

CITY OF FRISCO, TEXAS

ORDINANCE NO. 01-09-62

AN ORDINANCE OF THE CITY OF FRISCO, TEXAS, TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF FRISCO BY DECLARING IT UNLAWFUL TO ALLOW VEGETATION AND GRASS TO GROW TO A HEIGHT IN EXCESS OF 12 INCHES WITHIN THE CITY LIMITS AND WITHIN THE CITY'S EXTRATERRITORIAL JURISDICTION FOR A DISTANCE OF 5,000 FEET FROM THE CITY LIMITS; BY DECLARING IT UNLAWFUL TO PERMIT THE ACCUMULATION OF PUBLIC NUISANCES; PROVIDING FOR CERTAIN AGRICULTURAL EXEMPTIONS FROM HEIGHT RESTRICTIONS; PROVIDING FOR THE NOTICE OF VIOLATIONS; PROVIDING FOR CITATIONS, WORK OR IMPROVEMENTS BY FRISCO, AND CHARGES AGAINST THE OWNER; PROVIDING FOR ASSESSMENT OF EXPENSES AND LIENS; PROVIDING FOR THE AUTHORITY TO IMMEDIATELY ABATE DANGEROUS TALL VEGETATION; PROVIDING FOR A PENALTY FOR VIOLATION OF THIS ORDINANCE; BY REPEALING ORDINANCE NO. 90-04-05; PROVIDING FOR SAVINGS/REPEALING CLAUSE; PROVIDING FOR AN EFFECTIVE DATE AND FOR PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas ("City Council") under the authority of Chapter 342 of the Health and Safety Code and Section 217.042 of the Local Government Code, investigated and determined that it would be advantageous and beneficial to the City of Frisco, Texas ("Frisco") and its inhabitants to prohibit nuisances; and

WHEREAS, it is in the interest of the public health, safety and welfare that real property, occupied or unoccupied, shall be kept free and clear from nuisances in Frisco and in Frisco's extraterritorial jurisdiction (ETJ) for a distance of five thousand (5,000) feet from the city limits; and

WHEREAS, it is recommended by the Code Enforcement Division of Frisco that changes be made in the regulation of objectionable, unsanitary and unsightly materials and in the enforcement of such regulations in accordance with state law; and

WHEREAS, the City Council finds that all legal notices, hearings, procedures and publishing requirements for annexation have been performed and completed in the manner and form set forth by law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS:

SECTION 1: Vegetation or Grass of Height Greater than 12 inches Constitutes Offense.

A. Violation. A person, owner, tenant or agent responsible for or claiming or having supervision or control of any real property, occupied or unoccupied, within the city limits of the Frisco, and in Frisco's ETJ for a distance of five thousand (5,000) feet from the city limits, commits an offense by permitting or allowing weeds, grass, brush, or any vegetation to grow to a height greater than twelve (12) inches upon any such real property. Such real property shall include, but not be limited to:

1. the parkway between the sidewalk and the curb;
2. the right-of-way between any fence, wall or barrier and the curb or pavement if such exists or the centerline of such right-of-way;
3. 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;
4. the area outside the property to a distance of ten (10) feet from the property line and not under different ownership;
5. the area outside the property to a distance of ten (10) feet from the property line if such area is part of or adjacent to a drainage easement or creek; or
6. any area directly across an alley or traveled way that borders the property which is between the edge of the alley or traveled way and a screening wall or other barrier.

Vegetation not regularly cultivated that exceeds twelve (12) inches in height shall be presumed to be a nuisance, objectionable, unsanitary and unsightly.

B. Exception. It shall not be an offense under this Section 1 to permit or allow weeds, grass, brush or other vegetation to grow to a height greater than twelve (12) inches if they are growing in an area designated as a natural conservation area, preserve or habitat by any federal or state law or agency and the removing or cutting of the vegetation within that area is prohibited by the federal or state law or agency.

SECTION 2: Property to be Free of Conditions Constituting Public Nuisances. A person, owner, tenant or agent responsible for or claiming or having supervision or control of any real property, occupied or unoccupied, within the city limits of the Frisco, and in Frisco's ETJ for a distance of five thousand (5,000) feet from the city limits, commits an offense by permitting or allowing stagnant or unwholesome water, filth, carrion, weeds, rubbish, rubble, junk or garbage, or impure or unwholesome matter of any kind, including, but not limited to, dead grass, tree limbs, tree stumps, improper composting or improper storage of landscape materials, waste paper, scrap wood or lumber, scrap metal, rags, rubber tires, plastic, metal, ceramic or glass bottles, canisters, barrels or cans, combustible materials, appliances, furniture, discarded or unused flooring material, dismantled or disassembled vehicle parts, discarded or abandoned construction materials and exposed or uncovered fill materials, or any objectionable, unsanitary or unsightly matter of whatever nature to accumulate or remain on such real property, including the improvements thereon, or within any easement area on such real property or upon any adjacent right-of-way for streets and alleys between the property line for such real property and where the paved surface of the street or alley begins. Such conditions are hereby defined as public nuisances.

SECTION 3: Cultivated and Uncultivated Agricultural Properties; Height Limitations.

A. Uncultivated Agricultural Properties. A person, owner, tenant or agent responsible for or claiming or having supervision or control over uncultivated agricultural property commits an offense if such person permits or allows:

1. vegetation to grow to a height greater than twelve (12) inches within one hundred (100) feet from any adjacent property under different ownership, a right-of-way or easement; or
2. if vegetation interferes with Visibility, Access, Maintenance (V.A.M.) requirements at any intersection of public thoroughfares provided in the City of Frisco Engineering Standards & Construction Details, Section 6, Thoroughfare & Circulation & Design Requirements as they exist or may be amended.

