

## ***ARTICLE VI. DANGEROUS BUILDINGS AND HAZARDOUS LANDS<sup>1</sup>***

### ***DIVISION 1. GENERALLY***

#### **Sec. 14-241. Declaration of necessity and purpose.**

This article is declared to be remedial and essential to protect the public interest, health, welfare and safety, and for such purposes it is intended that this article be liberally construed to effectuate the purposes stated in this section. It is the intent of this article to provide for protection, from dangerous conditions created or maintained on privately-owned properties within the city, to the public generally and to the occupants of such lands; to require the owners of such lands to remedy such dangerous conditions by the means least expensive and least detrimental to the owner's property and the public environment; to require that such dangerous conditions be remedied within a reasonable time; and, in the absence of compliance by the property owners, to provide a means for effectuating the required remedy at the owner's expense.

(Code 1981, § 7.5-1)

#### **Sec. 14-242. Definitions.**

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

*Dangerous buildings.* All buildings or structures which have any or all of the defects in section 14-243 shall be deemed "dangerous buildings."

*Enforcing official.* The city manager or his/her delegate is the enforcing official.

*Hazardous lands* are those areas as described in section 14-244.

*Noxious plants* are those plants as described in section 14-245.

*Owner* means any person who, alone, jointly or severally with others, holds legal or equitable title to any building or land within the scope of this chapter, as shown by the records of the clerk of the circuit court of the county.

(Code 1981, § 7.5-2; Ord. No. 19-001, § 3, 4-2-2019)

Cross reference(s)—Definitions generally, § 1-2.

#### **Sec. 14-243. Dangerous buildings.**

A building shall be declared a dangerous building if it has any or all of the defects described in the following subsections:

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<sup>1</sup>Cross reference(s)—Environment, ch. 30.

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- (1) Those buildings whose exterior or interior walls or other structural members list, lean or buckle, or the support for which has become damaged or deteriorated, to such an extent that there is a reasonable likelihood that such walls or other structural members may fail.
  - (2) Those buildings which have improperly distributed loads upon the floors or roofs or in which the floors or roofs are overload or which have insufficient strength to be reasonable safe for the purpose used.
  - (3) Those buildings which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the people of the city.
  - (4) Those buildings which have become or are so dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the amenities essential to decent living that they are, by any applicable health code or environmental regulation, unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those working or living therein or of the public.
  - (5) Those buildings having light, air and sanitation facilities which are inadequate, by any applicable building or health code or environmental regulation, to protect the health, safety or general welfare of human beings who may live or work therein.
  - (6) Those buildings having inadequate facilities for egress in case of fire or panic, or those having insufficient stairways, elevators, fire escapes or other means of egress, to the extent that occupants thereof may not be able to evacuate the building in a reasonably safe and quick fashion.
  - (7) Those buildings which have parts thereof which are so attached that there is a reasonable likelihood they may fall and injure members of the public or property in general.
  - (8) Those buildings which are vacant and not sufficiently secured to prevent easy access to trespassers, loiterers and vagrants.
  - (9) Those buildings which are untended or unkempt to the extent that they pose a health or safety hazard.
  - (10) Those buildings, portions of buildings or other development for which construction has commenced but which has not been completed, and for which the building permit has been expired for more than 90 days.

(Code 1981, § 7.5-2)

#### **Sec. 14-244. Hazardous lands.**

An area shall be declared a hazardous land if it is one or more of the following:

- (1) Land upon which there exists a condition or conditions which are dangerous to the health, welfare or safety of the public generally, or of the occupants of surrounding properties, or of the occupants of such lands, including, but not limited to, lands upon which there exist or are maintained dangerous chemicals, explosives, or other hazardous substances without sufficient protection or control of such dangerous chemicals, explosives, or other hazardous substances;
- (2) Land from which there emanate noxious odors or harmful fumes or particulates;
- (3) Land upon which there exists trash, junk and debris of such nature and quantity as to pose a danger to the health or safety of persons upon such lands;
- (4) Land which serves as a breeding or nesting place for mosquitoes, rats, mice, poisonous snakes, dangerous wild animals, or insect vermin in such manner and to such extent as to pose a substantial and immediate danger to the public health and safety; and
- (5) Land upon which there are noxious plants growing.

