MOTION WAS MADE BY Mr. Don Purdom, SECONDED BY Mr. Alan Tatom, THAT THE FOLLOWING ORDINANCE BE PASSED:

ORDINANCE NO. 00-256

AN ORDINANCE AUTHORIZING THE CITY COUNCIL OF THE CITY OF PANORAMA VILLAGE, TEXAS, PURSUANT TO CHAPTER 342, TEXAS HEALTH AND SAFETY CODE, TO DESIGNATE AND DECLARE UNLAWFUL CERTAIN CONDITIONS PERTAINING TO UNSANITARY AND HEALTH HAZARDS; PROVIDING DEFINITIONS; PRESUMPTION AS TO PERSONAL PROPERTY; PROVIDING FOR DISCOVERY NOTICE TO ABATE AND COSTS AND EXPENSES, MINIMUM CHARGE, ASSESSMENT AND COLLECTION; ABATEMENT OF DANGEROUS WEEDS; PERFECTING, ENFORCING LIEN AND RELEASE; PROVIDING FOR ADMINISTRATION OF FINANCES; PROVIDING FOR AWARDING OF CONTRACTS BY CITY AND WITH OWNER OR OWNERS FOR REMOVAL OF UNLAWFUL CONDITIONS; PROVIDING $500 PENALTY FOR FAILURE TO ABATE; SUMMARY ABATEMENT; PROVIDING SAVINGS CLAUSE; REPEALING CLAUSE; AND EFFECTIVE DATE AFTER PUBLICATION.

WHEREAS, numerous complaints have been made to the City Council of unsanitary and health hazard conditions existing in the City, which should be abated and regulated.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANORAMA VILLAGE, TEXAS, THAT:

I.

AUTHORITY OF CITY; DESIGNATING VIOLATIONS DECLARED TO BE UNLAWFUL CONDITIONS; ABATEMENT AND ENFORCEMENT FOR PUBLIC HEALTH PURPOSES

Pursuant to Sections 342.001 through 342.008, TEXAS HEALTH AND SAFETY CODE, the City Council of the City of Panorama Village, Texas, shall have power:

1. To require the filling, draining, and regulating of any lot or lots, grounds or yards or any other places in the City, which is unwholesome, contains stagnant

water, or is in any other condition that may produce disease.

2. To make, fill, alter, or repair all sewers and privies, and direct the mode and material for constructing them in the future, and for cleaning and disinfecting the same.

3. To regulate the cleaning of a building, establishment, lot, yard or ground from filth, carrion, or any other impure or unwholesome matter.

4. To require the owner of any lot, lots, grounds, yards or other places within the City, to keep said property free from weeds, rubbish, brush, and other objectionable, unsightly, or unsanitary matter.

5. To abate, without notice, weeds that have grown higher than 48 inches; and are an immediate danger to the health, life, or safety of any person.

All of which conditions are hereby found and declared to be unlawful and should be abated, for the health, protection, benefit, comfort, safety and sanitation of the public welfare, and for the enforcement thereof the following provisions are set out:

II.
DEFINITIONS

Abate means to eliminate by mowing, clearing, grading, filling, removal, repair, rehabilitation or demolition.

Garbage means decayable waste from a public or private establishment or residence.

Receptacle means a bag or container that is designed to prevent the discharge of its contents and to make its contents inaccessible to animals, vermin or other pests.

Rubbish means garbage, paper and all other decayable and nondecayable waste from a public or private establishment or residence, including but not limited to:

1. Discarded motor vehicle parts;
2. Discarded furniture, discarded appliances, discarded fixtures, discarded carpets or rugs, discarded bedding or other discarded furnishings;
3. Other discarded personal property; and
4. Rubble or debris from any construction, remodeling demolition or moving activity, except while a permit authorizing such work is in effect and for a period of ten

(10) days thereafter.

Weeds means all rank and uncultivated vegetable growth or matter.

III.
PRESUMPTION AS TO PERSONAL PROPERTY

1. An item of personal property is presumed to be discarded when:
    a. The item is allowed to remain in one place outside and exposed to the elements for ten (10) or more consecutive days during which time there is no apparent use of the item; or
    b. The item is spoiled, rotted, corroded, broken or inoperable and allowed to remain in one place outside for ten (10) or more consecutive days.
2. An item of discarded personal property is rubbish.

