notified by certified mail, return receipt requested, 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 such notice, the village, without further notice, may correct the violation at the owner=s expense and assess the expense against such real property, and if the village has not been informed in writing by the owner of an ownership change, then the village, without further notice, may do the work or make the improvements required and pay for the work done or improvements made and charge the expenses to the owner of such real property as provided in division (C) above.

(E) Grass grown and cultivated as hay for an agricultural use shall be exempt from the provisions of this section which makes it unlawful for an owner of real property to allow the growth of grass or weeds over 12 inches in height on his or her property.

(Ord. 172, passed 8-4-1983; Ord. 331, passed 4-15-1999; Ord. 477, passed 8-18-2015)

• **92.39 PROOF OF VIOLATION.**

In any prosecution under this subchapter in the Municipal Court, or any other court of competent jurisdiction, proof that any person committed an act prohibited by this subchapter or omitted an act required by this subchapter shall be prima facie proof that such act or omission, as the case may be, was done knowingly and intentionally.

(Ord. 331, passed 4-15-1999)

• **92.40 CONFLICT WITH STATUTES.**

(A) This subchapter is cumulative of, and in addition to, all other ordinances of the village on the same subject and all such ordinances are hereby expressly saved from repeal. Provided, however, where this subchapter and another ordinance conflict or overlap, whichever imposes the more stringent regulations or penalties, as the case may be, shall prevail.

(B) No offense committed and no fines, forfeiture, or penalty incurred prior to the effective date of this subchapter is to be affected by the adoption of this subchapter, but the punishment for any offense committed and the recovery of any fines or forfeitures incurred prior to such date shall take place as if this subchapter had not been adopted.

(C) Nothing contained in this subchapter shall cause any rights heretofore vested to be altered, affected, or impaired in any way and all such rights may be hereafter enforced as if this subchapter had not been adopted.

(Ord. 110, passed 7-16-1979; Ord. 172, passed 8-4-1983; Ord. 331, passed 4-15-1999)

• **92.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99 of this code of ordinances.

(B) Any violation of ' ' 92.01 through 92.40 shall be a misdemeanor punishable by a fine not to exceed \$500; and each day any such violation continues or occurs shall constitute a separate offense.

(Ord. 110, passed 7-16-1979; Ord. 128, passed 10-16-1980; Ord. 277, passed 7-16-1992; Ord. 331, passed 4-15-1999)

CHAPTER 93: NUISANCES

Section

Outdoor Burning

- 93.01 Short title
- 93.02 Declaration of nuisance
- 93.03 Outdoor burning prohibited
- 93.04 Unsafe declaration; affirmative defense
- 93.05 Conflict with statutes

Noise

- 93.20 Short title
- 93.21 Purpose
- 93.22 Definitions
- 93.23 Prohibited acts
- 93.24 Signage
- 93.25 Proof of violation
- 93.26 Conflict with statutes

- 93.99 Penalty

OUTDOOR BURNING

▪ 93.01 SHORT TITLE.

This subchapter shall be known and may be cited as the AOutdoor Burning Subchapter of the Village of Jones Creek, Texas@.
(Ord. 387, passed 2-21-2006)

▪ 93.02 DECLARATION OF NUISANCE.

The Village Council hereby determine and declare that the outdoor burning of leaves, limbs, and

wood products, the burning of which does not release toxic gases, within the corporate limits of the village constitutes a nuisance under certain weather and climatic conditions because of the potential hazard to human health and safety as well as the possibility of property damage.

(Ord. 387, passed 2-21-2006)

▪ **93.03 OUTDOOR BURNING PROHIBITED.**

It shall be unlawful for any person within the corporate limits of the village to knowingly, intentionally, recklessly, or with criminal negligence:

(A) Burn, or cause to be burned, any waste or combustible material; or

(B) Allow any waste or combustible material to be burned on any real property owned or occupied by such person.

(Ord. 387, passed 2-21-2006) Penalty, see ' 93.99

▪ **93.04 UNSAFE DECLARATION; AFFIRMATIVE DEFENSE.**

(A) The Mayor may file with the Village Secretary/Administrator a written declaration that, based on the then existing weather and climatic conditions, the burning within the village of leaves, limbs, and wood products, the burning of which does not release toxic gases, is unsafe, specifying therein a beginning and ending date for such ban. Provided, however, such ban shall not remain in effect for more than 31 days without ratification by resolution adopted by a majority of the Aldermen present and voting at a regular or special meeting of such Village Council. Provided further, upon expiration and subject to the need for ratification provided above, such ban may be subsequently renewed by written declaration of the Mayor.

(B) It shall be an affirmative defense to a prosecution for a violation of ' 93.03 if the burning in question occurred during a period in which a ban issued by the Mayor pursuant to division (A) above is not in effect.

(Ord. 387, passed 2-21-2006)

▪ **93.05 CONFLICT WITH STATUTES.**

This subchapter is cumulative of, and in addition to, all other ordinances of the village on the same subject and all such other ordinances are hereby saved from repeal, but where the provisions of this subchapter and any other ordinance overlap or conflict, the provisions of this subchapter shall control to the extent of such conflict.