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(Code 1981, § 7.5-2)

**Sec. 14-245. Noxious plants.**

Those plants, bushes or trees designated in this section, or as designated from time to time by the city council by resolution, which are poisonous, or which give off foul odors, or which are detrimental to or destructive of, the growth or condition of vegetation native to the city, and which the city council determines to present a threat to the health or safety of the public, or the aesthetic or ecological environment of the city. Without otherwise limiting the category, Melaleuca (Melaleuca quinquenervia), also called cajeput, paperbark or punk tree, and Brazilian pepper (Schinus terebinthifolius) are hereby declared to be a noxious plant, capable of, and subject to, mandatory eradication pursuant to this article.

(Code 1981, § 7.5-2)

**Sec. 14-246. Maintaining or allowing the existence of dangerous buildings or hazardous lands.**

It shall be unlawful for any owner of real property within the city to create, keep, maintain or allow the existence of any dangerous building or hazardous land in or on such real property.

(Code 1981, § 7.5-4)

**Sec. 14-247. General standards for repair, vacation, demolition or abatement.**

The following standards shall be followed in substance by the enforcing official and by the city council in ordering repair, vacation, demolition and abatement:

- (1) The owner of a dangerous building shall be given the option, wherever possible, of either demolishing such building or repairing it so that it will no longer exist in violation of the terms of this article.
- (2) If an occupied dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated until such time as the dangerous building is repaired so that it is no longer in violation of the terms of this article.
- (3) In any case where hazardous lands exist, the hazardous conditions existing upon such land shall be ordered to be abated by the means least expensive and least detrimental to the owner's property and to the public environment.

(Code 1981, § 7.5-3)

**Sec. 14-248. Administrative liability.**

No officer, agent or employee of the city shall render himself/herself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of duties under this article. Any suit brought against an officer, agent or employee of the city as a result of any act required or permitted in the discharge of his/her duties under this chapter shall be defended by the city attorney until the final determination of the proceedings therein.

(Code 1981, § 7.5-13; Ord. No. 19-001, § 3, 4-2-2019)

**Secs. 14-249—14-265. Reserved.**

## ***DIVISION 2. ENFORCEMENT PROCEDURE***

### **Sec. 14-266. Powers and duties generally.**

The enforcing official shall be charged with the duty of administering the applicable standards of this article, and securing compliance with this article. In furtherance of this responsibility, the enforcing official shall:

- (1) Make such inspections as may be necessary to effectuate the purpose and intent of this article and to initiate appropriate action to bring about compliance with this article if such inspections disclose any instance of noncompliance.
- (2) Investigate thoroughly any complaint of alleged violations of this article and indicate clearly in writing as a public record the disposition made of such complaints.
- (3) Order in writing as set out below the remedy of all conditions or all violations of this article found to exist in or on any premises, and state in the violation order a time limit for compliance with this article as set out in this article.
- (4) Request the city attorney to take appropriate legal action upon the failure of the responsible party to comply with such violation order at the time specified therein or refer the matter to the code enforcement board, or both.

(Code 1981, § 7.5-5)

### **Sec. 14-267. Authorization to inspect.**

The enforcing official or his/her agent is authorized and directed to lawfully enter and inspect all buildings and to lawfully go upon and inspect all lands within the city at reasonable times to determine their condition in order to safeguard the health, safety and welfare of the public, or upon receipt of complaints, or when he/she has cause to believe a violation of this article exists, and to obtain any necessary search warrants for such inspections.

(Code 1981, § 7.5-6; Ord. No. 19-001, § 3, 4-2-2019)

### **Sec. 14-268. Notice of violation.**

Whenever the enforcing official determines that a violation of this article exists, he/she shall take action as follows:

- (1) Give written notice of the violation to the owner. Copies of such written notice shall be transmitted to the city manager and the city attorney.
- (2) The notice shall include:
  - a. A description of the location of the buildings or land involved, either by street address or by legal description or tax parcel number.
  - b. A statement indicating the nature of the violation and reason or reasons why the notice of violation is issued.

