

TITLE 5

HEALTH AND SANITATION

Chapters:

5.04 Maintenance of Real Property

CHAPTER 5.04

MAINTENANCE OF REAL PROPERTY

Sections:

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5.04.01 Unsightly or unsanitary conditions on real property It shall be unlawful for any person having supervision or control of any lot, tract, parcel of land or portion thereof within the corporate limits of the city to suffer or permit any of the following:

- A. Grass, weeds, or any other plant that is not cultivated to grow to a greater height than twelve (12) inches on an individual lot, tract, parcel to grow in rank profusion upon the premises or in, along, upon, or across the abutting sidewalk, parkway, or alley.
- B. Solid or liquid household, yard, commercial, industrial, construction or demolition waste, including but not limited to rubbish, trash, brush, and litter, whether dumped, spilled, burned or abandoned; dead trees; building materials; openly stored appliances or furniture; stagnant pools of water or vessels in which water might accumulate where mosquitoes or other insects may breed; or any other objectionable, unsightly, unsanitary or unsafe matter of whatever nature to be present upon any lot or parcel of land, including in or along stream or drainage way and any adjacent right-of-way with the following exceptions:

1. Building materials may only be stored openly on the premises if covered and not deteriorated so as to be unusable for their ordinary purpose, and are stored in conjunction with an active building permit, a project on said premises not requiring a building permit, or a business enterprise that operates under a current, exhibited privilege license.
 2. No liquid or solid shall be placed in or along any stream or drainage way and no otherwise illegal dumping of any waste, furniture, appliances, or building materials shall be allowed on any parcel of land, including all adjacent rights-of-way and alleys, unless required permits have been obtained.
 3. Open storage of appliances or furniture shall only be permitted where such storage is in connection with an appliance sales or service business that is operated under a current and exhibited privilege license and located on a properly zoned parcel and if all doors, latches and locks are removed or made inoperable in a manner to ensure the safety of all citizens.
- C. Trees, shrubs, bushes or any other plant or object impeding the flow of public right-of-way or pedestrian traffic on any sidewalk, or in any other manner causing an unauthorized obstruction of the public enjoyment of a sidewalk or public right-of-way.
- D. Any act or condition contributing a nuisance under A.C.A. or current law.
- E. The occupant or owner of each residential dwelling or business shall provide an approved container with tight-fitting cover for the holding and storage of garbage. The container shall be placed at a point on the premises where the garbage collector can conveniently have access to the container. Approved garbage containers shall have handles suitable as aids for lifting the container.
- F. Whenever a city employee designated by the Mayor or his duly authorized agent or representative, determines that there are reasonable grounds to believe that there has been a violation of any provision of this section, he shall give notice of such alleged violation to the person responsible therefore, that such alleged violation shall constitute a nuisance. Such notice shall:
1. Be in writing.
 2. Include a statement of the reasons why it is being issued, and the sections of the code that are alleged to be in violation.
 3. Allow no more than seven (7) days for performance of any act the notice requires to be completed.

4. State, that if the alleged violation is not corrected within the time set forth in the notice, the city employee designated by the Mayor or his duly authorized agent or representative, shall institute legal proceedings, charging the person or person with a violation of this section.
 5. State that no further notice, warning or grace period will be given for any repeat alleged violation of the same subsection of this section within the remainder of the calendar year.
- G. With the exception notes in subsection (2) below, the person responsible for the violation shall be notified by one or more of the following methods:
1. By delivery to the owner, agent or responsible party, personally.
 2. By leaving the notice at the usual place, abode or business of the owner, agent or responsible party, with a person of suitable age and discretion; or
 3. By depositing the notice in the U.S. mail addressed to the owner, agent or responsible party, at his last known address by certified mail, postage prepaid thereon; or
 4. By posting and keeping posted for a period of not less than twenty-four (24) hours, a copy of the notice in a conspicuous place on the premises, alleged to be in violation.
- H. No further notice, warning, or grace period is required to be given for any alleged repeat violation of the same subsection of this section within the remainder of the same calendar year.
- I. Violation of the provisions of this section may be prosecuted by the issuance of criminal information or by the issuance of a citation by a law enforcement or Code Enforcement Officer. (Ord. No. 0-2007-07, Sec. 1.)

5.04.02 Notice to owner

- A. The head of the city department designated by the Mayor may order the owner of any real property within the city to cut weeds, remove garbage, rubbish and other unsightly and unsanitary articles and things that may be upon the property; and to eliminate, fill up or remove stagnant pools of water or any unsanitary thing, place or condition which becomes a breeding place for mosquitoes, flies or germs harmful to the health of the community. The order shall be in writing and shall be issued to the owner of the real property involved. If the owner of any real property is unknown or his whereabouts is not known or he is a non-resident of this state, then a copy of the written notice shall be posted upon the premises in some prominent place.

- B. If the owner of any real property within the city neglects or refuses to remove, abate or eliminate any such condition as provided for in subsection (A) of this section after having been given a minimum of seven (7) days' notice in writing to do so, the city department designated by the Mayor may do whatever necessary to correct the condition and charge One Hundred Dollars (\$100.00) per hour to the owner of the real property. The city shall have a lien against such property for the cost.
- C. The lien may be enforced and collected in either one of the following manners:
1. Within eighteen (18) months after work has been done, by an action in the Circuit Court.
 2. The amount of the lien may be determined at a hearing before the City Council held after thirty (30) days' written notice by certified mail to the owner or owners of the property, if the name and whereabouts of the owner or owners be known. If the name of the owner or owners cannot be determined, then the hearing before the City Council may be held after publication of notice of such hearing in a newspaper having a bona fide circulation in the county for one (1) insertion per week for four (4) consecutive weeks.

The amounts due the city as determined at the hearing, including all costs incurred by the city relevant to the nuisance, plus ten percent (10%) penalty for collection, shall be certified by the City Council by ordinance to the County Tax Collector, to be placed on the tax books as a penalty to be collected in the manner and with the priority of delinquent taxes, and the amount, less three percent (3%) thereof, when so collected, shall be paid to the city by the County Tax Collector. In the alternative, the lien provided for pursuant to this chapter and state law may be enforced in Circuit Court at any time within eighteen (18) months after work has been completed. (Ord. No. 0-2007-07, Sec. 2.)

5.04.03 Penalty Any person cited and found guilty of any section of this ordinance shall be fined no less than One Hundred Dollars (\$100.00) and no more than Five Hundred Dollars (\$500.00) per offense. (Ord. No. 0-2007-07, Sec. 3.)