

## ARTICLE III. WEEDS AND WILD EXCESSIVE GROWTH OF VEGETATION

### Sec. 34-81. Permitting growth of weeds on lots or premises.

- (a) It shall be unlawful and constitute an offense and creation and maintenance of a public nuisance for any person who shall own or occupy any lot or premises to suffer or permit weeds, grass or uncultivated plants other than trees to grow upon such lot or premises within 100 feet of the property line of developed property, residential or commercial structure, or any developed street right-of-way, to a greater height than 12 inches on an average.
- (b) It shall be unlawful and constitute an offense and creation and maintenance of a public nuisance for any person who shall own or occupy any lot or premises to suffer or permit weeds, grass or uncultivated plants other than trees to grow to a greater height than 12 inches on that portion of street or alley right-of-way which abuts such lot or premises between the centerline of such right-of-way and the property line of such lot or premises.
- (c) It shall be unlawful and constitute an offense and creation and maintenance of a public nuisance for any person who shall own or occupy any lot or premises to:
  - (1) suffer or permit weeds, grass, uncultivated plants or trees to grow in roadside ditches such that the flow of storm water is impeded;
  - (2) suffer or permit same to block the entrances to driveway culverts, sidewalk culverts or throats of catch basins;
  - (3) fail to keep ditches and culverts free of debris or any other obstacle that will prevent the free flow of water.
- (d) Rights-of-way meeting any of the following shall not be the responsibility of the abutting owner or occupants:
  - (1) Ditches exceeding a depth of four feet or ditches that would create an undue hardship on the property owners as determined by the city manager or his designee;
  - (2) Rights-of-way which governmental entities have a contractual or legal obligation to maintain;
  - (3) Major arterial streets as determined by the city manager or his designee;
  - (4) Unpaved dedicated street rights-of-way;
  - (5) Street medians;
  - (6) Property owned in fee by the city.

- (e) If it is shown that a person has violated this section, the defendant, upon conviction, shall be punished by a fine of not less than \$50.00 nor more than \$500.00 for each offense.
- (f) Upon a second conviction for a violation of this section, the defendant shall be punished by a fine of not less than \$100.00 nor more than \$500.00 for each offense.
- (g) In addition to the fines and penalties provided for in this section, if a person owning any lot or premises in violation of this section fails or refuses, after notice, to cut such weeds, grass or uncultivated plants, the designated enforcement officer may cause such weeds, grass or uncultivated plants to be cut, and the defendant shall be billed accordingly as delineated in section 34-87.
- (h) In any prosecution charging a violation of this section, proof that the person whose name is listed on the tax rolls of the city as being the owner of the lot or premises found to be in violation shall constitute in evidence a prima facie presumption that such person is the owner of such lot or premises; provided, however, that such presumption may be rebutted by the person charged with violating this section with evidence to the contrary; and provided further that the presumption established in this subsection shall have the evidentiary consequences enumerated in V.T.C.A., Penal Code § 2.01 et seq.

(Code 1961, § 10-18; Ord. No. 03-055, § 2, 11-25-2003)

### **Sec. 34-82. Inspection to determine height.**

The director of community services or his designee shall have the duty of inspecting all premises, including lots, blocks, tracts of land or portions within the city to determine whether grass or weeds growing on such lands exceeds 12 inches in height.

(Code 1961, § 10-19)

### **Sec. 34-83. Notice to cut.**

- (a) If at any time the director of community services or his designee discovers any premises, including lots, blocks, tracts of land or portions on which grass or weeds exceeds 12 inches in height, the director or his designee shall give written notice to the owner of the land.
- (b) The 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 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 notice is mailed to the property owner in accordance with this section 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. If the notice is given by mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mails is deemed to be delivered three days after the date mailed. If notice is made by publication, the publication shall be in newspaper of general circulation in the community.
- (d) The director of community service or his designee in the notice of a 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 of the 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 a notice under this subsection 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 assess its expenses.

(Code 1961, § 10-20)

#### **Sec. 34-84. Weeds over 48 inches.**

If weeds have grown higher than 48 inches and are an immediate danger to health, life and safety of any person, the city may, without notice, abate the weeds, assess expenses and create liens. Not later than the tenth day after the date the city abates weeds under this section, the director of community services or his designee shall give notice to the property owner in the manner required by section 34-83. 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 the ordinance 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 about the city's abatement of the weeds.

(Code 1961, § 10-21)

**State law references:** Abate dangerous weeds, V.T.C.A., Health and Safety Code § 342.008.

### **Sec. 34-85. Administrative hearings.**

The director of community service shall conduct an administrative hearing on the abatement of weeds under this article if, not later than the 30th day after the date of the abatement of the weeds, the property owner files with the director of community service a written request for a hearing. 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. A municipality may assess expenses and create liens under this section.

