

ARTICLE 6-5 ACCUMULATIONS OF WEEDS, RUBBISH, BRUSH OR OTHER OBJECTIONABLE MATTER*

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Sec. 6-5-1 Definitions

Certain words, when used in this article, shall have the meaning as hereinafter described:

Construction materials. Any materials which could be used for the construction of any buildings, structures, foundations, fences or driveways, including rock, brick, broken concrete, lumber, dirt, plaster, sand or gravel, that is stored, stacked or piled in an amount or to an extent that it can be recognized from an adjacent alley, street or property owned by others.

Dead animals. Any one (1) or more dead animals or parts of dead animals.

Garbage. Any decayable waste, including animal, fish and vegetable wastes resulting from the handling, preparation, cooking and/or consumption of food.

Junk. Any used material that is worn-out and discarded and is located in a place and in an amount or to an extent that it can be recognized from any adjacent alley, street or property, or is a health or fire hazard, or is in violation of the zoning ordinance. Any material that is owned by a business and can be used or resold shall not be considered junk for purposes of this article unless it is a health or fire hazard or is in violation of the zoning ordinance.

Objectionable, unsightly or unsanitary matter. Includes, but is not limited to, construction materials, dead animals, junk and stagnant water.

Occupant. The person who uses private property as a residence or business or for any other purpose or use. Also to be included as an occupant shall be the person in charge of an apartment house, tenement house, trailer court or similar place in which groups of persons reside, or the person who is in charge of any place of business.

Owner. Means both the singular and the plural, and shall be the person owning any interest in the property as reflected by the tax records or deed records.

Person. Means both the singular and plural, and shall include an individual, corporation, organization, government, business trust, partnership, association, or any other legal entity.

Property. Land located in the city. With regard to a particular "owner" or "occupant," it shall mean land lying between the boundary lines of such property owned or occupied, including the adjacent right-of-way area from immediately behind the curb on any adjacent street to the nearest property line and from the nearest property line to the center of any adjacent alley. Property shall be classified as such even though it may be subject to street, alley or utility easements.

Rubbish. Includes, but is not limited to, garbage and trash.

Stagnant water. Any stale or foul water which has a bad odor and is left standing for longer than a 48-hour period.

Trash. All wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, ashes, wood, glass, bedding, crockery, feathers, coffee grounds, paper boxes, glass, tree trimmings and similar materials, that are stored, stacked or piled in an amount or to an extent that it can be recognized from an adjacent alley, street or property owned by others, or causes a health or fire hazard.

Weeds. Any hazardous vegetation, that is, any grass, weeds or wild brush of whatever nature exceeding a height of twelve (12) inches or more, whether grown, accumulated, stacked or piled.

(Ordinance 2006-23, sec. 1, adopted 5/9/06; 1957 Code, sec. 8-13)

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Sec. 6-5-2 Penalty

A violation of this article shall be punishable by a fine and penalty as indicated by [section 1-1-9](#) of the city Code of Ordinances. Each day or portion thereof that a violation continues shall constitute a separate offense as provided in [section 1-1-9](#) of the city code. (Ordinance 2006-23, sec. 1, adopted 5/9/06; 1957 Code, sec. 8-20)

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Sec. 6-5-3 Other remedies

The city attorney shall have the authority to prosecute complaints and violations of this article or to seek injunctive relief or other fines and penalties authorized by statute, including V.T.C.A. Local Government Code sections 54.011 through 54.019, and the Litter Abatement Act, V.T.C.A., Health and Safety Code, chapter 365. (Ordinance 89-24, sec. 1, adopted 3/28/89; 1957 Code, sec. 8-21)

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Sec. 6-5-4 Conflicts with state or federal law

The provisions included in this article, if in conflict, shall not supersede or constitute a defense against any state or federal law or regulation. (Ordinance 89-24, sec. 1, adopted 3/28/89; 1957 Code, sec. 8-22)

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Sec. 6-5-5 Duties of lot owners

The owner of a lot in the city shall keep the lot free from weeds, rubbish, brush and other objectionable, unsightly or unsanitary matter. (Ordinance 2006-23, sec. 1, adopted 5/9/06; 1957 Code, sec. 8-12)

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Sec. 6-5-6 Exceptions

The prohibition against accumulations shall not apply under the following circumstances:

