

ORDINANCE 64

CONTROL OF WEEDS, BRUSH, RUBBISH, JUNK, UNSIGHTLY MATTER

(REVISED AUGUST 2011)

THIS IS AN ORDINANCE REGULATING THE CONTROL OF WEEDS, RUBBISH, JUNK AND UNSIGHTLY MATTER IN THE TOWN OF BAYSIDE; IT PROVIDES DEFINITIONS, VIOLATIONS, EXEMPTIONS, NOTIFICATION PROCESS, DUTY TO ABATE, AND COLLECTION OF FEES; AND IT PROVIDES PENALTIES FOR THE VIOLATIONS; THIS ORDINANCE REPEALS ALL ORDINANCE AND PARTS OF ORDINANCES IN CONFLICT HERewith; AND IT SETS THE EFFECTIVE DATE FOR IT'S REGULATIONS.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAYSIDE

ARTICLE I PURPOSE

The purpose of this code is the practical safeguarding of persons and property and declaring the following a public nuisance: uncontrolled weeds, brush, rubbish, junk and unsightly matter within the Town of Bayside, Texas, which could be injurious to the general public's health, safety and general welfare by providing breeding grounds and shelter for rats, mice, snakes, mosquitoes, and other vermin insects and pests; or the nuisance could attain such heights and dryness so as to constitute a serious fire threat or hazard; or the nuisance could bear seeds, that when mature, could cause the spread of weeds, or when breathed, it could cause irritation to the throat, lungs, and eyes of the public; or the nuisance could hide rubbish, such as broken glass or metal, which could inflict injury on any person going upon the property; or the nuisance could be unsightly; or the nuisance could be any growth of weeds, other than ornamental plant growth, which exceeds 12 inches in height, including dead trees 7 feet in height. This code repeals Ordinance 6 and Amendment 6A of the Town of Bayside and all other ordinances and parts of ordinances in conflict therewith.

ARTICLE II DEFINITIONS

SEC. 1- As used in this ordinance, the following terms shall have respective meanings ascribed to them:

- BRUSH: All trees or shrubbery under seven (7) feet in height and less than three (3) inches in diameter which are not maintained, cared for, or cultivated.

- CROPS: Cultivated plants or agricultural produced-such as grain, corn, cotton, vegetables, or fruit-considered as a group: High grass and weeds are not considered a crop as defined by this ordinance.
- CURB: See definition of "lot" to find where curb line is.
- JUNK: All worn out, worthless, discarded material or mechanical equipment...refer to Ord. 71, other metals, glass, paper, and cordage.
- LOT: Land within the property lines of their lot or parcel of land.
 1. To the curb line of adjacent streets, where a curb line has been established, or
 2. For a distance to the street where no curb line has been established, and
 3. To the center of adjacent alleys.
- OBJECTIONABLE, UNSIGHTLY OR UNSANITARY MATTER: Animal, vegetable or mineral matter or any composition or residue thereof.
- OWNER: Any person owning any interest in a lot, or any person leasing, occupying, or having supervision or control of a lot.
- RUBBISH: Garbage, trash and other discarded articles and materials.
- TRASH: All refuse other than garbage, rubbish and brush, including any household trash and yard trash (grass clippings, leaves, etc.)
- WEEDS: All rank and uncultivated vegetable growth or matter that (1) has grown to more than twelve (12) inches in height, or may create an unsanitary condition or become a harborage for rodents, vermin, or other disease-carry pests, regardless of the height of the weeds.

SEC. 2- As used in this ordinance, supervision and control shall be determined as follows:

- (A) The present occupant of the premises shall give rise to prima facie (evident/obvious) presumption of supervision and control.
- (B) If the property is unoccupied, then supervision and control shall be presumed to be in the owner as determined by the current tax roll.
- (C) Or if the property is unoccupied and is listed with a real estate agency, such agency shall, in absence of any other designated agent, be presumed to be the agent of the owner and shall therefore be presumed to have supervision and control.
- (D) Occupants or owners of a lot or portions of land, or property, are required to mow grass up to their property lines of their lot or parcel of land.

ARTICLE III VIOLATIONS

SEC. 1- Weeds, brush, rubbish, junk, unsightly matter-Declared nuisance and prohibited.

