

ORDINANCE NO 09-19-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEAGRAVES PROVIDING FOR THE REGULATION OF WEEDS, FILTH, CARRION AND OTHER UNWHOLESOME MATTER; PROVIDING FOR NOTICE OF VIOLATION TO THE OWNERS OR OCCUPANTS OF PROPERTY; PROVIDING FOR THE ABATEMENT OF SUCH CONDITIONS; PROVIDING FOR FILING A STATEMENT OF LIEN FOR THE COST OF ABATEMENT; PROVIDING CRIMINAL PENALTIES FOR NON-COMPLIANCE, PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR PUBLICATION AND PROVIDING FOR AN EFFECTIVE DATE OF SAID ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEAGRAVES, TEXAS, AS FOLLOWS:

Section 1 Unwholesome Conditions Specified; Unlawful to Maintain

It shall be unlawful for the owner, lessee, or occupant of any land, tract, or parcel or any portion thereof, regardless of size, within the corporate limits of the City of Seagraves ("City" or "City of Seagraves" herein), to fail to maintain said property free of weeds, grass and undergrowth over twelve (12) inches tall, or to fail to maintain said property free from household trash, garbage, used building materials and supplies, used and or discarded household fixtures or appliances, toxic materials, stagnant water, dead animals, brush piles, debris, rubbish, materials which constitute a fire hazard, or any other matter which may be detrimental to the health, safety and welfare of the citizens of the City (collectively referred to as "Objectionable Materials" herein.)

The words "land", "lot", "tract" or "parcel" ("lot or lots" or "property" herein) shall include any area within the platted or described parcel of land and extending to the curb line of an adjacent street where a curb line has been established. Where no curb line has been established the parcel shall extend to the edge of the pavement and if no pavement to the center of the unpaved street. If the parcel is adjacent to an alley the "land", "lot", "tract" or "parcel" shall extend to the center of the alley.

Section 2. Abatement

(A) Should any owner of any lot or lots within the City of Seagraves allow any Objectionable Materials, including but not limited to weeds, rubbish, brush, or any other unsightly, objectionable or unsanitary matter to remain upon his property, in violation of this Ordinance, following seven (7) days notice of a violation, the City of Seagraves may:

- (1) do the work or make the improvements required; and

- (2) pay for the work done or improvements made and charge the expenses to the owner of the property; and
 - (3) file a lien statement in accordance with Section 6.
- (B) Notice shall be given:
- (1) personally to the owner in writing;
 - (2) by letter, mailed by certified mail return receipt requested, addressed to the owner at the owner's post office address as recorded in the appraisal district records of the Gaines County Appraisal District; or
 - (3) if personal service cannot be obtained or the owner's post office address is unknown:
 - (a) by publication at least once in a newspaper of general circulation within the City of Seagraves; and
 - (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, if the property contains no buildings.
- (C) If a notice to an owner is mailed in accordance with this section or Section 3 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.
- (D) The notice of violation shall at a minimum contain the following:
- (1) The name of the owner, if known, of the property proposed to be entered upon by the City;
 - (2) The address, identification or legal description of the property to be entered upon by City;
 - (3) The offending conditions existing on the property;
 - (4) A statement that the recipient has seven (7) days from the date of the receipt of the notice of the notice to correct the violation, that if he or she fails to do so, the City will enter upon the property and remedy the same and that the City is entitled to attach a lien to the property to secure payment for the services rendered; and

- (E) A statement that the recipient is entitled to a hearing before the City Council if requested in writing in the office of the City Secretary within five (5) days of receipt of the notice.

Section 3. Annual Notice

- (1) The City, in the notice of violation provided in Section 2, may inform the owner that if another violation of the same kind or nature that poses a public nuisance occurs on or before the first anniversary date of the date of the notice, the City, without further notice, may correct the violation at the owner's expense and assess the expense against the property.
- (2) If a violation covered by this sub-section occurs within the one-year period, and the City of Seagraves has not been informed of a change of ownership, the City of Seagraves may without further notice to the owner, take action permitted by section 2 and assess its expenses as provided in Section 6.
- (3) If notice under this section is given by mail it shall be accompanied by a posting on the lot or lots.

