

ORDINANCE NO. 493-15

AN ORDINANCE OF THE CITY OF SANSOM PARK, TEXAS, AMENDING ARTICLE 6.04 RUBBISH, WEEDS AND OTHER OBJECTIONABLE MATTER OF THE CODE OF ORDINANCES IN ITS ENTIRETY; PROVIDING FOR DEFINITIONS; PROVIDING HEIGHT LIMITATIONS; PROVIDING FOR DECLARATION OF NUISANCE; PROVIDING FOR TRACTS GREATER THAN TWO ACRES; PROVIDING FOR PARKWAY MAINTENANCE; PROVIDING FOR NOTICE OF VIOLATION; PROVIDING FOR ASSESSMENT OF CITY'S EXPENSES; PROVIDING FOR ADDITIONAL AUTHORITY TO ABATE DANGEROUS WEEDS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A PUBLICATION CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Whereas, the City of Sansom Park, Texas, is a Type A Municipality located in Tarrant County, Texas, created in accordance with provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

Whereas, Section 51.001 of the Texas Local Government Code authorizes municipalities to adopt any ordinance, act, law, or regulation, not inconsistent with State law, that is necessary for the government, interest, welfare or good order of the City; and

Whereas, the City Council of the City of Sansom Park finds and determines that the following regulations will promote the public health, safety, and welfare of the citizens of the City of Sansom Park, Texas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANSOM PARK, TEXAS, THAT:

SECTION I

An Ordinance declaring tall grass, weeds, rubbish, brush, unsightly and unsanitary matter including objectionable materials as a public nuisance.

**SECTION II
DEFINITIONS**

For the purpose of this Ordinance, the following words shall have the following meanings, respectively, as set forth:

City Administrator – the City Administrator of Sansom Park or his designee.

Developed – a tract of land upon which a structure is situated.

Garbage – every accumulation of both animal and vegetable matter, liquid or otherwise, that is received from kitchens, and also all decayable waste, it does not include compost heaps.

Junk – all worn-out or discarded material, including but not limited to old iron or other metal, glass and cordage, machinery of any kind, tractors, refrigerators, stoves, any other household appliances, furniture, or old discarded or abandoned boats, and broken, discarded or unused building materials such as lumber, brick, plaster, sand or gravel. For purposes of this definition, a boat is considered old, abandoned or discarded if it is damaged to the extent it is not seaworthy.

Litter – discarded paper, wrapping material, used beverage or food containers, rubbish, trash or garbage.

Occupant – any person, firm or corporation, both public and private, claiming or having possessory control of any property.

Owner - a person, firm or corporation, both public and private, claiming title of any property.

Person – a natural person, joint venture, joint stock company, partnership, association, club, companies, or lessee, agent, servant, officer or employee of any of them.

Real Property – land, including an easement on, through or across the property and unpaved street and alley right-of-way adjacent to the real property.

Refuse – an accumulation of worn-out, used, broken or rejected materials, and includes garbage, litter, rubbish, yard waste and other decayable or non-decayable waste. It includes, but is not limited to, old barrels, old tires, tree and brush trimmings and unused household items and appliances. It does not include compost heaps.

Rubbish – all loose and decayed material and dirt-like substances which is not intended for use, or which accumulates from building, storing or cleaning, trash, debris, rubble, stone or fragments of building materials.

Undeveloped – a tract of land with no structure situated thereon.

Yard Waste – grass and brush trimmings, trees or tree limbs, hedge or shrub cuttings, leaves, weeds, vines or other decayable waste which is generated by maintaining a yard.

SECTION III HEIGHT LIMITATION

A person, who owns, occupies or has supervision or control of any lot, tract or parcel of land or portion thereof commits an offense if the person permits grass, weeds, brush or any plant that is not cultivated thereon to grow, on an average, to a height greater than twelve (12") inches.

