



**AGENDA
CITY OF WINDCREST, TEXAS**

CITIZEN CODE COMMITTEE MEETING

April 15, 2015

6:00 P.M.

NOTICE IS HEREBY GIVEN THAT A MEETING OF THE WINDCREST CITIZEN CODE COMMITTEE WILL BE HELD AT WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS ON THE 15th DAY OF APRIL 2015 STARTING AT 6:00 P.M. DURING THE MEETING THE FOLLOWING SUBJECTS WILL BE CONSIDERED AND THE COMMITTEE MEMBERS MAY TAKE ACTION ON ANY OF THE LISTED SUBJECTS.

THE CITIZEN CODE COMMITTEE RESERVES THE OPTION TO RECESS THE MEETING DURING THE EVENING OF APRIL 15, 2015 AND TO RECONVENE THE MEETING ON THE FOLLOWING DAY, APRIL 16, 2015 AT 9:00 A.M. AT THE WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS.

IT IS ANTICIPATED THAT MEMBERS OF OTHER CITY COUNCIL, BOARDS, COMMISSIONS AND COMMITTEES MAY ATTEND THE MEETING IN NUMBERS THAT MAY CONSTITUTE A QUORUM OF SUCH OTHER CITY COUNCIL, BOARDS, COMMISSIONS AND COMMITTEES, SO THAT NOTICE IS HEREBY GIVEN THAT THE MEETING IS ALSO A MEETING OF THE OTHER CITY COUNCIL, BOARDS, COMMISSIONS AND COMMITTEES WHOSE MEMBERS ARE IN ATTENDANCE. THE MEMBERS OF THE OTHER CITY COUNCIL, BOARDS, COMMISSIONS AND COMMITTEES MAY PARTICIPATE IN DISCUSSIONS WHICH OCCUR AT THE MEETING, BUT NO ACTION WILL BE TAKEN BY THE OTHER COUNCIL, BOARDS, COMMISSIONS AND COMMITTEES WHOSE MEMBERS ARE IN ATTENDANCE.

REQUEST ALL PAGERS AND CELL PHONES BE TURNED OFF, EXCEPT EMERGENCY ON-CALL PERSONNEL. CITIZENS ARE ASKED TO REFRAIN FROM TALKING DURING COUNCIL PROCEEDINGS.

Meeting Chair: please remind each participant in your meeting that they must speak into a microphone; the recording is the [Official Minutes](#) of your meeting and all who speak must be recorded. All guest speakers and citizens to be heard must speak from podium. Please interrupt speakers during meeting if you recognize that they are not speaking into microphone and have them do so.

I. Call to Order

II. Old Business

Citizen Code Committee will review, discuss and may take action on a draft ordinance amending Chapter 103, Buildings and Building regulations, Article III, Fences, of the Code of Ordinances by adopting a new subsection 103.96 Fence Maintenance Chapter 103 Article III Fencing from the Windcrest Code of Ordinances. (Att. 1)(See the code: https://www.municode.com/library/tx/windcrest/codes/code_of_ordinances?searchRequest=%7B%22searchText%22:%22fencing%22,%22pageNum%22:1,%22resultsPerPage%22:25,%22booleanSearch%22:false,%22stemming%22:true,%22fuzzy%22:false,%22synonym%22:false,%22contentType%22:%5B%22CODES%22%5D,%22productIds%22:%5B%5D%7D&nodeId=SPBLADE_CH103BUBURE_ARTIIIIF_S103-93DE (Ref: 01.15.15 http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1392 // 01.21.15 CCC http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1402 // 02.25.15 CCC http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1422 // 03.18.15 CCC http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1431)

III. New Business

Citizen Code Committee will review, discuss and may take action on Chapter 22 Nuisances. (Att. 2) See the code: https://www.municode.com/library/tx/windcrest/codes/code_of_ordinances?nodeId=PTIICOOR_CH22NU (Ref: 03.18.15 CCC http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1431)

V. General Announcements & Future Agenda Items Requested

Per Ordinance No. 618, repealing Ordinance No. 593; Section 9: Every agenda shall include an item entry granting a member the opportunity to propose an item for consideration of future agendas for Regular or Special Meetings. Any member may request the inclusion of such items at any meeting.

VI. Adjournment

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Citizen Code Committee of the City of Windcrest is a true and correct copy of said Notice and was posted on the bulletin board at City Hall of said City in a convenient place to the public and said Notice was posted more than seventy-two hours prior to the meeting on April 15, 2015.

