

ARTICLE 6.04 WEEDS, RUBBISH, NUISANCES AND OTHER OFFENSIVE CONDITIONS; ILLEGAL DUMPING*

Sec. 6.04.001 Definitions

Garbage. All waste including animal and vegetable waste, dead animals, food, any matter that is no longer wanted or needed, anything that is worthless of nominal value, inferior, or vile.

Graffiti. The unauthorized application of paint, ink, chalk, dye or other similar substance, or other inscribed or engraved material on public or private structures located on publicly or privately owned real property within the city that is not authorized by law.

Hay bale. A bundle or pile of hay.

Nuisance. Whatever is dangerous to human life or health, or whatsoever renders the ground, the water, the air or the food a hazard or injurious to human life or health or that is offensive to the senses or that is detrimental to the public health, is hereby declared to be a nuisance. Nuisance shall also be defined as that property condition which displays a disregard for the harmony and orderliness of the community which a reasonable person would expect in the community.

Rubbish/brush. Trash, debris, rubble, concrete, cement, stone, excess or useless fragments of construction materials, or other miscellaneous useless waste or rejected matter.

Trash/debris. All solid wastes, including garbage, trash, litter, junk, tin cans, bottles, papers, grass and weed cuttings, tree limbs, brush, wood or building materials, discarded fences, discarded vehicle parts, tires, wreckage, abandoned or inoperable household appliances, moveable furniture and/or appliances not designed for or modified to withstand the elements and outdoor use, equipment, tools, machines, broken or discarded furniture and other forms of household effects that have been abandoned and allowed to accumulate on private or public property or which contributes to urban blight.

Unsanitary matter. All putrescible waste, except body waste, including meat, vegetable, and fruit refuse and carcasses of small animals.

Weeds. Vegetation that because of its height is objectionable, unsightly or unsanitary, but excluding shrubs, bushes, trees, cultivated flowers, and cultivated crops.

Sec. 6.04.002 Prohibited acts and conditions

(a) Nuisances. The following are declared to be a nuisance and shall be abated, and any persons guilty of performing or causing any such nuisance, or permitting or suffering such on any property or to remain upon said property or in any structure, building occupied by or controlled by such persons or on any public street immediately adjacent to such premises shall be deemed guilty.

(1) Any property, buildings, structures or places containing accumulations of garbage, weeds, water, junk, trash and debris, stagnant liquids, flammable liquids, or other deposits or substances which are likely to become unwholesome, filthy, unsightly, offensive or unsanitary or likely to create or engender disease.

- (2) Discharging of any sewage waste directly or indirectly onto the ground or into any stream, creek, waterway or other body of water.
- (3) Permitting any property, tank, pond, alley, gutter, swimming pool, or open receptacle containing water, or a source of water to become stagnant, foul, nauseous, offensive or unpleasant, or provide harborage for mosquitoes, flies, or other insects.
- (4) Maintaining water clarity in a swimming pool so that all parts of the bottom are not visible from the pool deck; maintaining a pool or spa in such a manner that the water becomes unwholesome; not maintaining proper fencing as required under this code; not securing and locking all access gates to a pool located on unoccupied property; and/or allowing a swimming pool to become a harborage or breeding place for insects or rodents.
- (5) Discharging water from a swimming pool onto the property of another, or to drain the pool in such a way as to drain onto the property of another without consent of adjoining property owner.
- (6) Permitting the accumulation, dumping or the burial of garbage, trash and debris, building materials, discarded furniture, tree limbs, household waste items, ashes, inoperable household appliances, vehicle tires, scrap metal, or automobile parts on any private property and/or depositing the same onto any private property, public right-of-way or public property or the dumping or burying of used motor oils or any other chemical substance which is not permitted by the state commission on environmental quality directly onto or into the ground.
- (7) Permitting a lawn irrigation system to spray or overflow water onto a public sidewalk or public street during periods of freezing weather when such water freezes and results in a potentially dangerous condition.
- (8) Allowing, generating or fostering any unreasonably loud, disturbing, or unnecessary noise in violation of the city ordinances which causes distress, discomfort or injury to persons in the immediate vicinity thereof.
- (9) Allowing a property to become a harborage or breeding ground for rats or vermin.
- (10) Placing any object or article or allowing a plant to grow upon or over any public street or sidewalk, except such as are permitted by ordinance of this city, in such manner as to obstruct or hinder the free passage upon such public street or sidewalk.
- (11) Sweeping or depositing any trash and debris onto any public street or other public place and allowing the same to remain in such place.
- (12) Creating or allowing graffiti that is visible from a public place or public right-of-way.
- (13) Scattering, distributing, or affixing any advertisements, circulars, handbills, printed or written announcements, or paper of like character, upon the public streets, within or on public buildings, signs, monuments, or grounds within the city, except as provided by the city's sign ordinance or other law.
- (14) Using a vehicle when parked or stored on commercial or residential property for living or