**SECTION IV
DECLARATION OF NUISANCE**

Weeds, brush, grass and plants not cultivated of a height in excess of the limits set forth in Section III are defined as a nuisance in accordance with Section II of this Ordinance.

**SECTION V
TRACTS GREATER THAN TWO ACRES**

A person who owns, occupies or has control of any lot, tract or parcel of land greater than two acres that is undeveloped or under cultivation shall not permit grass, weeds, brush or plants that are not cultivated to grow, on an average, over twelve (12") inches in height, within an area one-hundred (100') feet in width measured from each property line of the tract.

**SECTION VI
PARKWAY MAINTENANCE**

a) ***Grass and Weeds:***

Responsibility of adjacent property owner: a person who owns any lot, tract or parcel of land or portion thereof within the City shall not permit grass, weeds, brush or any plant that is not cultivated to grow to a height greater than twelve (12") inches, on an average, in along, upon or across the sidewalk or street adjacent to the same in the area between the property line and the curb line

b) ***Trimming of trees and shrubs:*** a person who owns any lot, tract or parcel of land or portion thereof within the City shall be and is under a duty to trim and/or remove any trees, shrubs, bushes or other forms of vegetation so as to provide a minimum vertical clearance of twelve (12') feet to any canopy limbs that may encroach upon, into or over the public street or sidewalk.

**SECTION VII
NOTICE OF VIOLATION, ABATEMENT BY CITY**

a) ***Notice Required.*** If the owner of the land fails to comply with the requirements of Section III, Section V or Section VI of this Ordinance, a City Official may cause the property owner to be notified to cut the grass, weeds or brush within ten (10) days of the date of the notice.

b) ***Method of Notice:*** the notice shall be given:

- 1) Personally to the owner in writing;
- 2) By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located;
- 3) If the personal service cannot be obtained:

- a. By publication in the City's official newspaper once;
 - b. By posting the notice on or near the front door of each building on the property to which the violation relates; or
 - c. By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.
- c) **Unclaimed Notices.** If the notice is mailed 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 delivered.
- d) **Contents of Notice.** The notice shall contain:
- 1) The name and address of the record owners;
 - 2) An identification, which is not required to be a legal description, of the property upon which the violation is located;
 - 3) A statement describing the violation and the work necessary to correct the violation;
 - 4) A statement advising the owner that, if the work is not completed within ten (10) days, the City may complete the work and charge the expenses to the owner; and
 - 5) A statement that, if the City performs the work and the owner fails to pay the expenses, a priority lien may be placed on the property.
- e) **Subsequent Violations.** Although it is not required, the City may:
- 1) Inform the owner by regular or certified mail and a posting on the property that, if the owner commits another violation of the same kind (failure to mow weeds or high grass) on or before the first anniversary of the date of the notice, the City without further notice may correct the violation at the owner's expense and assess the expenses against the property; and
 - 2) If a violation occurs within the one-year period, and the City has not been informed in writing by the owner of an ownership change, then the City, without notice, may take corrective action and assess the expenses against the owner and the property.
- f) **Abatement By City.** If the owner does not cut the weeds, grass or plants within ten (10) days of the notice, the City may go on such property or authorize another to go on such property, and do or cause the work to be done and charge the expenses incurred to the owner of the property and assess the expenses against the real estate on which the work is done. The remedy provided in this section is in addition to any criminal penalties or other remedies authorized by this Ordinance or other law.

SECTION VIII
ASSESSMENT OF CITY'S EXPENSES; LIEN

- a) The City does hereby assess the expenses incurred pursuant to Section VII against the real estate on which the work is done or improvements made and charge the owner of the property for the same.

- b) The City shall send the owner of the property upon which the work was done a notice. This notice shall include:
 - 1) An identification of the property;
 - 2) A description of the violation;
 - 3) A statement that the City abated the condition;
 - 4) A statement of the City's charges and expenses in abating the condition;
 - 5) An explanation of the property owner's right to request a hearing within ten (10) days; and
 - 6) A statement that, in the event the owner fails or refuses to pay the expense within thirty (30) days after the first day of the month following the one in which the work was done, the City Administrator or his designee shall obtain a lien against the property by filing with the County Clerk of the appropriate county a statement of the expenses so incurred.

