

## **ARTICLE 6.05 MAINTENANCE OF REAL PROPERTY<sup>(\*)</sup>**

### **Sec. 6.05.001 Penalty**

(a) Any person who violates any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be fined in accordance with the general penalty provision found in [section 1.01.009](#), and each and every day's violation shall constitute a separate and distinct offense. In case the owner of premises shall be a corporation and shall violate any provision of this article, the president, vice-president, secretary or treasurer of such corporation, or manager, agent or employee of such corporation, shall also be severally liable for the penalties herein provided.

(b) The taking of corrective action under this article shall not relieve the owner or occupant of any such lot or other parcel of land in the city from any prosecution or penalty hereinabove, such penalty to be in addition to any and all other remedies provided for in this article.

(1995 Code, sec. 6.1407)

### **Sec. 6.05.002 Stagnant water**

It shall be unlawful for any person who is an owner of premises in the city to permit or allow holes or places on said lots or other parcels of land where water may accumulate and become stagnant, or to permit same to remain, or to permit or allow the accumulation of stagnant water thereon, thereby creating a health risk, including the risk of mosquito infestation. (1995 Code, sec. 6.1401)

**State law reference**—Municipal power concerning stagnant water and other unsanitary conditions, V.T.C.A., Health and Safety Code, secs. 342.001, 342.005 et seq.

### **Sec. 6.05.003 Filth, carrion or other unwholesome matter**

It shall be unlawful for any person who is an owner of premises in the city to permit or allow any carrion, filth, or other impure or unwholesome matter to accumulate or remain thereon. (1995 Code, sec. 6.1402)

**State law reference**—Municipal power concerning filth, carrion and other unwholesome matter, V.T.C.A., Health and Safety Code, secs. 342.003, 342.005 et seq.

### **Sec. 6.05.004 Weeds, rubbish, brush, etc.**

It shall be unlawful for any person who is an owner of premises to allow weeds, rubbish, brush or any other unsightly, objectionable or unsanitary matter to accumulate or grow on said property, or to allow, suffer or permit grass or weeds growing in a height greater than ten inches (10") to remain on such real property, thereby creating a fire and/or safety hazard, and/or health risk, including the risk of rodent and insect infestation. (1995 Code, sec. 6.1403)

**State law reference**—Authority of municipality to regulate weeds, grass, etc., V.T.C.A., Health and Safety Code, sec. 342.004 et seq.

### **Sec. 6.05.005 Privies, cesspools and outdoor toilets prohibited**

Any provision of this article to the contrary notwithstanding, no pit privy, privy vault, cesspool or outdoor toilet whatsoever shall hereafter be constructed or maintained within the corporate limits of the city. (1995 Code, sec. 6.1406)

**State law reference**—Municipal power concerning sewers and privies, V.T.C.A., Health and Safety Code, secs. 342.002, 342.005 et seq.

### **Sec. 6.05.006 Notice of violation; abatement of violation**

(a) The mayor, the city manager, the code enforcement officer or the health officer shall notify such owner of premises in violation of [sections 6.05.002](#) through [6.05.005](#) to abate and remove any such nuisance within ten (10) days of the mailing of the city's notice of a violation. The notice shall be in writing and be addressed to each owner of premises, including:

- (1) Each record owner of the affected property as listed in the county deed records; and
  - (2) Each adult occupant or other person in possession of the affected property.
- (b) Each notice must be delivered in person, [or] by letter addressed to the owner's post office address sent by certified mail, return receipt requested.
- (c) If personal service cannot be obtained or if no address is found despite the city's due diligence, or if the certified mail receipt is returned undelivered or not returned within ten (10) days of mailing, notice must be given as follows:

- (1) By publication at least twice within ten (10) consecutive days in the city's official newspaper, if the affected property has no structures and is vacant or otherwise unoccupied; or
- (2) By posting the notice on a conspicuous placard:
  - (A) Attached to a stake driven into the ground on the property to which the violation relates, if the property contains no structures and is vacant or otherwise unoccupied; or
  - (B) Attached to, on or near a main entrance to each building on the affected property.

When notice is given under subsection (c) of this section, the city may proceed to abate the nuisance five (5) days after the additional notice provided under this subsection is given. Nothing in this subsection impairs the city's authority to act based upon the original 10-day notice in accordance with subsection (c)(2) of this section on the same day that notice is mailed under subsection (b) of this section.

(d) The notice shall state that:

(1) Any owner or person in charge of the premises who maintains any such nuisance after the ten-day period shall be in violation of this article and subject to the penalties of this code and the city may do the work or make improvements required to abate the nuisance, pay for the work done or improvements made, and thereafter assess its expenses to any owner of premises, including, but not limited to, through the imposition of a lien upon the real property;

(2) Former owners of real property provided with notice of a violation must:

(A) Execute an affidavit stating that they no longer own the subject property and therein identify, by name and address, the person to whom the property was transferred; and

(B) Deliver the affidavit in person or by certified mail, return receipt requested, to the city not later than the 20th day after the date such notice is mailed; and

(3) If another violation at the affected property of the same kind or nature occurs on or before the first anniversary of the date of the mailing of the initial notice under this article, the city may, without further notice, immediately correct the violation at the owner of the premises' expense and assess the expense against the property and subject the owner of the premises to the penalty provided herein.

(1995 Code, sec. 6.1404)

**Sec. 6.05.007 Assessment of city's expenses; lien**

(a) The governing body of a municipality may assess expenses incurred for abatement of the nuisance against the real estate on which the work is done or improvements made. To obtain a lien against the property, the mayor, the health officer, or the municipal official designated by the mayor must file a statement of expenses with the county clerk, including the name of the property owner, if known, and the legal description of the property. The lien attaches upon the filing of a lien statement with the county clerk.

(b) The expenses of abatement shall include an administrative fee as provided for in the fee schedule found in [appendix A](#) of this code. In the event there are obstructions such as trees, shrubs, bushes, brush, excavations, foundations, demolished structures, or any other similar obstructions, an additional charge shall be levied, assessed, and collected against such premises.

(c) The lien obtained is security for the expenses, and interest accrues thereon at the rate of ten (10) percent of the total amount per annum from the date of payment by the city. The lien is inferior only to tax liens and liens for street improvements. The city may bring a suit for foreclosure of the lien to recover the expenses and interest due. The statement of expenses or certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making

the improvements. The remedy provided in this section is cumulative of the fine authorized for violation of this article.

(1995 Code, sec. 6.1405)

**Sec. 6.05.008 Emergency abatement**

Nothing in this article restricts city officials from immediately taking emergency action to abate a condition or circumstance that poses an immediate danger to the public health, safety or welfare. (1995 Code, sec. 6.1408)

**Sec. 6.05.009 Dangerous weeds**

As provided in V.T.C.A., Health and Safety Code, section 342.008, the city may abate, without notice, the nuisance of weeds in excess of forty-eight (48) inches in height which are an immediate danger to the health, life or safety of any person. (Ordinance adopting Code)

**State law references**—Authority of municipality to regulate weeds, grass, etc., V.T.C.A., Health and Safety Code, sec. 342.004 et seq.; additional authority to abate dangerous weeds without notice, V.T.C.A., Health and Safety Code, sec. 342.008.