

ORDINANCE NO. 633-4

An Ordinance of the City Council of the City of Pearland, Texas, amending Chapter 13, *Health and Sanitation*, Article II, *Offensive Conditions*, of the City of Pearland Code Of Ordinances, as it may have been, from time to time, amended; having a savings clause, a severability clause, and a repealer clause; providing for publication and codification.

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

Section 1. That Article II of Chapter 13, *Offensive Conditions*, of the City of Pearland Code of Ordinances, is hereby amended to read as follows:

“Article II Weeds and other Offensive Conditions

Sec. 13-16. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Rubbish means nondecayable waste from a public or private establishment or residence.

Swimming pool means any structure, basin, chamber or tank containing a body of water utilized for private or public swimming, diving, bathing or the immersion or partial immersion therein of human beings, and having a depth of two (2) feet or more at any point, and located on premises outside of a residence, building or other structure. This definition shall also include hot tubs, whirlpools, and spas that are located outside of a residence, building or other structure and meeting the above water depth criteria.

Weeds means all rank and uncultivated vegetable growth or matter that may create an unsanitary condition, or become a harborage for rodents, vermin, or other disease-carrying pests, regardless of the height of the weeds.

Brush means trees, bushes, or shrubbery less than seven (7) feet in height which is not cultivated or cared for by a person who owns or controls the premises on which the brush exists.

(Ord. No. 633, § 1, 7-27-92; Ord. No. 633-1, § 1, 10-28-02)

Sec. 13-17. – ~~Unsanitary or hazardous conditions unlawful.~~ Weeds and Offensive conditions

(a) *Weeds.*

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- (1) A person, owner, tenant, agent or person responsible for any premises, occupied or unoccupied, commits an offense if said person permits or allows weeds to grow on the premises to a greater height than ~~twelve (12)~~ nine (9) inches. Said premises shall include, but not be limited to, the parkway between sidewalk and the curb; the right-of-way between any fence, wall or barrier and the curb or pavement if such exists or the center line of said right-of-way; or the area between a fence, wall or barrier and within any abutting drainage channel easement to the top of such channel closest to the property.
 - (2) It shall be a defense to subsection (a)(1) that such vegetation upon such property is actually being used for agricultural purposes.
 - (3) With respect to uncultivated agricultural properties or tracts of land that contain no structures used or designed for human occupancy for residential or commercial purposes, a person, owner, tenant, agent or person responsible for such property commits an offense if said person permits or allows weeds to grow to greater height than twenty-four (24) inches within fifty (50) feet from any adjacent property under different ownership or any street right-of-way. However, on cultivated agricultural properties where the distance between the growing crop and abutting property under different ownership or street right-of-way is less than fifty (50) feet, the person, owner, tenant, agent or person responsible for such property commits an offense if said person permits or allows weeds to grow to a greater height than ~~twelve (12)~~ nine (9) inches.
- (b) ~~*Offensive vegetation.* It shall be unlawful for any owner, tenant, lessee, agent, or occupant of any premises to permit any vegetation to grow, regardless of height, upon such premises owned, leased, occupied, or controlled by such person, so that such vegetation becomes offensive or emits foul or noxious odors, or becomes a breeding place for flies or insects, or becomes in any way injurious to the public health.~~
- ~~*Undeveloped land.* Undeveloped land shall be cleared of all brush and undergrowth for a minimum distance of one hundred (100) feet where abutting developed areas and a minimum distance of fifty (50) feet along all abutting roadways. The requirements of Subsection (a) (1) above shall apply to the portions of undeveloped land that are within fifty (50) feet of abutting developed areas or twenty-five (25) feet of abutting public roadways.~~
- (c) *Swimming pools.* A person, owner, tenant, agent or person responsible for any premises, occupied or unoccupied, commits an offense if said person maintains a swimming pool in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests.
 - (d) *Rubbish.* A person, owner, tenant, agent or person responsible for any premises, occupied or unoccupied, commits an offense if said person keeps, stores, or accumulates thereon rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on said premises for ten (10) days or

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more, unless the rubbish is completely enclosed in a building and not visible from a public street or the premises is lawfully operated as a landfill.

- (e) *Insects.* A person, owner, tenant, agent or person responsible for any premises, occupied or unoccupied, commits an offense if said person permits or allows upon those premises:
 - (1) A condition or place that is a breeding place for flies; or
 - (2) A collection of water that is a breeding place for mosquitoes.
- (f) *Unsanitary conditions.* A person, owner, tenant, agent or person responsible for any premises, occupied or unoccupied, commits an offense if said person maintains those premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests.

Sec. 13-18. - Notice to owner to remedy or remove condition—Generally.

(a) Whenever any condition described in this article is found to exist on any premises within the city, and the City of Pearland intends to utilize the subsequent provisions of this article to correct or remove the condition and assess the costs against the premises, the city shall notify the owner of such premises, in writing, to correct, remedy or remove the condition within ten (10) days after such notice and it shall be unlawful for any person to fail to comply with such notice.

(b) If the notice described in Subsection (a) must be given two (2) times within a six week period for any premises within the city, due to the reoccurrence thereon of a condition described in this article, then the owner of such premises shall be deemed to have notice of all subsequent reoccurrences of the same offensive condition upon the same premises for a period of twelve (12) months from the date of the said second notice, and no additional notices shall be necessary during that period for the City to provide before taking action to remedy the condition and assess the costs of such remedy against the premises.

Sec. 13-19. - Same—How given.

The notice provided for by this article shall be served personally on the owner to whom it is directed or shall be given by letter addressed to such owner at his last known post office address. In the event personal service cannot be made and the owner's address is unknown, such notice shall be given by publication at least two (2) times within ten (10) consecutive days in a newspaper of general circulation published within the city.”

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Section 2. **Repealer.** All previously adopted water and sewer rate schedules in conflict herewith shall be and are hereby repealed but only to the extent of such conflict.

Section 3. **Savings.** All rights and remedies which have accrued in favor of the City under this Chapter and amendments thereto shall be and are preserved for the benefit of the City.

Section 4. **Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid, unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 5. **Codification.** It is the intent of the City Council of the City of Pearland, Texas, that the provisions of this Ordinance shall be codified in the City's official Code of Ordinances as provided hereinabove.

Section 6. **Publication.** The City Secretary shall cause this Ordinance, or its caption and penalty, to be published in the official newspaper of the City of Pearland, upon passage of such Ordinance.

Section 7. **Effective Date.** This Ordinance shall become effective immediately upon passage.

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PASSED and APPROVED on First Reading this the 13th day of April A. D., 2015.

TOM REID
MAYOR

ATTEST:

YOUNG LORFING
CITY SECRETARY

APPROVED AS TO FORM:

DARRIN M. COKER
CITY ATTORNEY

PASSED and APPROVED on Second and Final Reading this the 27th day of April, A. D., 2015.

TOM REID
MAYOR

ATTEST:

YOUNG LORFING, TRMC
CITY SECRETARY

VOTING RECORD SECOND AND FINAL READING
April 27, 2015

Voting "Aye" - Councilmembers Carbone, Sherman,
Ordeneaux and Moore.

Voting "No" – 0.
Motion passes 4 to 0. Councilmember Hill absent.

PUBLICATION DATE: April 30, 2015
EFFECTIVE DATE: 04-27-2015
PUBLISHED AS REQUIRED BY SECTION 3.10
OF THE CHARTER OF THE CITY OF PEARLAND, TEXAS

APPROVED AS TO FORM

DARRIN M. COKER
CITY ATTORNEY