

ORDINANCE NO. 4204

AN ORDINANCE OF THE CITY OF CARROLLTON, TEXAS, AMENDING TITLE IX, CHAPTER 95 "WEEDS AND OTHER UNSANITARY MATTER" OF THE CARROLLTON CODE OF ORDINANCES REGULATING AGRICULTURAL OPERATIONS MAINTENANCE REQUIREMENTS; AMENDING CHAPTER 95.01 "DEFINITIONS", AMENDING CHAPTER 95.02 "WEEDS AND VEGETATION; HEIGHT LIMITATION", AMENDING 95.03 "DUTY TO REMOVE WEEDS AND VEGETATION" BY AMENDING AN ORDINANCE REGULATING AGRICULTURAL OPERATIONS MAINTENANCE REQUIREMENTS; PROVIDING FOR APPLICATION OF ESTABLISHED STANDARDS; ESTABLISHING A PENALTY; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE ON AND AFTER ITS ADOPTION.

WHEREAS, the City Council of the City of Carrollton seeks to protect the public safety and preserve the quality of life within the City; and

WHEREAS, the legislature of the State of Texas enacted House Bill 1750 amending Chapter 251 of the Texas Agriculture Code relating to the "Effect of Nuisance Actions and Governmental Requirements on Certain Agricultural Operations" establishing limitations on municipal governmental requirements applicable to agricultural operations located within the corporate boundaries of the City; and

WHEREAS, the City of Carrollton has established and proposed amending Chapter 95 of the Carrollton Code of Ordinances regulating "Weeds and other Unsightly Matter", by including the maintenance requirements of Agricultural Operations recognized and allowed by Chapter 251 of the Texas Agriculture Code; and

WHEREAS, it is necessary to maintain and protect the health and safety of residents, the integrity of residential neighborhoods, and to avoid blight conditions from occurring it is necessary to amend Chapter 95 to properly address maintenance requirements of Agricultural Operations in the City of Carrollton.

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

SECTION 1.

The Code of Ordinances of the City of Carrollton, Texas Title IX, Chapter 95, Section 95.01 "Definitions" is hereby amended to read as follows:

"Sec. 95.01. 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:

Agricultural Operation. Includes the cultivating of soil; producing crops or growing vegetation for human food, animal feed, livestock forage, forage for wildlife management, planting seed, or fiber; floriculture; viticulture; horticulture; silviculture; wildlife management; raising or keeping livestock or poultry, including veterinary services; planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure; and the commercial sale of poultry, livestock, or other domestic and wild animals.

Agricultural Operations Property. Real property where agricultural operations occur.

Designated city official or DCO. The City Manager. The term may include the City Manager's designee or delegated staff or duly authorized representative of the City Manager.

Garbage. Decayable waste, including vegetable, animal, and fish offal and animal and fish carcasses, but does not include sewage, body waste, or an industrial byproduct.

Occupant. Any person, firm, or corporation either public or private, claiming or having possessory control of any property. This shall also include any person, firm, or corporation having jurisdiction within an easement, including railroad rights-of-way and utility easements.

Owner. Any person, firm, or corporation both public and private, owning, claiming, or having possessory control of any property. This shall also include any person, firm, or corporation having jurisdiction within an easement, including railroad rights-of-way and utility easements.

Property. All privately owned property, including vacant land or a building used for residential, commercial, business, industrial, or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps, or other structure appurtenant to the property.

Public street. The entire width between property lines of a road, street, alley, way, thoroughfare or bridge including the sidewalk.

Refuse. Garbage, rubbish, paper, and other decayable and nondecayable waste.

Rubbish. Nondecayable waste.

Trash and debris. All manner of refuse including, but not limited to: mounds of dirt; piles of leaves, grass and weed clippings; paper trash; useless fragments of building material; building materials that have not been in use in over 30 days; rubble; furniture other than furniture designed for outside use; useless household items, appliances; items of salvage, such as scrap metal and wood; old barrels; tires; objects that hold water for an extended time; tree and brush trimmings and other miscellaneous wastes or rejected matter.

Unightly matter. Shall include but not be limited to weeds, garbage, refuse, rubbish, trash, debris, and objectionable or unsightly vegetation."

SECTION 2.

The Code of Ordinances of the City of Carrollton, Texas Title IX, Chapter 95, Section 95.02 "Weeds and vegetation; height limitation" is hereby amended to read as follows:

"Sec. 95.02. Weeds and vegetation; height limitation.

