

ORDINANCE NO. 2003-03-01

AN ORDINANCE OF THE CITY OF WESTON, TEXAS, COLLIN COUNTY, TEXAS, IMPLEMENTING, CHAPTER 342, OF THE TEXAS HEALTH AND SAFETY CODE, AS AMENDED; PROVIDING FOR THE CONTROL OF WEEDS, BRUSH AND UNWHOLESOME MATTER; MAKING IT UNLAWFUL FOR ANY PERSON OWNING, CLAIMING, OCCUPYING OR HAVING SUPERVISION OR CONTROL OF ANY REAL PROPERTY, OCCUPIED OR UNOCCUPIED, WITHIN THE CORPORATE LIMITS OF THE CITY, TO PERMIT WEEDS, BRUSH OR ANY OTHER "COMBUSTIBLE MATERIAL: TO GROW TO A GREATER HEIGHT THAN TWELVE (12) INCHES UPON ANY SUCH REAL PROPERTY WITHIN TWO HUNDRED (200) FEET OF ANY RESIDENCE, COMMERCIAL BUILDING OR STORAGE BUILDING; PROVIDING THAT IF, AFTER NOTICE, THE OWNER FAILS TO REMOVE SUCH WEEDS OR UNWHOLESOME MATTER THE CITY MAY CAUSE SUCH TO BE REMOVED AND ASSESS THE EXPENSES OF CITY AS A LIEN AGAINST THE PROPERTY; PROVIDING A PENALTY FOR VIOLATION OF THIS ORDINANCE OR FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; PROVIDING HOWEVER, WHERE A DIFFERENT PENALTY HAS BEEN ESTABLISHED BY STATE LAW FOR SUCH OFFENSE THE PENALTY SHALL BE THAT FIXED BY STATE LAW, AND FOR ANY OFFENSE WHICH IS A VIOLATION OF LAW THAT GOVERNS FIRE SAFETY ZONING, OR PUBLIC HEALTH AND SANITATION, INCLUDING THE DUMPING OF REFUSE, THE PENALTY SHALL BE A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE, PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

**SECTION 1****ADOPTION OF STATE REGULATIONS**

The following regulations regarding sanitation are adopted pursuant to Chapter 342, Texas Health and Safety Code, as amended.

**SECTION 2****WEEDS, BRUSH AND UNWHOLESOME MATTER**

It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the City, to permit weeds, brush or any other "combustible material" to grow to a greater height than twelve (12) inches upon any such real property within two hundred (200) feet of any residence, commercial building or storage building. All vegetation, not regularly cultivated, and which exceeds twelve (12) inches in height shall be presumed to be a fire hazard and constitute a nuisance.

**SECTION 3****DUTY OF PROPERTY OWNER TO CUT AND REMOVED WEEDS, BRUSH AND UNSIGHTLY MATTER, AND TO REMOVE STAGNANT WATER, RUBBISH TRASH, CARRION OR TER IMPURE OR UNWHOLESOME MATTER**

- A. It shall be the duty of any person owning, claiming, occupying or having supervision or control of any developed or improved real property within the corporate limits of the City, occupied or unoccupied, to cut and/remove all weeds, brush and other combustible matter from such property line that is adjacent to a street or alley right-of-way as often as may be necessary to comply with the preceding section; provided, that the cutting and removing of same at least once every thirty (30) days shall be deemed in compliance with this section.
- B. Within the boundaries of a subdivision plat that has been approved as planned development, the Homeowner's Association shall be responsible for maintaining all common areas, Except in those cases where the homeowner's association has agreed to take responsibility, individual homeowners that own property within a planned development shall be responsible for maintaining any property that is adjacent to a street or alley right-of-way up to the boundary of the subdivision plat.
- C. It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the City, to keep such property and any building thereon free from stagnant water, rubbish, trash, filth, carrion, or other impure or unwholesome matter of any kind, and to keep the sidewalks in front of this property free and clear of the same, and, to fill up, drain or regrade any lots, grounds or yards which shall be unwholesome or have stagnant water therein and, to cleanse and disinfect any house, building, establishment, lot, yard or ground from rubbish, trash, filth, carrion or other impure or unwholesome matter of any kind.
- D. Rubbish, as that term is used in this ordinance, shall include but not be limited to the debris left upon properties after any building or other structures on such properties have been:
1. Destroyed by fire or other calamity and the same not restored to its original or better condition or removed from the property within ninety (90) days from the date of such destruction;
  2. Intentionally wrecked or demolished by the owner;
  3. Moved from such property to another location; or
  4. Vacated by a prior owner or tenant.

**SECTION 4****NOTICE TO OWNER TO REMOVE AND REMOVAL BY CITY UPON FAILURE OF OWNER TO REMOVE**

- A. If the owner of property within the City does not comply with this ordinance or the requirements of Chapter 342, Texas Health and Safety Code, as amended, within seven (7) days notice of a violation the City may:
1. do the work or make improvements required; and
  2. pay for the work done or improvements required to charge the expenses to the owner of the property.
- B. The notice must be given personally to the owner in writing:
1. by certified return receipt letter addressed to the owner at the owner's address as recorded in the appraisal district records in which the property is located; or
  2. if personal service cannot be obtained:
    - a. by publication at least once in the official newspaper of the City; or
    - b. by posting the notice on or near the front door of each building on the property to which the violation relates; or
    - c. or by posting the notice on a place card 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 City mails a notice to a property owner in accordance with Subsection B above 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.

