

ARTICLE IV. WEEDS, RUBBISH, INSANITARY MATTER¹

Sec. 54-61. Definitions.

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

Brush means scrub vegetation or dense undergrowth.

Carrion means the dead and putrefying flesh of any animal, fowl or fish.

Enforcement officer means the city code and environmental inspector, or such other persons designated by the city manager.

Filth means any matter in a putrescent state.

Garbage means all decayable wastes.

Impure or unwholesome matter means any putrescible or non-putrescible condition, object or matter which tends to, may or could produce injury, death or disease to human beings.

Junk means all worn out, worthless or discarded material, including, but not limited to, odds and ends, old iron or other material; glass; cordage; refrigerators and appliances, if outside buildings.

Objectionable, unsightly or insanitary matter means any matter, condition or object which is or should be objectionable, unsightly or insanitary to a person of ordinary sensitivities.

Owner means a person having the title to real property.

Refuse means a heterogeneous accumulation of worn-out, used up, broken, rejected or worthless materials and includes garbage, rubbish, paper or litter and other decayable or ~~non-decayable~~ ~~nondecayable~~ waste.

Rubbish means trash, debris, rubble, stone, useless fragments of building materials, refrigerators and appliances, or other miscellaneous useless waste or rejected matter.

Weeds means vegetation that because of its height is objectionable, unsightly or insanitary, but excluding:

- (1) Shrubs, bushes, and trees;
- (2) Cultivated flowers; and
- (3) Cultivated crops.

- (b) Any word not defined in subsection (a) of this section shall be construed in the context used and by ordinary interpretations, not as a word of art.

(Code 1997, § 54-111; Code 2005, § 54-61; Ord. No. 92-14, § I(2.01), 12-8-1992)

Sec. 54-62. Penalty for violation of article.

¹State law reference(s)—Municipal power concerning weeds and other insanitary matter, Texas Health and Safety Code § 342.004.

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Any person who commits an offense under the provisions of this article shall be subject to the penalty provided for in section 1-13.

(Code 1997, § 54-112; Code 2005, § 54-62; Ord. No. 92-14, § I(2.07), 12-8-1992)

Sec. 54-63. Property within city to be free of conditions constituting public nuisances; enumeration of conditions.

A person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the city limits, ~~and outside the city limits for a distance of 5,000 feet~~, commits an offense if such person permits or allows any stagnant or unwholesome water, sinks, filth, carrion, weeds, rubbish, brush, refuse, junk or garbage, or impure or unwholesome matter of any kind, or other public nuisance as defined by the State of Texas Health and Safety Code Section 343.011 to accumulate or objectionable, unsightly matter of whatever nature to accumulate or remain on such real property or within any easement area on such real property or upon any adjacent right-of-way for streets and alleys between the property line of such real property and where the paved surface of the street or alley begins. Such conditions are hereby defined as public nuisances.

(Code 1997, § 54-113; Code 2005, § 54-63; Ord. No. 92-14, § I(2.02), 12-8-1992)

Sec. 54-64. Weeds of height greater than 12 inches constitutes offense.

A person, owner, tenant, agent or person responsible for any premises within the city, occupied or unoccupied, commits an offense if such person permits or allows weeds to grow on the premises to a greater height than 12 inches. Such premises shall include, but not be limited to, the parkway between sidewalk and the curb; the right-of-way between any fence, wall or barrier and the curb or pavement if such exists or the centerline of such right-of-way; or the area between a fence, wall or barrier and within any abutting drainage channel easement to the top of such channel closest to the property. The city may abate, without notice weeds higher than 48 inches.

(Code 1997, § 54-114; Code 2005, § 54-64; Ord. No. 92-14, § I(2.03), 12-8-1992)

Sec. 54-65. Cultivated and uncultivated agricultural properties; height limitations.