By:  , City Secretary

In compliance with the Americans With Disabilities Act, the City of Windcrest Council Chambers are wheelchair accessible, and accessible parking spaces are available. The City of Windcrest will provide for reasonable accommodations for persons attending the Citizen Code Committee. To better serve you, requests should be received 48 hours prior to the meetings. Please contact Kelly Rodriguez, City Secretary, at 210-655-0022 ext. 2150 or Fax 210-655-8776.

I certify that the attached notice and agenda of items to be considered by the Citizen Code Committee was removed by me from the City Hall bulletin board on the ____ day of _____, 2015.

_____ **Title:** _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 103, BUILDINGS AND
BUILDING REGULATIONS, ARTICLE III, FENCES, OF THE
CODE OF ORDINANCES BY ADOPTING A NEW SUBSECTION
103.96 FENCE MAINTENANCE

WHEREAS, a few property owners have allowed their fences to deteriorate such that the aesthetic quality of neighborhoods is impaired and property values are threatened unless regulations requiring basic fence maintenance are enacted

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that Chapter 103, Buildings and Building Regulations, Article III, Fences, of the Code of Ordinances is amended by adopting a new Subsection 103.96, Fence Maintenance, as follows:

“Sec. 103-96. - Fence Maintenance

All fences shall be maintained structurally sound and in good repair. Any of the following conditions shall be corrected:

1. Any fence, or any portion of thereof, out of vertical alignment by more than fifteen (15) degrees.
2. Rotted, fire damaged or broken wooden support posts or cross members shall be repaired or replaced.
3. Broken or fire damaged wooden slats shall be repaired or replaced.
4. Broken or severely bent metal posts or torn, cut ripped metal fencing materials shall be repaired or replaced.
5. Any fence, or any portion thereof, having loose bricks, stones, rocks, mortar, masonry, or similar materials shall be repaired or replaced.
6. Where fencing has been previously painted and there are areas of chipping, peeling, scaling or missing paint equal to or greater than 20 percent of the fence surface, then such surface shall be repainted, or stripped of all paint and given a water-resistant coating, if necessary.

The above requirements shall not prohibit a fence or any portion thereof, from being removed if the remaining portions are safe and in good condition and the erection and maintenance of a fence is not otherwise required by law.”

This Ordinance shall become effective five (5) days after its publication.

PASSED AND APPROVED this ____ day of _____, 2015.

Alan Baxter, Mayor

ATTEST:

Kelly Rodriguez, City Secretary

APPROVED AS TO FORM:

Michael S. Brennan, City Attorney

Chapter 22 - NUISANCES

FOOTNOTE(S):

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State Law reference— Authority to define, prohibit and abate nuisances, V.T.C.A., Local Government Code § 217.042; local regulation of sanitation, V.T.C.A., Health and Safety Code § 342.001 et seq.

ARTICLE I. - IN GENERAL

Sec. 22-1. - Unsafe building or structure; offense and penalty.

- (a) Any owner or occupant of a building or other structure or premises, who shall keep or maintain the same when, for want of repair, or by reason of age or dilapidated condition, or for any cause, it is especially liable to fire, and which is so situated as to endanger buildings or property of others, or is especially liable to fire and which is so occupied that fire would endanger other persons or their property therein shall be guilty of an offense.
- (b) Any owner or occupant of any building or other structure or premises, who shall keep or maintain the same so as to be dangerous in the matter of fire, or health, or safety of persons or property of others; or which shall be dangerous in the matter of promoting, augmenting or causing fires; or which shall create conditions dangerous to firemen or occupants of such buildings, structures, or premises shall be guilty of an offense.
- (c) No prosecution shall be brought under subsections (a) and (b) of this section until the order provided for in section 12-27 be given, and the party notified shall fail or refuse to comply with the same.

(Code 1986, §§ 9.106, 9.107; Ord. No. 63A, 8-8-1983)

Secs. 22-2—22-20. - Reserved.

ARTICLE II. - JUNKED VEHICLES

FOOTNOTE(S):

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State Law reference— Junked vehicles, V.T.C.A., Transportation Code § 683.071 et seq.

Sec. 22-21. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Antique auto means passenger cars or trucks that are at least 25 years old.

Collector means the owner of one or more antique or special interest vehicles who collects, acquires or disposes of special interest or antique vehicles for personal use to restore an antique or special interest vehicle for historic interest.

Junked vehicle means any motor vehicle as defined in Vernon's Ann. Civ. St. art. 6701d-11, § 1, as amended, as provided in V.T.C.A., Transportation Code § 683.071.

Motor vehicle means any motor vehicle subject to registration pursuant to the Certificate of Title Act V.T.C.A., Transportation Code ch. 501.

Special interest vehicle means a motor vehicle of any age which has not been altered or modified from original manufacturers' specifications and, because of its historic interest, is being preserved by hobbyists.