**SECTION 5****ASSESSMENT OF EXPENSES; LIEN**

In the event that any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the City, refuses and fails, after the required notice has been given, to comply with the provisions of this ordinance, the City may go upon such property and do or cause to be done the work necessary to obtain compliance, and may charge the expense incurred in doing or having same done, to the owners of such property as provided hereunder and in compliance with Chapter 342, Texas Health and Safety Code, as amended.

**SECTION 6****CHARGE TO BE LEVIED AS A LIEN**

- D. To obtain a lien against the property, the Mayor, municipal health authority, or municipal officer designated by the Mayor must file a statement of expenses with the county clerk of the county where the City and the property is located. The lien statement must 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 and the lien shall be security for the expenditures made by the City and interest accruing at the rate of ten (10) percent on the amount due from the date of payment by the City.
- E. The lien is inferior only to tax liens for street improvements
- F. The City Council may foreclose said lien in a proceeding as authorized in Chapter 342, Texas Health and Safety Code, as amended.

**SECTION 7****ADDITIONAL AUTHORITY TO ABATE DANGEROUS WEEDS**

- A. As used in this section "Dangerous Weeds" are weeds that are higher than 48 inches and are an immediate danger to the health, life, or safety of any person.
- B. The City Council may authorize the abatement of "dangerous weeds" without notice by complying with provision of §342.008 of Chapter 342, Texas Health and Safety Code, as amended, after the City has conducted such abatement.

**SECTION 8****PENALTY**

Any person violating or failing to comply with any provision of his Ordinance, shall be fined, upon conviction, in an amount not more than Five Hundred Dollars (\$500.00), providing however, where a different penalty has been established by state law for such offense the penalty shall be that fixed by state law, and for any offense which is a violation of law that governs fire safety, zoning, or public health and sanitation, including the dumping of refuse, the penalty shall be a fine no to exceed the sum of two thousand dollars (\$2,000.00) for each offense; and separate offenses shall be deemed committed each day during or on which a violation occurs or continues.

**SECTION 9****CUMULATIVE REPEALER CLAUSE**

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action,

claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on the date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

**SECTION 10**  
**SAVINGS CLAUSE**

All rights and remedies of the City of Weston, Texas are expressly saved as to any and all violations of the provisions of any other ordinance affecting safety and health hazards which have secured the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

**SECTION 11**  
**SEVERABILITY**

The provisions of this Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole in part, the remaining and lawful provisions shall be of full force and effect and the City shall promptly promulgate new revised provisions in compliance with the authority's decision or enactment.

**SECTION 12**  
**PUBLICATION CLAUSE**

The City Secretary of the City of Weston is hereby directed to publish in two issues of the Official newspaper of the City of Weston, the exact Caption, Penalty and Effective Date clause of this Ordinance as required by the Texas Local Government Code.

**SECTION 13**  
**ENGROSSMENT AND ENROLLMENT**

The City Secretary is hereby directed to engross and enroll this Ordinance by copying the exact Caption, Penalty and Effective Date clause in the minutes of the City Council and by filing this Ordinance in the Ordinance records of the City.

**SECTION 14**  
**EFFECTIVE DATE**

This Ordinance shall become effective from and after its date of passage in accordance with law.

5375 005442

NOW THEREFORE:

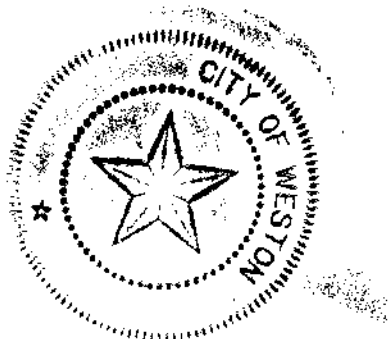
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESTON,  
TEXAS:

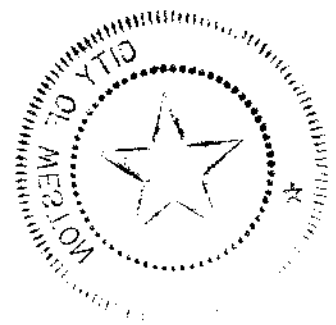
PASSED AND APPROVED this 11<sup>th</sup> day of March, 2003

Patti Harrington  
Patti Harrington, Mayor

ATTEST:

Michele Smith  
Michele Smith, City Secretary





ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW (COUNTY OF COLLIN) (THE STATE OF TEXAS)  
I hereby certify that this instrument was FILED in the File Number Sequence on the date and the time stamped hereon by me, and was JULY RECORDED, in the Official Public Records of Real Property of Collin County, Texas on

MAR 14 2003

Brenda Taylor



Filed for Record in  
Collin County, McKinney TX  
Responsible Brenda Taylor  
Collin County Clerk

Mar 14 2003  
14:47:22

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