IV.
DISCOVERY OF UNLAWFUL CONDITION

Whenever the existence of any such unlawful conditions, as defined above, on any lot, lots, grounds, yards or other places situated within the City shall come to the knowledge of the City Secretary, it shall be his/her duty to cause forthwith a written notice identifying such property and point out such unlawful condition or conditions to be issued to the person owning the property.

V.
WORK OR IMPROVEMENTS BY THE CITY

If the owner of property in the City does not comply with this Ordinance within seven (7) days of notice of a violation as set out herein, the City may do the work or make the improvements required; and pay for the work or improvements made and charge the expenses to the owner of the property.

VI.
NOTICE TO PROPERTY OWNER

1. The notice must be given personally to the owner in writing, by letter addressed to the owner at the owner's address as recorded in the Montgomery County Appraisal District's records; or if personal service cannot be obtained:

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

    (b) by posting the notice on a placard to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

2. The notice shall identify the property in violation of this Ordinance and describe the unlawful conditions that must be corrected within seven (7) days. It shall further notify the owner that the City may do the work or make the improvements required; pay for the work and charge the expenses to the owner of the property. The owner will also be advised that the City may impose a criminal fine for such violation and that a lien will be placed upon the property for the owner's failure to pay any expenses incurred by the City in improving the property to correct the unlawful conditions.

3. The notice shall further 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 the notice, the City may correct the violation at the owner's expense and assess the expense against the property without further notice to the owner.

VII.
ABATEMENT OF DANGEROUS WEEDS

1. Notwithstanding the provisions above, the City may abate, without notice to the property owner, weeds that:

(a) have grown higher than 48 inches; and

(b) are an immediate danger to the health, life, or safety of any person.

2. Not later than the 10th day after the date the City abates the high weeds, the City Secretary shall give notice to the property owner in the manner described in Section IV of this Ordinance. The notice shall contain:

   (a) an identification, which is not required to be a legal description, of the property;

   (b) a description of the violations of this Ordinance that occurred on the property;

   (c) a statement that the municipality abated the weeds; and

   (d) an explanation of the property owner's right to request an administrative hearing about the City's abatement of the weeds.

3. The City Judge shall conduct an administrative hearing on the abatement of weeds under this section if, not later than the 30th day after the date of the abatement of the weeds, the property owners files with the City Secretary a written request for a hearing.

4. An administrative hearing conducted under this section shall be conducted no later than the 20th day after the date of request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the City's abatement of the weeds on his property.

5. The City may assess expenses and create liens under this section as it assesses expenses and creates liens under Section VIII of this Ordinance. A lien created under this section is subject to the same conditions as a lien created under Section IX of the this Ordinance.

VIII.
PERFORMANCE OF WORK BY CITY; COSTS AND EXPENSES, MINIMUM CHARGE, ASSESSMENT AND COLLECTION

1. The terms and conditions of this Ordinance shall be enforced by the City Secretary, and in the event of the failure, refusal or neglect of the owner of any such premises or property to cause such unlawful condition or conditions to be removed or abated in the manner and within the time as herein set out, then it shall be the duty of the City Secretary to cause such unlawful conditions to be promptly and similarly abated, in a reasonable and prudent manner, at the expense of the City.
2. The City Secretary shall carefully compile the cost of such work done and improvements made in abating such unlawful condition or conditions, and shall charge such costs against the owner of such property.
3. The City Council hereby finds and declares that general overhead or administrative expense of inspection, locating owner, issuing notice, reinspection and ordering work done, together with all necessary incidents of same, require the reasonable charge of Twenty-Five and No/100 Dollars ($25.00), for each lot, ground, yard, tract or parcel or acreage, and such minimum charge is hereby established and declared to be an expense for such work and improvement. Notwithstanding, therefore, any tabulation of recorded cost, a minimum charge of Twenty-Five and No/100 Dollars ($25.00) shall be assessed against each lot, ground, yard, tract or parcel of acreage, so improved under the terms of this Ordinance, but such sum of Twenty-Five and No/l00 dollars ($25.00) is hereby expressly stated to be a minimum charge only, and shall have no application when the tabulated cost of the work done shall exceed minimum charge.

IX.
PERFECTING, ENFORCING LIEN, AND RELEASE

1. After receiving from the City Secretary a compilation of the cost of the work, and after charging the same against the owner or owners of the property, the Mayor, or the City

Secretary at the Mayor's direction, shall certify a statement of such expenses and shall file the same with the County Clerk of Montgomery County, Texas. The lien statement must state the name of the owner of the property, if known, and the legal description of the property.

