

CHAPTER 73: HEALTH AND SANITATION

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Weeds

§ 73.01 Growth Limitations

It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, or an individual exercising custody and control within the City to permit weeds, Johnson grass, brush or any objectionable or unsightly matter to grow to a greater height than twelve (12) inches upon any such real property within one hundred fifty (150) feet of any property line which abuts street right-of-ways, alleys, utility easements, subdivided additions, developed property or any buildings or other structures.

§ 73.02 Certain Areas to Be Kept Free and Clear

It shall be the duty of any person to keep the area from the line of his property to the curb line next adjacent to it, if there be a curb line, and if not, then within ten (10) feet outside that property line, free and clear of the matter referred to in § 73.01. All vegetation not regularly cultivated and which exceeds twelve (12) inches in height shall be presumed to be objectionable and unsightly, except that regularly cultivated crops shall not be allowed to grow within the right-of-way of any public street or easement but shall be kept mowed.

§ 73.03 Duty to Cut and Remove

It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property, to cut and remove all such weeds, brush and other objectionable or unsightly matter as often as may be necessary; provided that the removing and cutting same at least once in every thirty (30) days shall be deemed a compliance with this article and to use every precaution to prevent the same growing on such premises so as to become a nuisance.

§ 73.04 Notice to Cut and Remove

In the event that any person owning, claiming, occupying or having supervision or control of any real property occupied or unoccupied within the City, fails to comply with the provisions of §73.02 and § 73.03, it shall be the duty of the Mayor to give ten (10) days' notice in writing to such person violating the terms of this article, or by letter addressed to such person, at its post office address or by publication two (2) times within ten (10) consecutive days in the City's official newspaper.

§ 73.05 Cutting and Removal by City

If any person fails or refuses to comply with the provisions of § 73.02 and § 73.03 within ten (10) days after date of notification in writing or by letter or date of second publication of notice in the City's official newspaper, the City may go upon such property and do or cause to be done the work necessary to obtain compliance with this chapter.

The expense incurred in correcting the condition of such property, and the cost of publishing notice in the newspaper shall be paid by the City and charged to the owner of such property. In the event the owner fails or refuses to pay such expense within thirty (30) days after the first day of the month following the one in which the work was done, the City shall file with the county clerk a statement of the expenses incurred in correcting the condition on the property. When such statement is filed, the City shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten percent (10%) per annum from the date the City incurs the expense. For any such expenditures and interest, suit may be instituted and recovery and foreclosure had by the City. The statement of expense filed with the county clerk or a certified copy thereof shall be prima facie proof of the amount expended in such work as improvement or correction of the property, all as more particularly specified in Art. 4436, Vernon's Annotated Texas Civil Statutes, which is hereby adopted.

§ 73.06 Penalty for Violation

Any person violating any of the provisions of this article shall be subject to a fine, as prescribed in Appendix B – Schedule of Fines of this Code, upon conviction in the municipal court, and each and every day that the premises shall remain in a condition in violation of the terms of this chapter shall constitute a separate offense. This section shall be in addition to and cumulative of the provisions for the abatement of the said nuisance and charging the cost of same against the owner of the premises by the City.

Objects, Trees & Vegetation in ROW

§ 73.07 Findings

Before the city may provide landscaping services, including tree-trimming, tree disposal, remediation, cleanup and recycling services on private property to protect the public health, safety, or welfare, the City Council must make certain findings pursuant to Chapter 756 Subchapter G of the Health and Safety Code.

Therefore, the City Council makes the following findings:

- a. That trees and other vegetation on private property and within street rights-of-way, if not properly trimmed, may obstruct the view of traffic-control devices and the view of approaching traffic and pedestrians' use of sidewalks;
- b. That the obstructions constitute a safety concern;
- c. That the City's ordinance requires that trees and other vegetation be kept trimmed to address these safety concerns; and
- d. That property owners are required to correct the obstruction within 30 days of the date the City notifies the owner of the obstruction.

§ 73.08 Definitions. In this section:

Visibility triangle is an imaginary triangle located on property located at the corner of intersecting streets. The first two sides of a visibility triangle are drawn by measuring a distance of 25 feet from the street corner intersection of the curb line parallel to the curb line. The third side is established by drawing a diagonal line intersecting the two curb points. If there is no curb, the measurements are made along the edge of the street pavement.

§ 73.09 Objects in the visibility triangle or right-of-way

It is unlawful for a person to knowingly place or maintain in a visibility triangle or right-of-way any object permanently affixed to the ground and having a height greater than three feet above the pavement surface of the nearest abutting street.

§ 73.10 Trees and branches in the visibility triangle or right-of-way.

It is unlawful for a person to knowingly place or maintain a tree or allow branches of a tree to extend into a visibility triangle or right-of-way unless the branches are pruned so that:

- a. They do not substantially obstruct a motorist's view of traffic control devices;
- b. There is a clear space from the public street surface to 14 feet above the street surface on a residential street, (a residential street means any street not shown as a freeway, highway, arterial or major collector on the city's thoroughfare plan);
- c. There is a clear space from the public street surface to 14 feet above the street surface on a non-residential street, (a non-residential street means any street shown as a freeway, highway, arterial or major collector on the city's thoroughfare plan); and
- d. There is a clear space from the public sidewalk surface to eight feet above the sidewalk surface.

§ 73.11 Trees and objects near fire hydrants

It is unlawful for a person to knowingly plant or maintain any tree or maintain any object permanently affixed to the ground within three feet of a fire hydrant.

§ 73.12 Penalty for Violation

That any person who shall violate any of the provisions of this ordinance shall be fined up to \$500.00 as defined in Appendix B “Schedule of Fines” of the Overton Code of Ordinances.