- c) The City Administrator or his designated representative will conduct a hearing if the property owner submits a written request within ten (10) days of the date of the notice. At the hearing:
 - 1) The owner and the City may testify or present witnesses or written information related to the City's abatement of the nuisance.
 - 2) The City has the burden to show that a violation of this Ordinance existed, notice was given in substantial compliance with this Ordinance, and expenses were incurred to abate the violation.
 - 3) At the close of the hearing, the City Administrator or his representative may find, based upon a preponderance of the evidence, that the expenses are valid, or that they are erroneous, or he may adjust them.

- d) If no hearing is requested, or a hearing is held and the expenses are determined to be valid or are otherwise appropriately adjusted, and the owner fails or refuses to pay the expenses within thirty (30) days after written notification to pay, the City Administrator or his designated representative shall place a lien against the property by filing with the County Clerk of the county in which the property is located a notice of lien and statement of expenses incurred.

- e) The lien is security for the expenditures made and interest accruing at the rate of ten (10) percent annum from the date of payment by the City.

- f) When the statement is filed, the City shall have a privileged lien on that property, second only to tax liens and liens for street improvements.

- g) For any such expenditures and interest, suit may be instituted and recovery and foreclosure had by the City. The statement of expenses, or a certified copy thereof, is prima facie proof of the expenses incurred by the City in doing the work or making the improvements, all as more particularly specified in Texas Health and Safety Code ANN. Sec. 342.007, as amended, which is adopted and incorporated herein by reference.

SECTION IX

ADDITIONAL AUTHORITY TO ABATE DANGEROUS WEEDS WITHOUT PRIOR NOTICE

- a) **Abatement.** The City may abate, without prior notice, weeds that have grown higher than forty-eight (48") inches and are an immediate danger to the health, life or safety of any person.
- b) **Notice.** Not later than the tenth (10th) day after the date the City abates weeds under this Section, the City shall give notice to the property owner in the same manner provide in Section VII of this Ordinance.
- c) **Hearing.** The City Administrator or his designated representative shall conduct an administrative hearing under this Section if, not later than the 30th day after the date of the abatement of the weeds, the property owner files with the City a written request for a hearing. The hearing shall be conducted by the City Administrator or his designated representative not later than the 20th day after the date a request for hearing is filed. At the hearing:
- 1) The owner and the City may testify or present witnesses or written information related to the City's abatement of the nuisance.
 - 2) The City has the burden to show that a violation of this Ordinance existed, notice was given in substantial compliance with this Section, and expenses incurred to abate the violation were reasonable.
 - 3) The City Administrator or his designated representative may approve the expenses, deny the expenses, or adjust the amount of the expenses and approve them as adjusted.

SECTION X

SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION XI
CUMULATIVE CLAUSE**

This Ordinance shall be cumulative of all provisions of ordinances and the Code of the City of Sansom Park, Texas, as amended, except where the provisions are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

**SECTION XII
PENALTY CLAUSE**

Any person violating Section III, Section V, or Section VI of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished upon conviction by a fine in accordance with the general penalty provision found in section 1.01.009 of the Code of the City of Sansom Park. Each day a violation exists shall constitute a separate offense.

**SECTION XIII
PUBLICATION CLAUSE**

The City Secretary of the City of Sansom Park is hereby directed to publish the caption, the penalty clause and effective date clause in the official newspaper at least once within ten (10) days after the passage of this Ordinance.

**SECTION XIV
EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.

PASSED AND APPROVED this the 16th day of April, 2015.

Jim Barnett, Jr.
Mayor

ATTEST:

Mary Beth Thomas
City Secretary

APPROVED AS TO FORM AND CONTENT:

Lee Thomas
City Attorney