sleeping quarters.

(15) Any tree and/or shrubbery allowed to grow onto or over a public street, except such as are permitted by ordinance of this city, in such manner as to obstruct or hinder the free passage of vehicles including but not limited to fire, police, emergency and non-emergency vehicles must maintain a minimum clear space between the street and lowest portion of the tree limbs of at least 14 feet above the public street and gutter.

(16) Maintaining a dead tree or dead tree limb on one's property that is a potential safety hazard or that may cause damage to a person or property.

(b) Grass and weeds. It shall be unlawful for an owner or any person(s) having supervision or control of any lot, tract, or parcel of land thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the city, to suffer or permit grass, weeds or any plant that is not cultivated to grow to a greater height than 12 inches on such lot, tract or parcel or to grow in rank profusion upon the premises or otherwise in, along, upon or across the adjacent sidewalk, parkway or alley to a height greater than 12 inches. This section specifically requires property owners and residents to maintain their yards, easements and rights-of-way, including easements and rights-of-way adjacent to their property.

(c) Rubbish, brush, trash/debris, garbage, unsanitary matter, etc. It shall be unlawful for an owner or any person(s) having supervision or control of any lot, tract, or parcel of land thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the city, to suffer or permit any rubbish, brush, or any other objectionable, unsightly or unsanitary matter of whatever nature to accumulate or be present upon any lot, tract, or parcel of land, or across the adjacent sidewalk, parkway or alley.

(d) Illegal dumping. It shall be unlawful for any person to discard, dump, or unload items such as furniture, appliances, mattresses, carpet or carpet padding, rubbish/brush, trees and limbs, unsanitary matter, or any other material which constitutes a nuisance or would likely cause the destruction of any public right-of-way at any place within the corporate limits of the city, except as such other property as may be designated by the city or the state.

(e) Hay bales. It shall be unlawful for an owner or any person(s) having supervision or control of any lot, tract, or parcel of land thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the city, to suffer or permit a hay bale that is not enclosed within a structure to be located less than 90 feet from a street, sidewalk, parkway, right-of-way or similar easement or alley.

(f) Disposal of trash and debris. It shall be unlawful and declared a nuisance for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, to place waste and recycling receptacles or bulk waste at the designated pickup location for solid waste or recycling collection prior to 8:00 a.m. on the day before pickup or to fail to remove waste and recycling receptacles by 8:00 a.m. on the day following the designated pickup day. Notwithstanding any other notice provision in this chapter, a 24-hour notice to abate the violation shall be issued for violating this

section, and the failure of the person to correct the violation within that time period subjects the person to the enforcement and/or penalty provisions of this chapter. Other than during the hours for waste and recycling receptacle placement allowed by city ordinance, waste and recycling receptacles located on residentially zoned property shall be placed in a location that is not visible from a public street or placed adjacent to the side of the home in such a manner that the receptacles are not located between the home and the adjacent street.

Sec. 6.04.003 Duty to abate

Every person possessing any place in or on which there is a violation of the general regulations in [section 6.04.002](#) shall, as soon as its condition or presence comes to his knowledge, proceed at once and continue to abate such violation.

Sec. 6.04.004 Notice of violation; order to abate

(a) Generally. In the event that any owner or any person(s) having supervision or control of the property violates the provisions of this article, the mayor or designee shall give notice to the aforementioned persons to abate or remove the violation described in such notice, within seven (7) days.