- (A) It shall be unlawful for any owner or occupant of any real property, that is not an agricultural operations property, or a portion thereof, occupied or unoccupied, within the city to permit grass, weeds, brush or unsightly vegetation to grow thereon to a height greater than ten inches.
- (B) It shall be unlawful for any owner or occupant of any agricultural operations property, or a portion thereof, within the city to permit grass, weeds, brush, or unsightly vegetation to grow to a height greater than twelve inches on portions of an agricultural operations property located no more than 10 feet from a property boundary that is adjacent to:
 - 1. a public sidewalk, street, or highway; or
 - 2. a property that:
 - (a) is owned by a person other than the owner of the agricultural operation; and
 - (b) has a structure that is inhabited.
- (C) It shall be unlawful for any owner or occupant of any property within the city to suffer or permit tree limbs, brush, or unsightly vegetation to grow within one foot of the public street or alley adjacent to the property for any tree limbs, brush, or vegetation which hangs lower than 12 feet above the alley or street pavement.
- (D) It shall be unlawful for any owner or occupant of any property within the city to suffer or permit limbs, brush or other vegetation existing above a public street or alley to hang lower than 12 feet above the alley or street pavement or seven feet above the sidewalk or other rights-of-way.
- (E) It shall be unlawful for any owner or occupant of any property within the city to suffer or permit limbs, brush or other vegetation to obstruct any gate, garage door, or any doorway on private property.
- (F) It shall be unlawful for any owner or occupant of any property within the city to suffer or permit tree limbs, brush, or other vegetation to hang lower than ten feet above the driveway.
- (G) It shall be unlawful for any owner or occupant to allow the existence of tree stumps, dead trees, dead bushes, dead shrubs, or other dead vegetation on residential property.
- (H) Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this section."

SECTION 3.

The Code of Ordinances of the City of Carrollton, Texas Title IX, Chapter 95, Section 95.03 "Duty to remove weeds and vegetation" is hereby amended to read as follows:

"Sec. 95.03. Duty to remove weeds and vegetation.

- (A) It shall be the duty of any owner or occupant of any real property, that is not an agricultural operations property, to cut and remove all such grass, weeds, brush, tree limbs, stumps, dead or unsightly in compliance with section 95.02. The limits of the responsibility shall be as follows:
- (1) From the curb line most nearly adjacent to the property, or if no curb line exists, then from ten feet outside the property line including that area to the center line of the alley or public utility easement.
 - (2) All that area within 25 feet of the property line of a parcel or tract of land greater than 20 acres under single ownership.
 - (3) Any property of 20 acres or less must be mowed in its entirety.
 - (a) *Exception.* The following properties are excepted from this subsection and shall be mowed within 25 feet of any property line, abutting street rights-of-way, alleys, boundary sidewalks and trails, subdivided additions, or developed property, and within six feet of a sidewalk or trail that crosses the property:
 1. Property that is undeveloped; is greater than eight acres under single ownership; is traversed by a paved public walkway; and abuts a designated no mow zone designated such pursuant to this chapter, or is separated from such zone only by a public street of not more than two lanes in width.
 2. Property that is at least 75 percent undeveloped; is greater than 18 acres under single ownership; is traversed or bordered by a paved public walkway; and abuts a no mow zone designated such pursuant to this chapter, or is separated from such zone only by a public street of not more than two lanes in width.
 - (4) On all developed property all areas along sidewalks, curbs, driveways, and alleyways must be edged, and no grass, weeds or vegetation shall be allowed to overgrow the aforementioned areas.
- (B) It shall be the duty of any owner or occupant of any agricultural operations property to maintain a mowed setback of ten feet from (1) any public sidewalk, street, or highway or (2) a property that is owned by a person other than the owner of the agricultural operation and has a structure that is inhabited, so as to not violate section 95.02.

SECTION 4.

Any Person violating a provision of this Ordinance, upon conviction, is guilty of an offense punishable as provided in Section 10.99 of the Carrollton City Code.

SECTION 5.

The provisions of this Ordinance are severable in accordance with Section 10.07 of the Carrollton City Code.

SECTION 6.

All other provisions of the Carrollton Code of Ordinances not expressly amended as stated herein shall remain in full force and effect.

SECTION 7.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Carrollton, Texas, except where the provisions of this Ordinance are in direct conflict with provisions of such ordinances and such codes, in which event the conflicting provisions of such ordinances and such codes are hereby repealed.