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- c. A specification of the section or sections of this article upon which the notice of violation is based.
  - d. If repairs or alterations will bring the structure into compliance with this article, a statement of the nature and extent of such repairs or alterations necessary to comply.
  - e. If the violation is of such a character that repairs or alterations cannot bring the building into compliance, a statement to this effect and an order of demolition of the building indicating fully the reason therefor.
  - f. If hazardous lands are involved, a statement of the steps necessary to abate the conditions creating the hazard and to bring such lands in compliance with this article.
  - g. If repairs, alterations or demolition of a building or structure are necessary for compliance, a time period for performing such repair, alteration or demolition, which shall not be less than ten nor more than 90 days. If the violation pertains only to hazardous lands, a time period for cleaning, clearing or abating such hazardous land, which shall not be less than ten nor more than 30 days.
  - h. If vacation of a dangerous building is necessary, a statement to this effect and an order requiring vacation of the building within 30 days, unless the enforcing official believes the building is so dangerous that injury to an occupant is imminent, in which case an immediate vacation may be ordered.
  - i. The name or names of persons upon whom the notice of violation is served as stated in subsection (1) of this section.
  - j. A statement advising that upon the owner's failure to comply with the notice, the city may perform or cause to be performed the repairs, alterations, demolition or cleaning up of the building or land involved, and that the expense of such performance by the city shall constitute a lien against the property involved.
  - k. A statement advising of the procedures available for review of the action of the enforcing official as set out in section 14-270.

(Code 1981, § 7.5-7; Ord. No. 19-001, § 3, 4-2-2019)

#### **Sec. 14-269. Service of notice of violation; effect as order.**

- (a) The written notice of violation referred to in section 14-268 shall in all cases be served upon the owner, as well as upon the occupant of the premises if the premises are occupied by someone other than the owner. Such service shall be deemed complete if personally delivered and if the written notice cannot be delivered personally within the city, then service shall be deemed complete upon sending such written notice by certified mail, return receipt requested, to the last known address of the owner as shown on the tax rolls of the city, and by posting a copy of such notice in a conspicuous place on the premises.
- (b) The enforcing official shall endorse on the copies of the written notice forwarded to the city manager and the city attorney the manner of service of the notice or notices as are required by this section.
- (c) When any written notice of violation shall become an order, either because no petition for review of the decision of the enforcing official has been taken or because such petition for review has been taken and the decision of the enforcing official has not been reversed, then such order shall be executed by the enforcing official.
- (d) If such order is not complied with in the time specified in the order, then the city may make such repairs, alterations, demolition or clean-up as may be required in such order. Such expense shall be paid by the owner in accordance with section 14-272.

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- (e) The enforcing official shall place a notice on all dangerous buildings and post such notice on hazardous land, reading as follows:

"This building (or land) has been found to be dangerous or hazardous by the city. This notice is to remain on this building (or land) as placed thereon until the requirements of the notice which has been given the owner have been fully complied with. It is unlawful to remove this notice until such requirements have been complied with."

(Code 1981, § 7.5-8)

#### **Sec. 14-270. Appeal to city council; procedure.**

- (a) *Generally.* Notice of violation by the enforcing official may be appealed to the city council, as provided in this section.
- (b) *Procedure.* Appeals for dangerous building and hazardous land violations may be taken by any person aggrieved by any notice which has been issued in connection with the enforcement of this article. Such appeal shall be taken within 14 days after the notice of violation was served, by filing in the office of the city manager a written petition to the city council, setting forth the grounds therefor. Upon the receipt of such petition, the city manager shall schedule a hearing on the appeal at the next regular city council meeting more than ten days after the petition is filed. Written notice of the time and place of the hearing shall be sent by certified mail, return receipt requested, to the person taking such appeal at least ten days prior to the date of such hearing. At the hearing, any party may appear in person or by agent or attorney.
- (c) *Power to sustain, modify or withdraw the notice of violation.* After public hearing, the city council may sustain, modify or withdraw the notice of violation.
- (d) *Findings—Sustaining.* If the city council sustains the enforcing official, it shall find that:
- (1) The facts as stated in the written notice of violation are correct and that the situation covered by the notice is, in fact, a violation of this article; and
  - (2) The remedy stated by the enforcing official in the written notice of violation is the minimum remedial action which will bring the building or the land cited into compliance with the article.
- (e) *Same—Modification or withdrawal.* If the city council shall modify or withdraw the notice of violation, it shall find the following, as may be applicable to the specific case:
- (1) That the facts as stated in the written notice of violation are not correct and that the situation as covered by the notice is not, in fact, a violation of this article, or that the procedures required of the enforcing official in this article have not been complied with; or
  - (2) That the remedial action required by the enforcing official is not the minimum remedial action necessary to bring the structure or premises into compliance with this chapter and that some other remedial action, to be stated by the city council as a part of the record of the case, is the minimum action necessary to secure compliance with this article.

