

## **Nuisance, Weed and Brush Control Procedure:**

Chapter 15, Article III. Sections 15-37 thru Section 15-46 of the Code of Ordinance  
Sec. 15-37. Definitions

*Lot*, as used in this article, means any unit of real estate, or part thereof, identified as a lot in the eastern and western divisions of the city and any unit of real estate identified as a lot in a subdivision plat filed of record in Webb County Records.

*Premises* means any unit of real estate in single ownership other than a lot as that term is defined herein.

*Property* means real property which is either a lot or premises.

*Sidewalk*, as used in this article, means that portion of the street between the curblines or lateral lines of the street or roadway and the adjacent property lines which is intended for the use of pedestrians.

(Ord. No. 2005-O-114, § 1, 5-16-05)

Sec. 15.38. Maintenance of lots and premises and of sidewalks abutting lots and premises required.

It shall be the responsibility of the owner or lessee of any lot or premises within the city to maintain such lot or premises and the sidewalk or sidewalks in front of or abutting his or her or its property in accordance with the provisions of this article.

(Ord. No. 2005-O-114, § 1, 5-16-05)

Sec. 15-39. Cleanliness of property.

The owner or lessee of a lot or premises in the city is required to keep the lot or premises free from weeds, rubbish, brush, and other objectionable, unsightly or unsanitary matter.

(Ord. No. 2005-O-114, § 1, 5-16-05)

Sec. 15-40. Unlawful growth or accumulations.

It shall be unlawful for any owner or lessee of any lot or premises within the city limits to allow weeds to grow upon the lot or premises or on the abutting sidewalk or sidewalks or to allow trash or rubbish to accumulate upon such lot or premises, or on the abutting sidewalk or sidewalks, to such an extent as is reasonably calculated to create a fire hazard or to become injurious to the health of others, and, in addition to the penalties provided herein, and the remedies provided herein, either conditionis hereby deemed to constitute a public nuisance.

(Ord. No. 2005-O-114, § 1, 5-16-05)

Sec. 15-41. Penalty for violation.

An owner or lessee of premises who violates the provisions of section 15-40 may be prosecuted in municipal court, and each such violation shall be punishable by a fine not exceeding two thousand dollars (\$2,000.00).

(Ord. No. 2005-O-114, § 1, 5-16-05)

Sec. 15-42. Notice of violation; right to hearing; and notice to abate.

(a) Whenever weeds are allowed to grow in excess of twelve (12) inches, or trash or rubbish allowed to accumulate upon any property or sidewalks within the city as prohibited by this article, any code enforcement officer of the code enforcement division of the department of community development shall serve a written notice of violation to the owner or lessee of the lot or premises and/or sidewalk upon which lot or premises and/or sidewalk such nuisance exists.

(b) The notice of violation shall state:

1. That the owner or lessee of the lot or premises or [the person] in charge of the lot or other premises next to or abutting the sidewalk(s) is in violation of his, her or its duty to keep the lot or premises, or abutting sidewalk, free from weeds, rubbish, brush, and any other objectionable, unsightly or unsanitary matter;
2. The nature and location of the violation;
3. A statement that if the property or sidewalk(s) is not brought into compliance with this article within seven (7) days of notice of the violation, then the city may do the work or make the improvements required and may assess for the work done or improvements made and charge the expenses to the owner of the property, subject to subsection (4), infra.
4. The recipient of the notice of violation may request a hearing in writing to the director of the department of community development within seven (7) days of notice of the violation.
5. If a hearing is requested, the hearing will be before the hearing officer who is appointed under section 14-27(3) of the Code of Ordinances ["the article IV hearing officer"] and the hearing shall be held within ten (10) days after the request for hearing. The hearing officer may hear evidence from the owner, city staff or any other interested person and shall make a determination whether the violation constitutes a public nuisance and, if he so finds, shall issue an order to abate the nuisance and the timewithin which the nuisance must be abated. An order to abate shall be mailed in the same manner as the notice of violation and shall state that if the property or sidewalk(s) is not cleared of or made free from the weeds and/or accumulations within ten (10) days from the date the order is mailed, the city may proceed under the provisions of section 15-45 to clean the premises and assess the costs as a lien.  
(Ord. No. 2005-O-114, § 1, 5-16-05)

#### Sec. 15-43. Service of notices.

(a) The notice of violation and/or the notice to abate must be served:

1. Personally to the owner or tenant in writing;
2. By certified letter addressed to the owner at the owner's address as recorded in the city's tax records; or
3. If personal service cannot be obtained, then
  - a. By posting the notice on or near the front door of each building on the property to which the violation relates; or

b. 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.

(b) If the notice is mailed to a property owner in accordance with subsection (a)(2), 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 having been delivered.

(Ord. No. 2005-O-114, § 1, 5-16-05)

Sec. 15-44. Additional authority to abate dangerous weeds.

(a) The city may abate, without notice, weeds that:

1. Have grown higher than forty-eight (48) inches; and
2. Are in immediate danger to the health, life or safety of any person.

(b) Not later than the tenth day after the date the city abates weeds under this section, the city shall give notice to the property owner in the manner specified in section 15-42.

(c) The notice shall contain:

1. An identification, which is not required to be a legal description, of the property;
2. A description of the violation or violations of this article that occurred on the property;
3. A statement that the city abated the weeds; and
4. An explanation of the property owner's right to request an administrative hearing about the city's abatement of the weeds.

(d) The city shall conduct an administrative hearing on the abatement of the weeds under this section, if, not later than the thirtieth day after the date of the abatement of the weeds, the property owner files with the city a written request for a hearing.

(e) The hearing shall be conducted not later than the twentieth day after the date a request for hearing is filed. The owner may testify or present any witnesses or written information relating to the city's abatement of the weeds.

(f) The city may assess expenses and create liens under this section as it assesses expenses and creates liens under sections 15-45, 15-46 and 15-47. (Ord. No. 2005-O-114, § 1, 5-16-05)

Sec. 15-45. Correction or removal of conditions by city; assessment of expenses.

In the event the owner of any lot or premises upon which a condition described in this article exists fails to correct, remedy or remove such condition within seven (7) days as per notice of violation given pursuant to subsection 15-42(b)(3), or within ten (10) days as per notice to abate given pursuant to subsection 15-42(b)(5) the city may do such work or make such improvements as are necessary to correct, remedy or remove such conditions, or cause the same to be done, and pay therefore and charge the expenses incurred thereby to the owner of such lot. Such expenses shall be assessed against the lot or premises upon which the work was done or the improvements made. The doing or causing of such work by the city shall not relieve such person from prosecution in municipal court for his, her or its failure to comply with section 15-40.

(Ord. No. 2005-O-114, § 1, 5-16-05)

Sec. 15-46. Same--Lien fixed for same.

Whenever any work is done or improvements are made by the city under the provisions of this article, the city tax assessor-collector, on behalf of the city, shall file a statement of the expenses incurred thereby with the county clerk, the lien statement shall state the name of the owner, if known, the legal description of the property, the amount of such expenses, and the date or dates on which the work was done or the improvements were made.

(Ord. No. 2005-O-114, § 1, 5-16-05)