(b) Written notice. A written notice 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's records; or

(3) If personal service cannot be obtained, notice may be given by:

(A) Publication at least once;

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

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

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

(c) Subsequent violations. The city, in the notice of a violation, shall inform the aforementioned persons that if another violation of the same kind or nature that poses a danger to the public health and safety occurs on or before the first anniversary of the date of the notice, the city without further notice will correct the violation at the owner's expense and assess the expenses against the property. If a violation covered by a notice under this subsection occurs within the one-year period, the municipality without notice may take any action permitted and assess its expenses.

Sec. 6.04.005 Abatement by city

(a) Authorized. If such owner or any person(s) having supervision or control of the property in question fails or refuses to comply with the demand for compliance in the notice within seven (7) days of such notice or publication, the city may do such work or cause the work to be done to bring the real property into compliance with the provisions of this article and the cost thereof shall be a charge to and personal liability of such person.

(b) Collection of costs. A statement of the cost incurred by the city shall be mailed to the owner or any person(s) having supervision or control of the premises, which statement shall be paid within 30 days of the date of the mailing thereof. In the event that the statement has not been paid within the 30-day period of time provided, the city has the right to exhaust the remedies available found in [section 6.04.007](#).

Sec. 6.04.006 Additional authority to abate dangerous weeds

(a) The city may abate, without notice, weeds that have grown higher than forty-eight (48) inches and are an immediate danger to the health, life, or safety of any person.

(b) Not later than the 10th day after the date the city abates weeds under this section, the city shall give notice to the property owner in the manner required by [section 6.04.004\(b\)](#).

(c) The notice shall contain:

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

(2) A description of the violations of this article that occurred on the property;

(3) A statement that the city abated the weeds; and

(4) An explanation of the property owner's right to request an administrative hearing related to the city's abatement of the weeds.

(d) The city shall conduct an administrative hearing on the abatement of weeds under this section if the property owner files with the city a written request for a hearing within thirty (30) days of the date of the abatement of the weeds.

(e) An administrative hearing conducted under this section shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the city's abatement of the weeds.

(f) The city may assess expenses and create liens under this section as it assesses expenses and creates liens under section 342.007 of the Health and Safety Code. A lien created under this section is subject to the same conditions as a lien created under section 342.007 of the Health and Safety Code.

(g) The authority granted a city by this section is in addition to the authority granted by Health and Safety Code, section 342.006.

State law reference—Additional authority to abate dangerous weeds without notice, V.T.C.A., Health and Safety Code, sec. 342.008.

Sec. 6.04.007 Administrative fee

In addition to collecting the costs and expenses incurred by correcting violations upon abatement by the city, the city shall charge the sum in the amount established in [appendix A](#) to this code per occurrence, which sum is hereby found to be the cost to the city of administering the terms of this article. The administrative fee will be charged per lot, tract or parcel of land, or across the adjacent sidewalk, parkway or alley, which is hereby found to be the cost to the city of administering the terms of this article.

Sec. 6.04.008 Offenses; penalty; citations; lien for city's costs

(a) If a notice is provided to the owner or any person(s) having supervision or control of such real property, the failure or refusal to comply with the demand for compliance within the applicable time period shall be deemed to be maintaining a public nuisance, and the mayor or his designee may issue a citation in municipal court and/or file a lien upon and against such real property to include all costs, filing fees, charges and expenses, in addition to a charge to and personal liability to the owner. Any person, firm, or association violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed \$500.00 for each offense. Each day a violation of any provision of this article shall continue, it shall constitute a separate offense.

(b) Notwithstanding any provision of this section to the contrary, the mayor or his designee has the authority to issue immediate citations to persons violating any provision of this article in the presence of said official.

(c) To obtain a lien against the property, the mayor or municipal official designated by the mayor must file a statement of the expenses incurred to correct the violation on the premises with the county clerk. The lien statement must state the name of the owner, if known, and the legal description of the property. The lien attaches upon the filing of the lien statement with the county clerk. The city shall have a privileged lien on any lot, tract or parcel of land or portion thereof on which such expenses were incurred, and this lien shall be second only to tax liens and liens for street improvements. The lien obtained by the city is security for the expenditures made and interest accruing at the rate of ten (10) percent on the amount due from the date of payment by the city.

(Ordinance 2013-12-374 adopted 12/16/13)