SECTION 8.


All rights and remedies of the City of Carrollton are expressly saved as to any and all violations of the provisions of any ordinances governing nuisances that have accrued at the time of effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

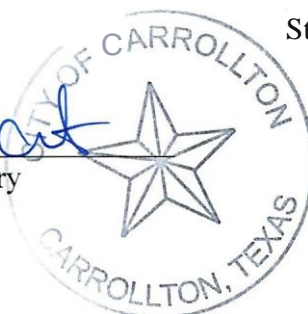
SECTION 9.

This Ordinance shall become effective on and after its adoption and publication.

DULY PASSED AND APPROVED by the City Council of the City of Carrollton, Texas this 21st day of May, 2024.

ATTEST:


Chloe Sawatzky, City Secretary



Steve Babick, Mayor

APPROVED AS TO FORM:

Meredith Ladd,
City Attorney

APPROVED AS TO CONTENT:



Cory Heile
Environmental Services Director

CHAPTER 95. WEEDS AND OTHER UNSANITARY MATTER

Sec. 95.01. 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:

Agricultural Operation. Includes the cultivating of soil; producing crops or growing vegetation for human food, animal feed, livestock forage, forage for wildlife management, planting seed, or fiber; floriculture; viticulture; horticulture; silviculture; wildlife management; raising or keeping livestock or poultry, including veterinary services; planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure; and the commercial sale of poultry, livestock, or other domestic and wild animals.

Agricultural Operations Property. Real property where agricultural operation occurs.

Designated city official or DCO. The City Manager. The term may include the City Manager's designee or delegated staff or duly authorized representative of the City Manager.

Garbage. Decayable waste, including vegetable, animal, and fish offal and animal and fish carcasses, but does not include sewage, body waste, or an industrial byproduct.

Occupant. Any person, firm, or corporation either public or private, claiming or having possessory control of any property. This shall also include any person, firm, or corporation having jurisdiction within an easement, including railroad rights-of-way and utility easements.

Owner. Any person, firm, or corporation both public and private, owning, claiming, or having possessory control of any property. This shall also include any person, firm, or corporation having jurisdiction within an easement, including railroad rights-of-way and utility easements.

Property. All privately owned property, including vacant land or a building used for residential, commercial, business, industrial, or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps, or other structure appurtenant to the property.

Public street. The entire width between property lines of a road, street, alley, way, thoroughfare or bridge including the sidewalk.

Refuse. Garbage, rubbish, paper, and other decayable and nondecayable waste.

Rubbish. Nondecayable waste.

Trash and debris. All manner of refuse including, but not limited to: mounds of dirt; piles of leaves, grass and weed clippings; paper trash; useless fragments of building material; building materials that have not been in use in over 30 days; rubble; furniture other than furniture designed for outside use; useless household items, appliances; items of salvage, such as scrap metal and wood; old barrels; tires; objects that hold water for an extended time; tree and brush trimmings and other miscellaneous wastes or rejected matter.

Unightly matter. Shall include but not be limited to weeds, garbage, refuse, rubbish, trash, debris, and objectionable or unsightly vegetation.

(Ord. 1785, passed 3-3-92; Am. Ord. 2804, passed 5-20-03; Am. Ord. 3343, passed 11-3-09)

Sec. 95.02. Weeds and vegetation; height limitation.

- (A) It shall be unlawful for any owner or occupant of any real property, that is not an agricultural operations property, or a portion thereof, occupied or unoccupied, within the city to permit grass, weeds, brush or unsightly vegetation to grow thereon to a height greater than ten inches.
- (B) It shall be unlawful for any owner or occupant of agricultural operations property or a portion thereof, within the city to permit grass, weeds, brush, or unsightly vegetation to grow to a height greater than twelve inches on portions of an agricultural operations property located no more than ten feet from a property boundary that is adjacent to:
 - 1. a public sidewalk, street, or highway; or
 - 2. a property that:
 - a) is owned by a person other than the owner of the agricultural operation; and
 - b) has a structure that is inhabited.
- (C) It shall be unlawful for any owner or occupant of any property within the city to suffer or permit tree limbs, brush or unsightly vegetation to grow within one foot of the public street or alley adjacent to the property for any tree limbs, brush or vegetation which hangs lower than 12 feet above the alley or street pavement.
- (D) It shall be unlawful for any owner or occupant of any property within the city to suffer or permit limbs, brush or other vegetation existing above a public street or alley to hang lower than 12 feet above the alley or street pavement or seven feet above the sidewalk or other rights-of-way.
- (E) It shall be unlawful for any owner or occupant of any property within the city to suffer or permit limbs, brush or other vegetation to obstruct any gate, garage door, or any doorway on private property.
- (F) It shall be unlawful for any owner or occupant of any property within the city to suffer or permit tree limbs, brush, or other vegetation to hang lower than ten feet above the driveway.
- (G) It shall be unlawful for any owner or occupant to allow the existence of tree stumps, dead trees, dead bushes, dead shrubs or other dead vegetation on residential property.
- (H) Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this section.