(Code 1981, § 7.5-9)

#### **Sec. 14-271. Status of city council action; judicial review.**

- (a) If the city council sustains or modifies the written notice of violation given by the enforcing official, it shall be deemed an order and action shall be taken by the enforcing official to enforce the order. Any notice of violation served pursuant to this article and in conformity with the provisions of this article shall become an

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order if no petition for review has been filed with the city council within the time limit set out in section 14-270.

- (b) Any person or persons aggrieved by any decision of the city council may seek review by a circuit court, in the manner provided by the laws of the state.

(Code 1981, § 7.5-10)

### **Sec. 14-272. Assessing liens.**

- (a) *Billing and notice.* Promptly after completion of any demolition, repairs, alterations, clearing or cleanup done by the city under authority of this article, the enforcing official shall cause the owner to be billed for the cost of such work including labor, materials and title searches. The bill shall be served upon the owner by delivery to the owner personally or by certified mail, return receipt requested, at his/her last known address as shown in the city tax rolls. If the bill is not paid within 30 days following such service, the owner shall be notified of the enforcing official's intention to apply for a lien against the property. Such notice shall:
- (1) Describe the premises involved either by legal description or street address;
  - (2) Describe the nature of the work done thereon and state the amount for which a lien assessment is sought;
  - (3) Specify the date on which the city council will hold a public hearing for the purpose of making a lien assessment against the property for the cost of the work done thereon, and advise the owner of his/her right to be heard on any matter pertaining to the proposed lien assessment; and
  - (4) Such notice shall be served on the owner not less than ten days prior to the date set for the hearing in the same manner as set forth in this section.
- (b) *Hearings on liens.* At the hearing, the enforcing official shall report to the city council on the nature of the work accomplished, the cost of the work, and the service of the required notice. All interested parties shall be given an opportunity to be heard at such hearing with respect to the validity and amount of the proposed lien assessment.
- (c) *Levy by city council.* After such hearing, the city council may levy an assessment against the property for the cost of such work done on such property in such amount as the city council may find to be proper and reasonable. Such assessments shall be made by the adoption of a resolution containing findings of the city council, including the finding that:
- (1) The procedures of this article have been followed;
  - (2) That the work done was in conformity with the requirements of this article; and
  - (3) That the amount of assessment is just and reasonable and based on the actual cost of such work.

The resolution shall contain a legal description of the property, the names of the owners of such property, and such other information as may be deemed appropriate. The assessment shall become effective immediately upon the adoption of the resolution and shall bear interest thereafter at the rate of ten percent per annum. Upon the adoption of the resolution, the city shall have a lien against the property on which the work was done and on the real estate on which it is located, as described in the resolution, which lien shall be of equal dignity, with other municipal liens for taxes, levies and assessments, and may be enforced as other such municipal liens. Upon foreclosure of such lien, the property owner shall be liable for all costs incidental to such foreclosure, including a reasonable attorney's fee, which shall also be secured by such lien.

- (d) *Notice of adoption of resolution.* A copy of such resolution shall be served on the owner by certified mail within ten days of the date of its adoption.

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(Code 1981, § 7.5-11; Ord. No. 19-001, § 3, 4-2-2019)

**Secs. 14-273—14-290. Reserved.**

***DIVISION 3. BRAZILIAN PEPPER ERADICATION PROGRAM***

**Sec. 14-291. Definitions.**

For purposes of this division the following words shall have the following meanings:

*Brazilian pepper* means the species of plant, shrub or tree carrying the botanical term *Schinus terebinthifolius*.

*Eradicate* means to destroy utterly; extirpate; to pull up by the roots or cut and treat with an appropriate herbicide; all coupled with removal of debris.