2. The lien obtained by the City Council is security for the expenditures made and interest accruing at the rate of ten percent (10%) per annum on the amount due from the date of payment by the City.
3. The City Council may bring a suit for foreclosure in the name of the City of Panorama Village to recover the expenditures and interest due.
4. Upon the payment of the full charges assessed against any property, pursuant to the procedure hereinabove set forth, the City Secretary shall be authorized to execute, for and in behalf of the City, a written release of the lien heretofore mentioned, such written release to be on a form prepared and approved in each case by the City Attorney.
5. The remedy provided in this section is in addition to the remedy provided by Section XIII below.

X.
ADMINISTRATION OF FINANCES

All payments of money by, and collection thereof from property owners for the purpose of paying the City for expenses incurred in abating such unlawful conditions, as herein set out, shall be handled by the City Secretary. Any such payment or collection so made shall be received by and receipted for by the City Secretary, who shall note on such receipt the name and address of the property owner making such payment, a brief description of the property on which such unlawful conditions were abated by reason of such payment, and the amount and date of such payment. A duplicate of the receipts issued therefor shall be retained by the City Secretary. Such receipts and the necessary records in connection therewith shall be prepared and handled and maintained as a permanent record.

XI.
AWARDING OF CONTRACTS BY CITY

The City shall have the right to award any quantity of work authorized under the provisions hereof to a general contractor whose bid shall be accepted by the City Council as the lowest and best bid for the doing of the work herein mentioned during a stipulated time not to exceed one year.

XII.
CONTRACTING WITH OWNER OR OWNERS FOR REMOVAL OF UNLAWFUL CONDITIONS

Any owner or owners of vacant property in the City shall have the right to contract with the City to remove all such unlawful conditions as may affect their property, by requesting in writing the City Secretary so to do, and by agreeing to the charge to be paid therefore. The charge shall be not less than Twenty-Five and No/100 Dollars ($25.00) per lot, ground, yard, tract or parcel of acreage, to be charged against said property for the abatement of each such unlawful condition or conditions.

XIII.
PENALTY FOR FAILURE TO ABATE

Any owner, lessee or occupant, whether a natural person or a corporation, or any agent, servant, representative or employee of any such owner, lessee or occupant, including any person having ownership, occupancy or control of any lot, lots, grounds, yards, or parcel of real estate or any part thereof, or interest therein, situated within the City, on which there exists an unlawful condition, as defined in this Ordinance, who shall allow or permit any such unlawful condition, as herein defined, to be created or to remain and continue if created and established, or who shall fail, refuse, or neglect to remove or abate such unlawful condition, by one of the methods hereinbefore provided, within ten days from the date of service of notice thereof as provided herein, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed

Five Hundred and No/100 Dollars ($500.00), and each day during which such failure, refusal or neglect shall continue to exist, shall constitute a separate offense.

XIV.
SUMMARY ABATEMENT

In addition to the foregoing remedy and cumulative thereof, if it shall be brought to the attention of the City Council, and shall be determined by the City Council that any such unlawful condition or conditions, as hereinbefore described, are likely to have an immediate adverse effect upon the public health, comfort or safety, then and in that event the City Council may, by appropriate resolution, order such unlawful condition or conditions summarily abated by the City in a reasonably prudent manner.

XV.
SAVINGS CLAUSE

The City Council of the City of Panorama Village, Texas, does hereby declare that if any section, subsection, paragraph, sentence, clause, phrase, work or portion of this Ordinance is declared invalid, or unconstitutional, by a court of competent jurisdiction, that, in such event it would have passed and ordained any and all remaining portions of this Ordinance without the inclusion of that portion or portions which may be so found to be unconstitutional or invalid, and declares that its intent is to make no portion of this Ordinance dependent upon the validity of any other portion thereof, and that all said remaining portions shall continue in full force and effect.

XVI.
REPEALING CLAUSE

All Ordinances, or parts of Ordinances and motions in conflict with the provisions of this Ordinance are hereby expressly repealed.

XVII.
PUBLICATION

This Ordinance and each section hereof shall take effect and be in full force from

and after its passage and publication.

PASSED AND APPROVED this 24th day of APRIL, AD 2000.

HOWARD KRAVETZ, Mayor

ATTEST:

LISA EVANS, City Secretary

APPROVED:

LARRY L. FOERSTER, City Attorney