(Ord. 387, passed 2-21-2006)

NOISE

• **93.20 SHORT TITLE.**

This subchapter shall be known and may be cited as the ANoise Abatement Subchapter of the Village of Jones Creek, Texas@.
(Ord. 278, passed 8-20-1992)

• **93.21 PURPOSE.**

The Village Council make the following findings of fact:

(A) Excessive sound and vibrations are a serious hazard to the public health and welfare, safety, and the quality of life in said village;

(B) A substantial body of science and technology exists by which excessive sound and vibration may be substantially abated;

(C) The inhabitants of said village have a right to, and should be ensured, an environment free from excessive sound and vibration that may jeopardize their health, welfare, safety, or degrade the quality of life within said village; and

(D) Any loud, irritating, vexing, or disturbing noise which causes distress, annoyance, discomfort, or injury to, or which interferes with, the comfort and repose of any person of normal nervous sensibilities in the vicinity or hearing thereof constitutes a nuisance and should be abated as hereinafter provided.

(Ord. 278, passed 8-20-1992)

• **93.22 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

NOISE NUISANCE. Any loud, irritating, vexing, or disturbing noise which causes distress, annoyance, discomfort, or injury to, or which interferes with, the comfort and repose of any person of normal nervous sensibilities in the vicinity or hearing thereof and includes, but is not limited to, the following acts when such acts are done or accomplished or carried on in such a manner or with such volume, intensity, or with continued duration so as to disturb the quiet, comfort, or repose of persons of normal nervous sensibilities within the vicinity or hearing thereof:

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- (1) The playing of any radio, phonograph, juke box, nickelodeon, or any musical instrument;
- (2) Any loud or vociferous language or any soliciting for, or description of, any amusement house, moving picture theater, or other like place of amusement or for the performance therein, in the entrance thereto, the foyer or lobby thereof, or on the sidewalks adjoining the same;
- (3) The keeping of any animal, fowl, or bird which makes frequent or long-continued noise;
- (4) The continued or frequent sounding of any horn or other signal device on any automobile or vehicle, motorcycle, bus, or other vehicle, except as a danger signal;
- (5) The running of any motor of any automobile or vehicle, motorcycle, or other motor vehicle so out of repair, or so loaded, or so operated as to create loud grating, grinding, jarring, or rattling noise vibrations;
- (6) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, automobile, motorcycle, other motor vehicle or boat, except through a muffler or other device which prevents loud or explosive noises therefrom;
- (7) The crying, calling, or shouting in person or by a mechanical device, or the use of any whistle, rattle, bell, gong, clapper, hammer, drum, horn, loudspeaker, or phonograph with or without an amplifier, hand organ, or other devices or instruments, musical or otherwise, for the purpose of advertising any candidates for elective office; any goods, wares, or merchandise; or for the purpose of attracting attention to or inviting persons to any political rally, meeting, or gathering; to any place of amusement; to any performance or show; or to any business or activity whatsoever; or
- (8) The raucous shouting, whistling, yelling, singing, hooting, or crying of peddlers, hawkers, vendors, or any other persons.

QUIET ZONE. All territory embraced within a distance of 250 feet of the real property upon which is situated any accredited school or institution of learning, public or private.
(Ord. 278, passed 8-20-1992)

93.23 PROHIBITED ACTS.

From and after the adoption of this subchapter, it shall be unlawful for any person within the incorporated limits of the village to:

- (A) Make, create, or cause any noise nuisance, as hereinabove defined;
- (B) Permit or allow to be made, created, or caused a noise nuisance, as hereinabove defined, upon any real property owned or occupied by such person;

(C) Make, create, or cause any loud, vexing, irritating, or disturbing noise in a quiet zone, as hereinabove defined, which interferes with the operation of any school or institution of learning located in such zone; or

(D) Permit or allow to be made, created, or caused upon any real property owned or occupied by such person which is located in a quiet zone, as hereinabove defined, any loud, vexing, irritating, or disturbing noise which interferes with the operation of any school or institution of learning located in such zone.

(Ord. 278, passed 8-20-1992) Penalty, see ' 93.99

' 93.24 SIGNAGE.

The Village Secretary/Administrator shall, at the request of the Village Council, place and maintain, or cause to be placed and maintained, on lampposts or other such post or object in some conspicuous place on every street, avenue, and alley in the vicinity of accredited schools or other institution of learning, public or private, within the incorporated limits of the village and at a point approximately 250 feet from the real property on which such school or institution of learning is located, signs or placards which shall indicate the beginning of each quiet zone. Such signs or placards shall contain the following words: ASchool-Quiet Zone@ or other words of similar import.

(Ord. 278, passed 8-20-1992)

' 93.25 PROOF OF VIOLATION.

(A) A complaint filed in the Municipal Court alleging any violation of this subchapter is not required to allege any definition contained herein and the use of the word or phrase so defined alone shall be sufficient.

(B) In any prosecution under this subchapter in the Municipal Court, or any other court of competent jurisdiction, proof that any person committed an act prohibited by this subchapter or omitted an act required by this subchapter shall be prima facie proof that such act or omission, as the case may be, was done knowingly and intentionally.

(Ord. 278, passed 8-20-1992)

' 93.26 CONFLICT WITH STATUTES.

This subchapter is cumulative of, and in addition to, all other ordinances of the village on the same subject and all such other ordinances are hereby expressly saved from repeal, but where this subchapter conflicts or overlaps with any other ordinance of the village, whichever imposes the more stringent regulations or penalties, as the case may be, shall prevail.

(Ord. 278, passed 8-20-1992)

§ 93.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any violation of §§ 93.03 through 93.26 shall be a misdemeanor punishable by a fine of not less than \$10 nor more than \$500; and each day any such violation continues or occurs shall constitute a separate offense.

(Ord. 278, passed 8-20-1992; Ord. 387, passed 2-21-2006)