(Ord. 1785, passed 3-3-92; Am. Ord. 2804, passed 5-20-03; Am. Ord. 3343, passed 11-3-09)

Cross reference(s)-Penalty, § 10.99.

Sec. 95.03. Duty to remove weeds and vegetation.

- (A) It shall be the duty of any owner or occupant of any real property that is not an agricultural operations property to cut and remove all such grass, weeds, brush, tree limbs, stumps, dead or unsightly vegetation so as to not violate section 95.02. The limits of the responsibility shall be as follows:
 - (1) From the curb line most nearly adjacent to the property, or if no curb line exists, then from ten feet outside the property line including that area to the center line of the alley or public utility easement.
 - (2) All that area within 25 feet of the property line of a parcel or tract of land greater than 20 acres under single ownership.
 - (3) Any property of 20 acres or less must be mowed in its entirety.

(a) *Exception.* The following properties are excepted from this subsection and shall be mowed within 25 feet of any property line, abutting street rights-of-way, alleys, boundary sidewalks and trails, subdivided additions, or developed property, and within six feet of a sidewalk or trail that crosses the property:

1. Property that is undeveloped; is greater than eight acres under single ownership; is traversed by a paved public walkway; and abuts a designated no mow zone designated such pursuant to this chapter, or is separated from such zone only by a public street of not more than two lanes in width.
2. Property that is at least 75 percent undeveloped; is greater than 18 acres under single ownership; is traversed or bordered by a paved public walkway; and abuts a no mow zone designated such pursuant to this chapter, or is separated from such zone only by a public street of not more than two lanes in width.

(4) On all developed property all areas along sidewalks, curbs, driveways, and alleyways must be edged, and no grass, weeds or vegetation shall be allowed to overgrow the aforementioned areas.

(B) It shall be the duty of any owner or occupant of any agricultural operations property to maintain a mowed setback of ten feet from (1) any public sidewalk, street, or highway or (2) a property that is owned by a person other than the owner of the agricultural operations property and has a structure that is inhabited, so as to not violate section 95.02.

(Ord. 1785, passed 3-3-92; Am. Ord. 2804, passed 5-20-03; Am. Ord. 3343, passed 11-3-09; Ord. 3863, § 2, passed 6-19-2018)

Cross reference(s)-Penalty, § 10.99.

Sec. 95.04. Refuse, trash and debris, and unsanitary conditions prohibited.

(A) It shall be unlawful for any owner or occupant of any property or a portion thereof, occupied or unoccupied, within the city, to keep, store, suffer or permit the accumulation upon the property of refuse, trash and debris that is visible from a public street.

(B) It shall be unlawful for any owner or occupant of any property or a portion thereof, occupied or unoccupied, within the city to keep, store, suffer or permit the accumulation upon the property of refuse, trash and debris that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin or disease carrying pests.

(C) It shall be unlawful for any owner or occupant of any property or a portion thereof, occupied or unoccupied, within the city to cause, permit, suffer or allow any unsanitary condition, including but not limited to standing water in any excavation, container, swimming pool or spa, likely to attract or harbor mosquitoes, rodents, vermin or disease carrying pests.

(D) It shall be unlawful for any person to cause or allow any trash and debris to be placed, thrown or otherwise deposited onto any parcel of land, street, alley or sidewalk or other place in the city.

(E) It shall be unlawful for any owner or occupant to allow holes, excavations or other conditions capable of causing injury to a person.

(Ord. 1785, passed 3-3-92; Am. Ord. 2804, passed 5-20-03; Am. Ord. 3343, passed 11-3-09)

Cross reference(s)-Penalty, § 10.99.

Sec. 95.05. Duty to remove refuse, trash and debris.

