

ARTICLE 6.03 TALL WEEDS, GRASS, RUBBISH, ETC.

Sec. 6.03.001 Tall weeds and grass unlawful

No owner, lessee or occupant, or any person in charge of any premises located within the city, shall allow weeds, grass, or brush to grow or accumulate on the premises in excess of the standards provided in this article.

Sec. 6.03.002 Rubbish unlawful

No owner, lessee or occupant, or any person in charge of any premises located within the city, shall allow the accumulation of rubbish on the premises in violation of the standards provided in this article.

Sec. 6.03.003 Violation of article declared nuisance

A condition on a property which is in violation of the standards of this article is declared a public nuisance.

Sec. 6.03.004 Growth of weeds or brush

- (a) On platted lots, either single or grouped, within the developed areas of the city, and on lots or tracts that do not qualify as undeveloped vacant properties (vacant lots without a structure on them), any growth of weeds or grass may not exceed a height of twelve inches (12"). Such property must also be cleared of any brush.
- (b) On undeveloped vacant properties of more than an acre in size in areas of the city which have not been fully developed, any growth of weeds or grass may not exceed a height of eighteen inches (18"). Such property must also be cleared of any brush within twenty feet (20') of any adjoining right-of-way or property line. Undeveloped vacant properties of less than one acre will be governed by the same standards as set forth in subsection (a) above.
- (c) On properties which have significant vegetation other than weeds or grass and have unusually steep slopes or other terrain features which inhibit mowing or development, and which will not create problems if left in their natural state, any growth of weeds or grass may be left in a natural state. However, areas located within twenty feet (20') of property lines or rights-of-way must be maintained in accordance with the standards for vacant undeveloped properties.
- (d) On a lot or property that has a structure upon it, any growth of weeds and grass may not exceed twelve inches (12"). All brush must be cleared from such property.
- (e) Any right-of-way adjoining private property within the city must be maintained by the owner, occupant, lessee, or person in control of such adjoining private property. Any growth of weeds and grass may not exceed twelve inches (12") in height, and all brush must be cleared from such right-of-way.
- (f) **It** shall be an affirmative defense to any violation of subsection (e) that the adjoining rightof-way had not been used by and is unusable by the owner, occupant, lessee, or person in control of the adjoining private property.
- (g) The term "brush" as used in this section shall mean undergrowth or wild growing plants and bushes that are not well maintained by the property owner or occupant and shall further include the cuttings or trimmings from trees, shrubs, or lawns and similar materials.

Sec. 6.03.005 Accumulations of rubbish

- (a) Accumulation of rubbish shall not be created or allowed to exist upon a premises located within the city, except for temporary accumulations generated at the premises and accumulated for the purpose of removal from the premises and lawful disposal thereof. The temporary period of time allowed that such accumulation of rubbish may be maintained pending disposal shall be twenty (20) days. However, where an accumulation of rubbish is of a nature or to an extent which is reasonably calculated to create an immediate fire hazard or significant risk of immediate injury to the health of the citizens of the city, such temporary period of lawful accumulation for purposes of removal and disposal shall not exceed five (5) days.
- (b) The term "rubbish" as used in this section shall mean garbage and other waste materials and refuse, including decayable and nondecayable waste and any other impure, unwholesome, unsanitary, or unsightly matter. The term shall include all worn out, worthless and discarded material, including unusable lumber, old iron or other metal, glass, or similar junked or discarded materials, including discarded appliances, furniture, tires or automobile parts.

Sec. 6.03.006 Notice and abatement

- (a) If the owner, lessee, or occupant, or any other person in charge of the premises located within the city, does not comply with this article within ten (10) days of notice of a violation of this article, the city may:
 - (1) Do the work or make the improvements required to bring the premises into compliance; and/or
 - (2) Pay for the work done or improvements made and charge the expenses to the owner of the premises.
- (b) The notice of the violation referred to in subsection (a) above must be given at least ten (10) days prior to the city taking action to bring the premises into compliance with this article. Any such notice must 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 (10) consecutive days;
 - (B) By posting the notice on or near the front door of the building on the premises 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) The notice must state the nature of the violation and notify the owner that, unless the owner brings the premises into compliance with this article within ten (10) days, the city, or its designee, may enter onto the premises and undertake such needed work and charging the expense to the property owner. Said notice will also inform the owner of the fact that a lien will be imposed on the property for payment of all such expenses. If the city council so desires, the city, in the notice of violation, may inform the owner 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 date of the notice, the city, without further notice, may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by such a notice occurs within the one-year period and the city has not been informed in writing by the owner of an ownership change, then the city, without notice, may take any action permitted in this section and assess its expenses as provided in subsection (d) below.

- (d) The expenses of remedial work undertaken by the city or paid for by the city shall be assessed against the property owner at a regular or special called city council meeting. To obtain a lien against the property, the mayor or the person designated by the mayor will file a statement of expenses with the county clerk. The statement to be filed must include the name of the owner, if known, and the legal description of the property. Pursuant to section 342.007, Health and Safety Code, the lien attaches when filed.
- (e) The lien will serve as security for the payment of the expenditures made by the city, and interest accruing at the rate of ten percent (10%) on the amount due from the date of payment or incurrence by the city. This lien is inferior only to:
 - (1) Tax liens; and
 - (2) Liens for street improvements.
- (f) Pursuant to section 342.007(e) of the Health and Safety Code, the city council may bring suit for foreclosure of the lien in the name of the city to recover the expenditures and interest due. According to subsection (f) of that same section of the Health and Safety Code, a statement of expenses or a certified copy of the statement of expenses is prima facie proof of the expenses incurred by the city in doing work or making the improvements.

Sec. 6.03.007 Abatement of dangerous weeds without notice

- (a) The city may abate, without notice, weeds that:
 - (1) Have grown higher than forty-eight inches (48"); and
 - (2) Are an immediate danger to the health, life, or safety of any person.
- (b) Not later than the tenth (10th) day after the date that the city abates the weeds under this provision, the city shall give notice to the property owner in the manner required by section 6.03 .006(b) above. The notice shall contain:
 - (1) An 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 municipality abated the weeds; and
 - (4) An explanation of the property owner's right to request an administrative hearing about the municipality's abatement of the weeds.
- (c) If the property owner files a written request for a hearing within thirty (30) days after the date of the abatement of the weeds, the city shall conduct an administrative hearing on the subject of the abatement of the weeds. Such administrative hearing shall be conducted not later than the twentieth (20th) day after the date a request for hearing is filed. The owner may testify or present any witnesses or written information relating to the municipality's abatement of the weeds.

- (d) The city may assess expenses and create liens under this section in the same manner as it assesses expenses and creates liens under section 6.03 .006 of this article. The lien created under this section is subject to the same conditions as the lien created under section 6.03.006 of this article.

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