

ORDINANCE NO. 2089

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST UNIVERSITY PLACE, TEXAS; AMENDING CHAPTER 42, ARTICLE III, CONDITION OF PRIVATE PROPERTY, SECTIONS 42-46 THROUGH 42-51 OF THE CODE OF ORDINANCES OF THE CITY OF WEST UNIVERSITY PLACE, TEXAS, TO REVISE THE CRITERIA FOR CONDITIONS OF PRIVATE PROPERTY (HIGH GRASS AND WEEDS, STAGNANT WATER, ETC.) WITHIN THE CITY AND CONTAINING FINDINGS AND PROVISIONS RELATING TO THE SUBJECT.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST UNIVERSITY PLACE, TEXAS, THAT:

Section 1. Chapter 42, Article III, Condition of Private Property, Sections 42-46 through Section 42-51 of the Code of Ordinances, of the City of West University Place, Texas is amended by the repeal of the existing Article III, Sections 42-46 through 42-51 and the adoption of a new Article III, Section 42-46 through 42-50 to read as set out in Appendix A, attached hereto. All other portions of Chapter 42 of the Code of Ordinances not specifically amended hereby remain in full force and effect.

Section 2. All ordinances and parts of ordinances in conflict with this Ordinance are repealed to the extent of the conflict only.


Section 3. If any word, phrase, clause, sentence, paragraph, section or other part of this Ordinance or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, neither the remainder of this Ordinance, nor the application of such word, phrase, clause, sentence, paragraph, section or other part of this Ordinance to any other persons or circumstances, shall be affected thereby.

Section 4. The City Council officially finds, determines and declares that a sufficient written notice of the date, hour, place and subject of each meeting at which this Ordinance was discussed, considered or acted upon was given in the manner required by the Texas Open Meetings Act, as amended, and that each such meeting has been open to the public as required by law at all times during such discussion, consideration and action. The City Council ratifies, approves and confirms such notices and the contents and posting thereof.

Section 5. This Ordinance takes effect immediately upon its passage and adoption on second reading.

PASSED, APPROVED AND ADOPTED ON FIRST READING on the 13th day
of January, 2020.

PASSED, APPROVED AND ADOPTED ON SECOND READING, AND SIGNED,
on the 10th day of February, 2020.

 *Shelma G. Williams*
Attest: City Secretary (Seal)

Signed: *Robert A. Hiley*
Mayor

Recommended: *[Signature]*
City Manager

Approved as to legal form: *[Signature]*
City Attorney

Appendix "A"

Amend Chapter 42, Article III. Condition of Private Property by replacing Sections 42-46 through 42-51 in their entirety and replacing with the proposal below:

ARTICLE III. – CONDITION OF PRIVATE PROPERTY

Sec. 42-46. - Definitions.

- (a) **Abate** means to eliminate or remedy by removal, repair, or rehabilitation.
- (b) **Brush** means all uncultivated shrubs, bushes, and small trees including yard waste.
- (c) **Discarded** means any item of personal property that is allowed to remain in one place outside and exposed to the elements, with no apparent use being made of it. The term "discarded" may include, but is not limited to, motor vehicles or parts of motor vehicles, trailers or parts of trailers, furniture, fixtures, carpets, or debris from any construction, remodeling, or demolition activity.
- (d) **Garbage** means decayable waste from a public or private establishment or ~~restaurant~~ residence. The term includes vegetable, animal, and fish offal and animal and fish carcasses, but does not include sewage, body waste, or an industrial by-product. Hazardous waste shall be subject to regulations as contained in Chapter 38 of the Code of Ordinances.
- (e) **Premises** means all privately owned property including vacant land.
- (f) **Receptacle** means a container that is composed of durable material and designed to prevent the discharge of its contents and to make its contents inaccessible to animals, vermin, or other pests.
- (g) **Rubbish** means nondecayable waste from a public or private establishment or residence.
- (h) **Uncultivated** means in a primitive state that is not domesticated or cultivated and is produced by nature.
- (i) **Unwholesome** means all stagnant water, filth, carrion, impure matter and any condition liable to produce disease.
- (j) **Weed** The term "weed" may include, but is not limited to, uncultivated, invasive vegetative growth which is liable to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests and grasses that are harmful to humans by touch, such as poison ivy, poison oak, and poison sumac.