- (A) The existence of brush, junk, objectionable, unsightly or unsanitary matter, rubbish, trash, or weeds upon a lot in violation of this provision is hereby declared to constitute a public nuisance, subject to the abatement procedures prescribed in this ordinance or otherwise provided in this chapter.

- (B) It shall be unlawful for any owner of any lot or parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the town to permit weeds or grass to grow to a height greater than twelve (12) inches upon said premises. It shall be unlawful for any owner of any lot or parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the city to permit weeds, grass, or any plant to grow in, upon or across any sidewalk or street adjacent to the lot or property. Cultivated vegetation may be adjacent to the sidewalk when not in violation of other sections of the town code.
- (C) It shall be unlawful for any owner of any lot or parcel or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the town to permit any junk, brush, trash, rubbish, or any other objectionable, unsightly, or unsanitary matter of whatever nature to accumulate to be present upon any such lot or parcel of land.
- (D) It shall be unlawful for any owner of any lot or parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the town to permit the open storage of any icebox, refrigerator, stove, or similar items upon any such lot or parcel of land.
- (E) It shall be unlawful for any owner of any lot or parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the town to neglect mowing grass up to their property lines of their lot or parcel of land.

ARTICLE IV EXEMPTIONS

SEC. 1- Exempted from the weed provisions of this section of the following:

- (A) Heavily wooded areas filled with uncultivated underbrush.
- (B) Actively utilized crop production.
- (C) The cultivation of concentrated wildflowers from March 1 to June 15 of each year in areas where grasses and weeds do not exceed eighteen (18) inches in height.
- (D) The following areas and types of vegetation are exempted from this provision if managed in a manner so as not to become infested with weeds or to create a stagnant, foul-smelling condition.
 - 1. Native wetland vegetation found in wetlands, as defined by the State of Texas Wetlands Conservation Act, or in floodplains, drainage ponds, or ditches which store any convey storm water;
 - 2. Native vegetation found in natural areas which part of public open space, parks, and nature centers.

ARTICLE V NOTIFICATION

SEC. 1- Notice to property owner to abate and/or of work improvements by the town. The town acts on complaints from residents or town staff.

- (A) The Town Secretary shall notify a property owner in writing of the existence of a violation of ARTICLE III or request to schedule a hearing by the town council within ten (10) days of such notice.
- (B) The Town Secretary shall give the notice of violation:
 - 1. By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located.
 - 2. Or if personal service cannot be obtained:
 - a) By publication at least once in the local newspaper.
 - b) By posting the notice on or near the front door of each building on the property to which the violation relates.
 - c) Or 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 town mails a notice to the property owner in accordance with ARTICLE V, SECTION 1 (B) (1), 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.

ARTICLE VI DUTY TO ABATE

SEC. 1- It shall be the duty of any owner of any lot or parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the town to cut, or cause to be cut, and remove such brush, weeds, rubbish, trash, junk, ice boxes, refrigerators, stoves, and any and all other objectionable, unsightly or unsanitary matter of whatever nature as often as may be necessary to comply with the provisions of ARTICLE III hereof.

SEC. 2- Abatement by town, assessment of expenses; lien.

- (A) If the owner of the property who does not comply with ARTICLE III SECTION 1 and fails to remedy the violation or schedule a hearing within ten (10) days of notice of violation, the town may do the following:
 - 1. Do the work or make the improvements required.
 - 2. And pay for the work done or the improvements made and charge the expenses to the owner of the property.
- (B) After the work has been completed and paid for by the town, a statement of expenses incurred by the town to abate such conditions and administrative fees as set by the council shall be mailed to the owner of the property. Said fees may be adjusted annually. In some cases, the cost may be higher especially if most of the work must be done by hand. The owner of the property shall pay for work and administrative fees within thirty (30) days of the date of mailing thereof.