B. Cultivated Agricultural Properties. Where the distance between the growing crop and adjacent property under different ownership, a right-of-way or easement is less than one hundred (100) feet, the person, owner, tenant or agent responsible for or claiming or having supervision or control over cultivated agricultural property commits an offense if such person permits or allows:

1. vegetation to grow to a height greater than twelve (12) inches between such growing crop and any adjacent property under different ownership, a right-of-way or easement; or
2. such growing crop to interfere with Visibility, Access, Maintenance (V.A.M.) requirements at any intersection of public thoroughfares provided in the City of Frisco Engineering Standards & Construction Details, Section 6, Thoroughfare & Circulation & Design Requirements as they exist or may be amended.

C. Definition of Agricultural Property. For the purposes of this Section 3, property is considered to be agricultural property, whether cultivated or uncultivated, if it has been granted a property tax exemption by the county central appraisal district, or equivalent authority, pursuant to the Texas Property Tax Code or Texas Constitution, for agricultural land.

SECTION 4: Notice of Violation.

A. In the event any owner, tenant, agent or person responsible for or claiming or having supervision or control over real property (hereinafter "owner") governed by this Ordinance fails to comply with the provisions of this Ordinance, Frisco, by and through its Code Enforcement Division or designee shall give notice of the violation to such owner. Such notice shall be given in any one of the following ways:

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; or
3. if personal service cannot be obtained:
 - i. by publication in the City's official newspaper at least once;

- ii. by posting notice on or near the front door of each building on the property to which the violation relates; or
- iii. by posting a notice to 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 City mails a notice to the owner in accordance with subsection A., and the United States Postal Service returns the notice as "refused," "unclaimed," or if the address required by subsection A.2. was used and the notice is returned as "not deliverable as addressed" (or an equivalent marking), the validity of the notice is not affected, and the notice is considered as delivered.

C. In a notice provided under this Section 4, Frisco may inform the owner by regular mail and a posting on the property that if the owner commits another violation of the same kind or nature on or before the anniversary of the date of the notice, Frisco, without further notice, may correct the violation at the owner's expense and assess the expense against the property or issue citations. If a violation covered by a notice under this subsection C occurs within one (1) year, and Frisco has not been informed in writing by the owner of an ownership change, then Frisco, without notice, may take any action permitted by Section 5 and assess its expenses as provided in Section 6.

SECTION 5: Citations; Work or Improvements by Frisco; Charges Against Owner. If the owner fails or refuses to comply with the demand for compliance in the notice within ten (10) days of such notice, Frisco may:

- A. issue citations as provided in Section 8 ; and
- B. do the work or make the improvement required, pay for the work done or improvements made and charge the expenses to the owner of the property as provided herein.

SECTION 6: Assessment of Expenses; Lien.

A. In the event the owner fails or refuses to pay such expenses charged to the owner under Section 5.B., within fifteen (15) days after the first day of the month following the month in which the work was done, a lien may be obtained against the property. To obtain a lien, the mayor, the mayor's designee or Frisco's health or code enforcement authority must file a statement of the expenses incurred in correcting the

condition of the real property with the county clerk of the county in which the property is located. The statement must also state the name of the owner, if known, and the legal description of the property. The lien attaches upon filing of the statement with the county clerk.

B. Frisco's lien shall be a prior lien on such property, second only to tax liens and liens for street improvements. The lien amount shall include simple interest, which shall accrue at the rate of ten (10) percent per annum from the date the expenses were incurred by Frisco. Frisco may bring a suit for foreclosure to recover the expenditures and the interest due.

SECTION 7: Authority to Immediately Abate Dangerous Tall Vegetation.

A. Notwithstanding any of the foregoing Sections, Frisco may abate, without notification, weeds, grass, brush or any unsightly vegetation that has: (1) grown higher than forty-eight (48) inches (hereinafter "tall vegetation"); and (2) is an immediate danger to the health, life, or safety of any person. The City must give notice, in the manner provided in Section 4, to the property owner no later than the tenth (10th) day after the date the City abates the tall vegetation. The notification shall contain:

1. an identification, which is not required to be a legal description, of the property;
2. a description of the violation(s) of this Ordinance that occurred on the property;
3. a statement that the City abated the tall vegetation; and
4. an explanation of the property owner's rights to request an administrative hearing regarding the City's abatement of the tall vegetation.

B. Frisco, by and through its City Manager or his/her designee, shall conduct an administrative hearing not later than the thirtieth (30th) day after the date of the abatement of the tall vegetation, if the owner files a written request for a hearing with Frisco. Frisco shall conduct the administrative hearing not later than the twentieth (20th) day after the date a request for hearing is filed. At the administrative hearing, the owner may testify or present any witnesses or written information relating to Frisco's abatement of the tall vegetation.

C. The City may assess expenses and create liens under this Section 7 in the same manner and subject to the same conditions as set forth in Section 6 above.


SECTION 8: Penalty Provision. Any owner, person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 9: Repeal of Ordinance 90-04-05. The City of Frisco Ordinance No. 90-04-05 is hereby repealed in its entirety.


SECTION 10: Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 11: Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by the City Charter and by law.

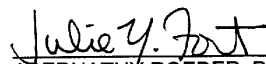
Duly passed and approved by the City Council of the City of Frisco, Texas on the 10th day of September, 2001.


KATHLEEN A. SEEI, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:


NAN PARKER
City Secretary

APPROVED AS TO FORM:


ABERNATHY ROEDER, BOYD & JOPLIN, P.C.
RICHARD M. ABERNATHY
REBECCA BREWER
JULIE Y. FORT
City Attorneys



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