It shall be the duty of any owner or occupant of any real property, to remove all such refuse, trash and debris defined in section 95.04. The limits of the responsibility shall be as follows: from the curb line most nearly adjacent to the property, or if no curb line exists, then from ten feet outside the property line including that area to the center line of the alley or public utility easement.

(Ord. 1785, passed 3-3-92; Am. Ord. 2804, passed 5-20-03; Am. Ord. 3343, passed 11-3-09)

Cross reference(s)-Penalty, § 10.99.

Sec. 95.06. Notice to remove unsightly matter.

(A) In the event that any owner or occupant of any real property, occupied or unoccupied, within the city fails to comply with the provisions of this chapter, notice of the violation shall be given by the designated city official:

- (1) Personally to the owner or occupant in writing; or
- (2) By letter addressed to the owner at the owner's post office address; or
- (3) If personal service cannot be obtained or the owner's post office address is unknown:
 - (a) By publication at least twice within ten consecutive days; or
 - (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.

(B) The notice is hereby considered to be met and fulfilled when the notice is given at least one time in any calendar year.

(C) The provision of notice in this section is not a condition precedent to the prosecution of an offense alleged to have occurred under sections 95.02 through 95.05. Failure to provide the notice specified in this section shall not be a defense to the prosecution of an offense alleged to have occurred under sections 95.02 through 95.05.

{Ord. 1785, passed 3-3-92; Am. Ord. 2804, passed 5-20-03; Am. Ord. 3343, passed 11-3-09)

Cross reference(s)-Penalty, § 10.99.

Sec. 95.07. Work or improvements by city.

If the owner of property does not comply with any of the provisions of sections 95.02 through 95.05 within ten days of the notice of violation as provided in section 95.06, the city may:

- (A) Do the work or make the improvements required; and
- (B) Pay for the work done or improvements made and charge the expenses to the owner of the property.

{Ord. 1785, passed 3-3-92; Am. Ord. 3343, passed 11-3-09)

Sec. 95.08. Assessment of expenses; lien.

- {A) The city does hereby assess the expenses incurred pursuant to section 95.06 and 95.07 against the real estate on which the work is done or improvements made, and charge the owner of the property for the same.
- {B) In the event the owner fails or refuses to pay the expense within 30 days after the first day of the month following the one in which the work was done, the designated city official 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 lien is security for the expenditures made and interest accruing at the rate of ten percent per annum beginning 180 days after payment by the city.
- {D) 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.
- {E) 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., § 342.007, as amended, which is adopted and incorporated herein by reference.

{Ord. 1785, passed 3-3-92; Am. Ord. 2804, passed 5-20-03; Am. Ord. 3343, passed 11-3-09}

Sec. 95.09. Defenses.

It shall be a defense to prosecution of an offense described by this chapter that the DCO has designated the subject area as a no mow zone.

{Ord. 3863, § 3, passed 6-19-2018}

Editor's note(s)-Ord. No. 3863, § 3, passed June 19, 2018, amended the Code by adding provisions designated as § 95.08. Inasmuch as there were already provisions so designated, the provisions have been included as § 95.09 at the discretion of the editor.

Sec. 95.10. Right of entry.

Whenever it is necessary to make an inspection to enforce this chapter, or whenever the designated city official {DCO} has reasonable cause to believe that there exists in any structure or upon any property a condition or violation which is unsafe, dangerous or hazardous or detrimental to the public interest, the DCO may enter such structure or property at all reasonable times to inspect such structure or property; provided, however, that if such structure or property is occupied, the DCO shall first present proper credentials and request entry, and if such entry is refused, shall then have recourse to every remedy provided by law to secure entry.

{Am. Ord. 2804, passed 5-20-03; Am. Ord. 3343, passed 11-3-09}

Secs. 95.11-95.89. Reserved.

Sec. 95.90. Proof of culpable mental state not required.

Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this chapter.

(Am. Ord. 2804, passed 5-20-03; Am. Ord. 3343, passed 11-3-09)

Secs. 95.91-95.98. Reserved.

Sec. 95.99. Penalty.

A person who violates any provisions of this chapter is guilty of a misdemeanor, and upon conviction is punishable as set forth in section 10.99, for each act of violation and for each day or part of a day during which the violation is committed, continued or permitted.

(Am. Ord. 2804, passed 5-20-03; Am. Ord. 3343, passed 11-3-09)