With respect to uncultivated agricultural properties, a person, owner, tenant, agent or person responsible for such property commits an offense if such person permits or allows weeds to grow to a greater height than 12 inches within 150 feet from any adjacent property under different ownership or any street right-of-way. However, on cultivated agricultural properties where the distance between the growing crop and abutting property under different ownership or street right-of-way is less than 150 feet, the person, owner, tenant, agent or person responsible for such property commits an offense if such person permits or allows weeds to grow to a greater height than 12 inches between such growing crop and such property or street right-of-way, so long as no traffic visibility obstruction will exist.

(Code 1997, § 54-115; Code 2005, § 54-65; Ord. No. 92-14, § I(2.04), 12-8-1992)

Sec. 54-66. Notice of violation; delivery of notice; abatement by city; charges; collection; lien; perfection of lien.

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- (a) If any person violates the provisions of this article, the enforcement officer or ~~their his~~-designee shall give notice to such person setting forth the noncompliance with this article. Such notice shall be given in any one of the following ways:
- (1) Personal delivery in writing;
 - (2) By letter addressed to such person at his post office address, and which shall be deemed to have been received five days from the date of mailing;
 - (3) If personal service cannot be obtained, or the owner's post office address is unknown:
 - a. By publication at least ~~once 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.
 - (4) The notice shall also state that should another such violation of the same kind or nature occur, on or before the first anniversary of the date of the notice, the city, without further notice, may correct the violation at the property owner's expense.
- (b) If such person fails or refuses to comply with the demand for compliance in the notice within ten days of such notice or publication, the city may do such work or cause such work to be done to bring the real property into compliance with this article. The costs, charges and expenses incurred in doing or having such work done or improvements made to the real property shall be a charge to and the personal liability of such person, called charges. The charges to be collected by the city under this article shall include, in addition to the costs and expenses of mowing or correcting a condition upon a tract of land, a sum specified in the fee schedule in Appendix A to this Code, which sum is hereby found to be the cost to the city of administering the terms of this article.
- (c) If a notice, as provided in this section, is delivered to the owner of such real property, and ~~they he~~-fails or refuses to comply with the demand for compliance within the applicable time period, as provided in this subsection, the costs, charges and expenses shall be, in addition to a charge to and personal liability of the owner, a privileged lien upon and against such real property, including all fixtures and improvements thereon. In order to perfect such lien, the enforcement officer or his designee shall first give such owner written notice of demand for payment of such charges. Such written notice may be given by any one of the methods provided for the initial notice requiring compliance. If the owner fails or refuses to make complete payment of the charges within 20 days of such notice, the ~~may~~enforcement officer or ~~their his~~-designee shall file a written statement of such charges with the county clerk of the county in which the real property is located for filing in the county land records. The statement shall be sufficient if it contains the following:
- (1) The name of the owner, if known;
 - (2) A legal description of the real property;
 - (3) The amount of the charges including interest thereon;
 - ~~(4) A statement that all prerequisites required by this article for the imposition of the charges and the affixing of the lien have been met; and~~
 - ~~(5) A statement signed by the enforcement officer or his designee, under oath, that the statements made therein are true and correct.~~

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The statement may also contain such other information deemed appropriate by the enforcement officer or his designee. All charges shall bear interest at the rate of ten percent per annum from the date the city incurs the expense. The city may bring suit to collect the charges, institute foreclosure proceedings, or both. The statement, as provided in this section, or certified copy of such statement, shall be prima facie evidence of the city's claim for charges or right to foreclose the lien. The owner or any other person responsible, as provided in this section, shall be jointly and severally liable for the charges.

(Code 1997, § 54-116; Code 2005, § 54-66; Ord. No. 92-14, § I(2.05), 12-8-1992)

State law reference(s)—Assessment of expenses, lien, Texas Health and Safety Code § 342.007.

Sec. 54-67. Enforcement of article.

The provisions of this article shall be enforced by representatives of the city's code enforcement department. Notwithstanding any provisions of this article to the contrary, the enforcement officer has authority to issue immediate citations to persons violating any provision of this article in the presence of such official. It shall be unlawful for any person to interfere with the enforcement officer, his designee or an environmental health specialist, in the exercise of their duties under this article.

(Code 1997, § 54-117; Code 2005, § 54-67; Ord. No. 92-14, § I(2.06), 12-8-1992)