- (C) In the event that the amount shown on said statement for the work and administrative fees has not been paid within thirty (30) days of mailing, the town secretary or assigned representative is hereby designated by the mayor as the municipal official to execute and file a statement of expenses with the clerk of the county. The statement shall constitute a lien on the property. This lien statement shall state the name of the owner, if known, and the legal description of the property. The lien shall attach upon the filing of the lien statement with the county clerk. The lien shall accrue interest at a rate of ten (10) percent on the amount due from the date of payment by the town and shall be inferior only to tax liens. For any such expenditures, administrative costs, filing fees and interest, the town or its assignee may institute suit and recover and foreclose on the property, and the aforesaid statement, or copy thereof, shall prima facie proof of the amount expended in any such work performed by the town.
- (D) In the event the owner of any such property requests in writing that the town do such work as is necessary in order to abate or prevent a violation of this ordinance, then such request will negate the requirement of the above-described notification of violation by the town, and the town will have the same remedies as above-stated.

SEC. 3-Additional Authority to Abate Dangerous Weeds.

- (A) The town may abate, without notice, weeds that:
 - 1. Have grown higher than 36 inches;
 - 2. And are an immediate danger to the health, safety or life of any person.
- (B) Not later than the tenth day after the date the town abates the weeds under this section, the city shall give notice to the property owner in the manner required by ARTICLE V.
- (C) The notice shall contain the following:
 - 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 including photographs of the violations.
 - 3. A statement that the town abated the weeds.
 - 4. An explanation of the property's owner's right to request an administrative hearing about the town's abatement of the weeds.
- (D) The town council shall conduct an administrative hearing on the abatement of weeds under this section if, not later than the thirtieth (30th) day after the day of the abatement of the weeds, the property owner files with the town a written request for a hearing and administrative hearing. At the hearing, the owner may testify or present any witnesses or written information relating to the town's abatement of weeds.
- (E) The town may assess expenses and create liens under this section as it assesses expenses and creates liens under SECTION 2. A lien created under this section is subject to the same conditions as a lien created under SECTION 2.

ARTICLE VII COLLECTIONS AND DISPOSTION OF MONEY

SEC. 1- Assessment of Expenses; Lien.

- (A) To obtain a lien against the property, the mayor or town official designated by the mayor shall file a statement of expenses with the county clerk. The lien statement must state the name of the owner, if known, and the legal description.
- (B) The lien obtained by the town 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 of the property. The lien attaches upon the filing of the lien statement with the county clerk.
- (C) The lien is inferior only to tax liens.
- (D) The town council may authorize the town attorney to bring a suit for foreclosure in the name of the town to recover the expenditures and interest due.
- (E) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the town in doing the work making the improvements.
- (F) The town council may authorize the town attorney to foreclose a lien on property.
- (G) In any civil, criminal, or administrative appeal, hearing or action commenced by the town under this ordinance, the town shall be entitled to recover from the defendant of such action reasonable attorney fees, cost of suit, any other costs of enforcement, including, but not limited to, inspection costs, and cleanup or abatement costs.

SEC. 2- Collections And Disposition of Money. All collections of money from lot owners in payment of charges for statement of violations of this division shall be received by and receipted for by the town secretary or a duly authorized assistant.

ARTICLE VIII
PENALTY

Any person violating any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined any sum not to exceed two thousand dollars (\$2,000). Each day such violation exists shall constitute a separate offense.

ARTICLE IX
ATTORNEY AUTHORIZATION

Notwithstanding any penal provision herein, the town attorney is authorized to file suit on behalf of the town for such injunctive relief as may be necessary to abate such nuisance whenever any nuisance as herein defined is found in any place within the town.

ARTICLE X
VALIDITY

SEC. 1- All ordinances or parts of ordinances in conflict herewith are hereby repealed. The validity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance, which can be given effect without such invalid part or parts.

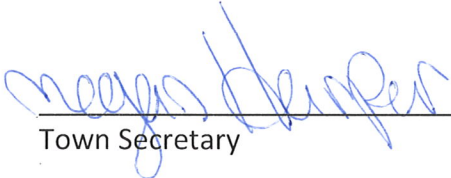
ARTICLE XI
EFFECTIVE DATE

This ordinance shall be effective upon and, in addition, if any penalty, fine or forfeiture is imposed by this ordinance, then this ordinance shall be effective only after publication of this ordinance in its entirety or in summary form once in the official newspaper of the Town of Bayside.

Date published in official newspaper: July 12, 2012 to July 19, 2012

Passed, ordained, approved, and adopted this the 13th day of June, 2012.

Attest:


Town Secretary

By: _____
Mayor, Town of Bayside, Texas