(Code 1986, § 20.1101; Ord. No. 148, 7-13-1981)

Sec. 22-22. - Procedures for abating nuisance.

- (a) Complaint and notification. Any citizen or city official may file a complaint with the city secretary for the maintenance of a public nuisance in violation of this article. Upon the receipt of such a complaint, the city secretary may issue a notice whereupon such public nuisance exists stating the nature of the public nuisance and that it must be removed and abated within ten days from receipt of the notice. The notice shall further state that a request for a public hearing may be made and that such request must be made before the expiration of the said ten-day period. If the notice is returned undelivered, action to abate said nuisance shall be continued to a date not earlier than the 11th day after the date of the return. The notice must be personally delivered, sent by certified mail with a five-day return requested, or delivered by the United States Postal Service with signature confirmation service to:
 - (1) The last known registered owner of the nuisance;
 - (2) Each lienholder of record of the nuisance; and
 - (3) The owner or occupant of:
 - a. The property on which the nuisance is located; or
 - b. If the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.
- (b) Public hearing. For the next scheduled regular meeting, which meeting shall be held not earlier than the 11th day after the date of the service of notice, of the city council for hearing and determination.
- (c) Penalty. If the nuisance is not removed or abated, and a hearing is not requested, within the ten-day period provided in subsection (a) of this section, a complaint may be filed in the municipal court of the city for the violation of maintaining a public nuisance. If, under this subsection, a person is found guilty of maintaining a public nuisance, or any person, firm or corporation who shall violate any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in accordance with section 1-5
- (d) Resolution requirements. Any resolution of the city council or order of the court requiring the removal of a vehicle or a part thereof shall include a description of the vehicle, and the correct identification number and license number of the vehicle, if available at the site.
- (e) Notification to state. Within five days after the date of removal, notice shall be given to the Texas Highway Department identifying the vehicle or part thereof.
- (f) Final decision. After a vehicle has been removed, it shall not be reconstructed or made operable.
- (g) Exceptions. This section shall not apply to:
 - (1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
 - (2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard; or
 - (3) Unlicensed, operable or inoperable antique and special interest vehicles stored by a collector on his property; provided that the vehicles and the outdoor storage areas are maintained in such a

manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery or other appropriate means.

(Code 1986, § 20.1105; Ord. No. 148, 7-13-1981; Ord. No. 202, 11-9-1987)

Sec. 22-23. - Authority to enforce.

Any person authorized by the city to administer the provisions of the procedures of the type authorized by this article may enter upon private property for the purposes specified in the procedures to examine vehicles or parts thereof, obtain information as to the identity of vehicles and to remove or to cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to the procedures. The municipal court of the city shall have authority to issue all orders necessary to enforce the provisions of this article.

(Code 1986, § 20.1106; Ord. No. 148, 7-13-1981)

Sec. 22-24. - Effect of article on other statutes.

Nothing in this article shall affect statutes that permit immediate removal of a vehicle left on public property which constitutes an obstruction to traffic.

(Code 1986, § 20.1107; Ord. No. 148, 7-13-1981)

Secs. 22-25—22-51. - Reserved.

ARTICLE III. - HEALTH NUISANCES

FOOTNOTE(S):

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State Law reference— Local regulation of sanitation, V.T.C.A., Health and Safety Code § 342.001 et seq.

Sec. 22-52. - Dangers to health.

Any and all of the following conditions are hereby specifically declared to be nuisances dangerous to the public health:

- (1) Breeding of flies. Any condition or place allowed to exist in the city, which constitutes a breeding place for flies.
- (2) Spoiled meat products. Spoiled or diseased meats intended for human consumption.
- (3) Unsanitary food establishments. Any restaurant, food market, bakery, or other place of business or any vehicle where food is prepared, packed, stored, transported, sold, or served to the public, which is not constantly maintained in a sanitary condition.
- (4) Waste disposal. All sewage, human excreta, wastewater, garbage, or other organic wastes deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in the transmission of disease to or between any person and persons.

- (5) Garbage carriers. Any vehicle or container, used in the transportation of garbage, human excreta, or other organic material, which is defective and allows leakage or spilling of contents.
- (6) Breeding of mosquitoes. Any collection of water in which mosquitoes are breeding within the limits of the city.
- (7) Harboring of rats. Any place or condition harboring rats in the city.
- (8) Ectoparasites in motels/hotels. The presence of ectoparasites (bedbugs, lice, mites, etc.) suspected to be carriers of disease in a place where sleeping accommodations are offered to the public.
- (9) Poor maintenance. Maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests.
- (10) Unsafe condition. Maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard.
- (11) Abandoned swimming pool. Maintaining on abandoned and unoccupied property a swimming pool that is not protected with a fence that is at least four feet high and that has a latched gate that cannot be opened by a child, or a cover over the entire swimming pool that cannot be removed by a child.