Section: 4. Hearing.

Upon receipt of notice as required above, the owner may, within seven (7) days, make a written request for a hearing before the Municipal Judge to appear and show cause why the alleged nuisance should not be abated. If a timely request for hearing is received, the Municipal Judge shall hold a hearing within ten (10) days of the request. The purpose of the hearing shall be to determine whether the property is in violation of this ordinance and whether it should be abated. Following completion of the hearing, Municipal Judge may issue such orders regarding the property as it, in the council's sole discretion, deems appropriate under the circumstances.

Section 5. Emergency Abatement

- (A) The City of Seagraves may abate, without notice, weeds that:
 - (1) have grown higher than 48 inches; and
 - (2) are an immediate danger to the health, life, or safety of any person.
- (B) Not later than the 10th day after the date the City abates weeds under this section, notice shall be given to the property Owner in the manner required by Section 2.

(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 violations of the ordinance that occurred on the property;
- (3) a statement that the municipality abated the weeds; and
- (4) an explanation of the property owner's right to request an administrative hearing about the municipality's abatement of the weeds before the City Council.

(D) The Municipal Judge shall conduct the hearing on the abatement of weeds under this section if, not later than the thirtieth (30th) day after the date of the abatement of the weeds, the owner files with the City Secretary a written request for a hearing.

(E) The administrative hearing conducted under this section shall be conducted not later than the twentieth (20th) day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the municipality'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 Section 6.

Section 6. Filing of Lien Statement

The Mayor or municipal official designated by the mayor shall file a statement of expenses incurred under Sections 2 or 5 with the County Clerk of Gaines County, Texas. The lien statement shall state the name of the owner, if known, the legal description of the property, a description of the work performed and the amounts claimed. The lien attaches upon the filing of the lien statement with the County Clerk. The lien shall accrue interest at a rate of ten percent (10%) per annum from the date the City pays for the work or improvements. The lien is inferior only to tax liens and liens for street improvements. The City of Seagraves may bring a suit for foreclosure to recover the expenditures and interest due. The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the municipality in doing the work or making the improvements.

Section 7. Owner Requested Work

In the event the owner of any lot or lots requests that the City do whatever work is necessary to in order to abate or prevent a violation of this ordinance, than such request

will negate the requirement for notification of violation by the City and the City will have the same remedies as set forth herein.

Section 8. Courtesy Notice

The City may, but is not required to, send a courtesy notice of violation of this Ordinance before sending out formal notice of violation as set forth in Sections 2 and 3 above.

Section 7. Penalty

In addition to the other remedies contained in this ordinance, any person, firm or individual who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not exceeding Two Thousand Dollars (\$2,000.00). Each and every day the violation continues shall constitute a separate and distinct offense.

Section 8. Repeal

That Ordinance No. 482 and any part of any other ordinance of the City in conflict with this ordinance is repealed to the extent of the conflict.

Section 9. Publication

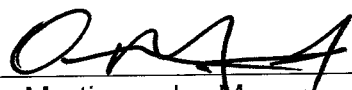
The City Secretary is hereby authorized and directed to cause the publication of the caption and penalty for violation of this ordinance as required by law.

Section 10. Effective Date

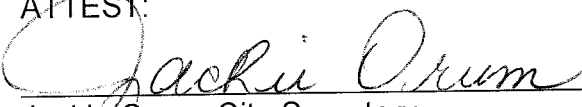
This ordinance shall take effect immediately upon completion of publication as provided by law.

PASSED, APPROVED AND ADOPTED on this the 19 day of September, 2011.

CITY OF SEAGRAVES



Ovidio Martinez, Jr., Mayor

ATTEST:


Jackie Orum, City Secretary