(Code 1961, § 10-22)

### **Sec. 34-86. Performance of work by the city.**

If the recipient of any such notices as provided in this article fails, neglects or refuses to comply with the requirements of such notice within the period of seven days, the city, by virtue of the power conferred on it by its Charter and the provisions of V.T.C.A., Health and Safety Code § 342.004 et seq., by and through the director of community services, or his designee, shall enter in and upon such premises and perform all work, acts or things necessary to be done in compliance with the requirements of the notice, and incur all necessary expenses in connection therewith. The director of community services, or his designee, shall cause any recurrence of such violations as set forth in the original notice to be corrected for a period of 12 months thereafter, without the necessity of further notice. All such work and expenses, incurred in connection therewith, shall be done on the account of and at the cost of the owner, agent or occupants of any such premises, and is declared to be a personal charge against any such owner, agent or occupant, and a lien upon such property as provided in this article.

(Code 1961, § 10-23; Ord. No. 03-015, § 1, 4-1-2003)

**Sec. 34-87. Billing owners or occupants, perfecting lien and prosecuting violators.**

- (a) *Bill the occupants or owner.* Whenever the city shall have performed the work and paid all necessary expenses in connection therewith as provided in this article, the director of community services or his designee shall bill the owner and occupant for all necessary expenses. Necessary expenses include, but are not limited to, the actual cost for mowing grass and weeds and administrative expenses incurred by the city. The city shall charge the actual cost for mowing grass and weeds, except that a minimum cost of \$25.00 shall be charged for mowing such grass and weeds, plus an administrative fee of \$100.00 to reimburse the city for staff costs and expenses.
- (b) *Liens to be filed.* If an owner or occupant does not promptly pay the bill within 30 days, the director of community services, his designee or such other official as designated by the mayor shall prepare and file for record in the office of the county clerk an itemized statement of expenses (lien) of all the work performed, all costs and expenses incurred, and paid by the city, including the administrative fee in connection therewith, in the form of an affidavit duly sworn to. The affidavit, or duly certified copy, after having been recorded, shall be prima facie proof of the work done and performed and the amounts paid therefore. Such affidavit, among other things and provisions, shall contain the following:
- (1) Name and address of the owner of the property, if known.
  - (2) Legal description of property sufficient to identify the property, and where the property has been subdivided, a description by lot and block number of any particular subdivision shall be sufficient.
  - (3) Statement of the particular violation of this article.
  - (4) Statement that notice of violation was given to owner as to failure to comply therewith.
  - (5) Itemized statement of the work done and performed, together with costs and administrative charges, opposite each item.
  - (6) Statement that such affidavit is made for the purpose of fixing a lien upon the property therein described in accordance with the provision of V.T.C.A., Health and Safety Code § 342.007 et seq., with ten percent interest on the amount due.
- (c) *Prosecution in municipal court.* The director of community service, in coordination with the city prosecutor, may also file complaints in municipal court for

the failure of an owner or occupant to maintain his property and keep his grass below 12 inches.

(Code 1961, § 10-24)

**Sec. 34-88. Economic incentive program.**

- (a) The city manager is authorized to waive demolition liens and labor liens in an amount not to exceed \$5000.00 on any lot in the city if a property owner builds or enlarges a residence or adds a garage where:
  - (1) The projected increase of the appraised value exceeds \$25,000.00; or
  - (2) The cost of construction exceeds \$25,000.00. The waiver will be done after the construction has been completed, has passed inspection by the city, and a certificate of occupancy has been issued.
- (b) For liens in excess of \$5000.00 per lot, the liens can be waived at the discretion of city council on a showing that the new constructions value or cost of construction will be at least three times the value of the liens.
- (c) This economic incentive program is only for the Enterprise Zone, CDBG target areas or in other areas that will accommodate the construction or enlargement of low to moderate income housing.
- (d) Applicants for the program will need to pre-qualify for the program. The request must be in writing and show the following:
  - (1) Name, address and phone number of applicant;
  - (2) Description of the lot;
  - (3) Description of liens on the property;
  - (4) Description of the house or structure to be built or enlarged, i.e., expected size and cost;
  - (5) Timetable for construction;
  - (6) Expected occupant of house;
  - (7) Expected income of occupant as to show that he or she is low or moderate income;
  - (8) Taxes must be current or will be paid as part of the application; and

- (9) Liens, accrued taxes and interest must exceed value of lot.
- (e) The city manager can waive the lien in advance if required by third party financing.
  - (f) The construction will need to be completed and successfully passed inspection within one year after being pre-qualified.
  - (g) The city manager can also modify, waive or compromise the interest on liens of \$1000.00 or less on properties wherein the liens and interest exceed 50 percent of the taxable value of the property if it will promote the sale of a lot to a purchaser who will maintain the lot and promises to build a home thereon once funding is available.
  - (h) The city manager can also modify, waive, or compromise liens of \$5,000.00 or less if it will promote the sale of a lot to an adjacent landowner who will maintain the lot and cause the city not to expend funds therefore.

(Ord. No. 01-14, § 2, 4-17-2001)

Secs. 34-89--34-120. Reserved.