(Code 1986, § 12.801; Ord. No. 420, 6-16-2003)

Sec. 22-53. - Compliance.

The owner, lessee, occupant, or any other person in charge (hereinafter referred to in this article as "owner") of any premises located within the city in or on which there is a nuisance, shall, as soon as its presence comes to his knowledge, proceed at once and continue to abate the said nuisance. An owner who fails to abate and continue to abate any of said nuisances shall be subject to the remedies provided in this article.

(Code 1986, § 12.803.1; Ord. No. 232, 8-13-1990; Ord. No. 420, 6-16-2003; Ord. No. 2012-666, 6-4-2012)

Sec. 22-54. - Citations in addition to notice to abate nuisance for repeat offenders.

An owner of property found to be in violation of this article for the second and subsequent additional times within the same calendar year after having committed the same offense the first time, will be issued a misdemeanor citation (court summons) for the violation immediately without the issuance of a five-day written violation warning notice to abate. The owner must abate the nuisance immediately. If the owner fails to abate such nuisance after being issued the first misdemeanor citation (court summons), the owner is subject to being issued additional misdemeanor citations (court summons) on each day following the first citation until the nuisance has been abated. On the eighth day following the first citation being issued, if the owner has failed to abate such nuisance, the city public works department or designated contractor, will abate such nuisance. If the work is done by the city following the procedure outlined in this section, the city shall present a certified statement of the cost of doing such work to the owner, and if the statement is not paid within 30 days, the mayor or city official designated by the mayor shall file such statement with the county clerk. Thereupon, the city shall have a lien on such lot for the amount expended by the city, together with interest at the rate of ten percent per annum from the date of the payment of such expense by the city. Such lien shall be inferior only to tax liens and liens for street improvements.

(Code 1986, § 12.803.6; Ord. No. 2012-666, 6-4-2012)

Sec. 22-55. - Abatement.

- (a) Whenever the city manager or city official designated by the city manager learns of any nuisance as defined in this article, written notice of such nuisance shall be sent to the owner of such property notifying the owner of the existence of such nuisance and directing him to immediately abate such nuisance. Said notice shall also state that if the nuisance is not abated within seven calendar days of notice to do so, the city may at once cause the same to be done and charge the cost and expense to the owner of such property and fix the lien therefor on such property as provided by this article.
- (b) The notice required by subsection (a) of this section shall be given:
 - (1) Personally to the owner in writing;
 - (2) By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or
 - (3) If personal service cannot be obtained:
 - a. By publication at least once;
 - b. By posting the notice on or near the front door of each building on the property to which the violation relates; or
 - c. By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.
- (c) If the United States Postal Service returns a mailed notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.
- (d) In the event the owner refuses or fails to abate such nuisance within seven calendar days after notice to do so, the city, on the eighth day, may do such work or cause same to be done, and assess the cost thereof against the property upon which such expense is incurred. If the work is done by the city following the procedure outlined in this section, the city shall present a certified statement of the cost of doing such work to the owner, and if the statement is not paid within 30 days, the mayor or city official designated by the mayor shall file such statement with the county clerk. Thereupon, the city shall have a lien on such lot for the amount expended by the city, together with interest at the rate of ten percent per annum from the date of the payment of such expense by the city. Such lien shall be inferior only to tax liens and liens for street improvements.
- (e) In addition to the notice to abate nuisance authorized in subsection (a) of this section, the first time an owner of property is in violation of this article within a calendar year, the owner will be issued a written violation warning notice with a request for abatement of such nuisance within five calendar days. In the event an owner, after receiving a written violation warning notice fails to abate such nuisance within five calendar days, the owner will be issued a misdemeanor citation (court summons) on the sixth day for the violation. The owner must abate the nuisance immediately. On the seventh day following a written violation warning notice, if the owner has failed to abate such nuisance, the owner will be issued another misdemeanor citation (court summons) for violation. On the eighth day following a written violation warning notice, if the owner has failed to abate such nuisance, the city public works department or designated contractor will abate such nuisance. If the work is done by the city following the procedure outlined in subsection (d) of this section, the city shall present a certified statement of the cost of doing such work to the owner, and if the statement is not paid within 30 days, the mayor or city official designated by the mayor shall file such statement with the county clerk. Thereupon, the city shall have a lien on such property for the amount expended by the city, together with interest at the rate of ten percent per annum from the date of the payment of such expense by the city. Such lien shall be inferior only to tax liens and liens for street improvements.

(Code 1986, §§ 21.803.2—12.803.5; Ord. No. 2012-666, 6-4-2012)