Sec. 42-47. - Purpose.

The regulations of this Article are necessary to ensure that private property is maintained at a level that will not create a public nuisance which may include but is not limited to brush, garbage, weeds, refuse, rubbish, or any unsanitary condition likely to attract rodents and/or disease.

Sec. 42-48. - Applicability.

All parcels of property within the municipal limits of the City shall adhere to the regulations of this Article which are consistent with Chapter 342, *Local Regulation of Sanitation*, and Chapter 343, *Abatement of Public Nuisances*, of the State of Texas Health and Safety Code.

Sec. 42-49. - Regulations.

- (a) **Public Nuisances to be Abated.** The following circumstances are deemed to be a public nuisance and shall be fully abated by the owner of the property:

- (1) The existence of an excessive accumulation of weeds that exceed 10 inches in height and remain on site more than seven consecutive days;
- (2) Grasses, other than ornamental or decorative grasses, that exceed 10 inches in height and remain on site more than 7 consecutive days;
- (3) Any garbage allowed to remain in one place for more than 24 hours and:
 - (i) Is not located fully within a receptacle and
 - (ii) Makes the premises unwholesome;
- (4) Any brush or rubbish allowed to remain in one place ~~for the greater- lesser of more than~~ 72 hours or the number of days until the next scheduled ~~trash~~ yard waste pickup day;
- (5) Any stagnant water or unfilled holes on the premise which can retain water and allow it to become stagnant or produce any unwholesome condition on the property for more than seven consecutive days;
- (6) The accumulation or storage of any goods or inventory that can be viewed from the public right-of-way and used in connection with any commercial activity, including without limitation building materials;
- (7) Any discarded personal property allowed to remain in one place longer than seven consecutive days;
- (8) Any item that is spoiled, corroded, broken, or inoperable and allowed to remain in one place longer than seven consecutive days; or
- (9) Any spillage of oil or grease from a grease trap or grease or oil containment area and not abated within 72 hours.

(b) **Owner Responsibility.** The owner of the property at issue has a responsibility to fully abate the public nuisance through the owner's privately funded means.

Sec. 42-50. – Enforcement.

(a) **Right of Entry.** The Public Works Director or his designee is authorized to inspect any property within the municipal boundaries of the City at any reasonable time provided that the inspection is from the public right-of-way or the inspection is consistent with the requirements of Section 18-23, *Right of Entry*, of the City's Code of Ordinances.

(b) **Violations.**

(1) *Issuance of Citations.* The Public Works Director or his designee is authorized to issue notices or citations for violations of the terms and provisions of this ~~Section~~ Article to the owner or occupant of the property upon which condition exists.

(2) *Procedures and Penalties.* Any violation of this ~~Section~~ Article, and any associated penalties that result from it, shall be dealt with consistent with the requirements of Section 1-7, *General penalties for violations; alternative enforcement*, of the City's Code of Ordinances.

(c) **Municipal Abatement.** Whenever there are conditions in violation of this Article, the Public Works Director or his designee is authorized to abate those conditions by doing work or making improvements upon the property provided that the process of conducting the work is pursuant to

Section 342.006, *Work Improvements by Municipality; Notice*, of the State of Texas Health and Safety Code.

- (d) **Municipal Lien.** Pursuant to Section 342.007, *Assessment of Expenses; Lien*, of the State of Texas Health and Safety Code, the City has the right to obtain a lien on the property at issue to recover any costs associated with municipal abatement process as described above in subsection ~~(b)~~ (c).
- (e) **Separate Offenses.** Each single violation of any regulation of this Section 42-48, *Regulations*, shall be considered a separate and distinct offense.
- (f) **Separate Remedies.** The remedies prescribed by this Section are separate, and the City may avail itself of one or more without precluding any of the others. Under no circumstances will a prosecution for a violation affect the right of the City to pursue abatement, liens, or both.