- (1) The garbage, trash, junk or hazardous vegetation in question has been placed in a city container in which such items are authorized to be placed or has been disposed of at an approved solid waste site or an approved designated collection site.
- (2) The junk or construction materials in question are shielded from view by a screening fence or structure from an alley, street, public property or other private property with a different owner or occupant and do not constitute a fire or health hazard or a violation of the zoning ordinance. Automotive wrecking and salvage yards shall be subject to the requirements of sections relating to those businesses as set forth in the city code.
- (3) The construction materials in question do not constitute a fire or health hazard and are not located on property used for residential purposes or prohibited by the zoning ordinance.
- (4) The construction materials in question are stored on a street or alley during a period of active construction or repair pursuant to a permit issued by the director of public works or city council.
- (5) The construction materials in question are stored on residential property during a period of active construction or repair as evidenced by a current building permit where applicable.
- (6) The hazardous vegetation is located on land that is zoned FD (future development district) as defined by the city zoning ordinance.
- (7) The hazardous vegetation is located on land that is currently being used as a garden or is being cultivated for agricultural purposes.
- (8) The hazardous vegetation is located on land that is being used as pasture for the grazing of livestock in compliance with [chapter 2](#) of the city code.
- (9) The hazardous vegetation is located on public property owned by the state or any of its subdivisions, and such governmental entity has determined that it is in the public interest that such property should remain in its natural, undisturbed condition, and the vegetation on such property is in its native bloom, and the condition of such property does not present a danger or hazard to abutting properties.

(Ordinance 2006-23, sec. 1, adopted 5/9/06; 1957 Code, sec. 8-14)

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Sec. 6-5-7 Notice of violation

(a) If the owner of a lot in the city does not keep the lot free from weeds, rubbish, brush and other objectionable, unsightly or unsanitary matter, notice of violation must 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 records of the county; or
- (3) If personal service cannot be obtained:
 - (A) By publication at least once;
 - (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.

(b) If the notice to a property owner is returned by the United States Postal Service as “refused” or “unclaimed,” the validity of the notice is not affected, and the notice is considered as delivered.

(c) 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, and the city has not been informed in writing by the owner of an ownership change, the city, without further notice, may correct the violation at the owner’s expense and assess the expense against the property.

(Ordinance 2006-23, sec. 1, adopted 5/9/06; 1957 Code, sec. 8-15)

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Sec. 6-5-8 Hearing

(a) The owner of the premises may, within the five-day period after service of notice of violation, request of the clerk of the municipal court of the city, either in person or in writing, and without the requirement of bond, that a date and time be set when he or she may appear before the judge of the municipal court for a public hearing to determine whether he or she is in violation of this article. This public hearing shall not constitute a criminal action against the person, but shall merely be a finding of fact to determine the legal status of the accumulations in question.

(b) If, at the hearing, the judge finds that an accumulations violation does exist, he shall order that the accumulations violation be cleared within seven (7) days from the date of the hearing and shall sign an order allowing the director to clear the lot of the accumulation(s) after the seventh day.

(c) If the judge finds that the lot is not in violation of this article, no further action shall be taken against the lot or property owner until such time as the status of the lot has changed.

(Ordinance 2006-23, sec. 1, adopted 5/9/06; 1957 Code, sec. 8-16)

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Sec. 6-5-9 Authority of city to correct violations

If the owner of the property in the city does not clear the weeds, rubbish, brush or other objectionable, unsightly or unsanitary matter from the lot within seven (7) days, or request a hearing within five (5) days, from the date the owner receives notice of a violation of this article, the city may:

- (1) Do the work or make the improvements required; and
- (2) Pay for the work done or improvements made and charge the expenses to the owner of the property.

(Ordinance 2006-23, sec. 1, adopted 5/9/06; 1957 Code, sec. 8-17)

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Sec. 6-5-10 Assessment of city’s expenses; lien

(a) The city may assess expenses incurred under this article against the property on which the work is done or improvements made by obtaining a lien against the property.

(b) To obtain a lien against the property:

- (1) A statement of expenses must be filed with the county clerk; and
- (2) The lien statement must state:
 - (A) The name of the owner, if known; and
 - (B) The legal description of the property.

(c) The lien attaches upon the filing of the lien statement with the county clerk and 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.

(d) The lien is inferior only to:

- (1) Tax liens; and
- (2) Liens for street improvements.

(e) The city may bring a suit for foreclosure in the name of the city to recover the expenditures and interest due.

(f) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.

(g) The city may foreclose a lien on property under this subchapter in a proceeding relating to the property brought under subchapter E, chapter 33, Tax Code.

(Ordinance 2006-23, sec. 1, adopted 5/9/06; 1957 Code, sec. 8-18; Ordinance 2008-37, sec. 14, adopted 9/9/08)

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Sec. 6-5-11 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 tenth day after the date the city abates dangerous weeds under this section, the city shall give notice to the property owner.

(c) 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.

(d) The city 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 owner files with the city a written request for a hearing.

(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.

(g) The authority granted a municipality by this section is in addition to the authority granted by section 342.006 [of the Health and Safety Code].

(Ordinance 2006-23, sec. 1, adopted 5/9/06; 1957 Code, sec. 8-19)