(Ord. No. 98-02, § 2, 3-3-1998)

Cross reference(s)—Definitions generally, § 1-2.

**Sec. 14-292. Mandatory eradication.**

Mandatory eradication of Brazilian pepper shall be implemented by zones, in accordance with a Brazilian pepper eradication map, a copy of which shall be kept on file with the city manager. Implementation in each zone shall be by separate provision in this division or by adoption of subsequent ordinances.

(Ord. No. 98-02, § 2, 3-3-1998)

**Sec. 14-293. Notification; plan required.**

- (a) Upon notification by the city manager to an owner of property that Brazilian pepper exists on the property, and that it must be eradicated, the owner shall, within 90 days after the date of mailing, cause all of the Brazilian pepper to be eradicated from the property. For properties consisting of land area in excess of one acre as set forth in the city's development records, the deadline for compliance shall be 180 days after the date of mailing.
- (b) If, before the end of the applicable period set forth in subsection (a) of this section, the owner requests an extension and establishes that there are practical difficulties or that there is a hardship in complying with that deadline, the city manager shall grant an extension for a reasonable time, not to exceed an additional 180 days.
- (c) Alternatively, the owner of a property consisting of land area in excess of one acre, as reflected in the city's development records, may, within the time set forth in subsection (a) of this section, submit to the city manager a plan for eradication which shall include at least the following:
  - (1) The reasons that the deadline for eradication set forth in subsection (a) of this section cannot be met.
  - (2) The nature of the practical difficulties, or hardship preventing compliance within the time set forth in subsection (a) of this section.
  - (3) The method of proposed eradication.
  - (4) The proposed time for eradication.



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- (5) The plan for keeping the property free of Brazilian pepper.

(Ord. No. 98-02, § 2, 3-3-1998)

#### **Sec. 14-294. Approval of eradication plan.**

If the city manager finds that the plan submitted pursuant to subsection 14-293(a) is based upon fact and that it provides a reasonable and practical schedule for eradication, the city manager may approve the plan as submitted or may modify the plan and approve it as modified. However, no approval under this section shall be for a period exceeding two years after the date of approval.

(Ord. No. 98-02, § 2, 3-3-1998)

#### **Sec. 14-295. Appeals.**

Appeals of the determination of the city manager under this division shall be filed with the city manager within 15 days of the rendition of the determination, and shall be heard by the city council. The city council may designate a hearing officer to conduct the hearing and prepare a recommended decision. The council's action shall constitute final agency action.

(Ord. No. 98-02, § 2, 3-3-1998)

#### **Sec. 14-296. Exemptions.**

The following entities and the real property owned by them or under their legal control shall be exempt from the provisions of this division:

- (1) Governmental entities.
- (2) Private nonprofit organizations which own more than ten acres within the city and which, within 180 days of the effective date of the ordinance from which this division derived, submit to the city manager a plan for eradication, and for keeping the property or properties free of Brazilian pepper, meeting the standards set forth in subsection 14-293(c), so long as they remain in compliance with the approved plan.

(Ord. No. 98-02, § 2, 3-3-1998)

#### **Sec. 14-297. Implementation in zone.**

There is hereby created zones 1—6 of the Brazilian Pepper Eradication Program under this division. For all inclusive property see the Brazilian Pepper Eradication Map attached to Ordinance No. 12-005, dated April 3, 2012, adopted by reference as if fully set out herein and kept on file with the city manager.

(Ord. No. 98-02, § 3, 3-3-1998; Ord. No. 00-15, § 2, 2000; Ord. No. 02-07, § 2, 2002; Ord. No. 05-008, § 2, 2005; Ord. No. 10-007, §§ 2, 3, 7-20-2010; Ord. No. 12-005, §§ 2, 3, 4-3-2012)

#### **Sec. 14-298. Penalties.**

Any owner of property who violates this division shall be guilty of a civil infraction and shall be subject to the penalties and enforcement procedures set forth in subsections 1-15(c) through (g) inclusive. Alternatively, the enforcing official may enforce this division through the procedures established in division 2 of this article.

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(Ord. No. 98-02, § 2, 3-3-1998)

**Secs. 14-299—14-320. Reserved.**