

Sec. 42-1. Overgrown conditions and related public safety violations.

It shall be the duty of the owner of any lot, tract, or parcel of land within the unincorporated areas of the county to reasonably and effectively control and prevent nuisances or threats to the public health, safety and welfare as described in subsection (1) below.

(1) *Complaints and determination of violation.* Upon a complaint by an affected person, the county code enforcement department is empowered to determine whether lands within the unincorporated area of the county contain a nuisance or threat to the public health, safety and welfare including but not limited to:

- a. Grass, weeds, brush or undergrowth exceeding 12 inches in height, debris or any noxious material of any kind that tends to be a breeding place or haven for snakes, rodents, insects or vermin of any kind or character or that tends to be a breeding place for mosquitoes or that tends to create a fire hazard endangering the lives and property of the citizens of the county. The code enforcement department may determine that all or part of the growth on a parcel is not a violation based on the natural state of the growth.
- b. Dead, decaying, or irreversibly damaged trees that pose an actual threat of collapse into rights-of-way, utilities or adjacent property.
- c. Stinging insect hives, swarms or nests that pose an actual threat to neighboring residents or persons lawfully on the property or lawfully making use of a public easement or right-of-way.
- d. Unsecured swimming pools.
- e. Abandoned or discarded iceboxes, refrigerators, deep freeze lockers, clothes washers, clothes dryers, or similar airtight units, from which doors have not been removed.

An "affected person" shall be any person owning or occupying lands abutting or surrounding the parcel which is the subject of the complaint; any code enforcement officer or county commissioner; or any officer of a homeowners group or civic association provided the complainant shows proof by affidavit at the time of the complaint that the group or association has made a written demand for cleanup to the owner or occupant of the parcel which is the subject of the complaint. Persons reporting conditions described in (1)b., (1)c., (1)d., or (1)e., above, are not required to be "affected persons" to report such conditions.

An "unsecured swimming pool" for the purposes of this section includes a pool, whether finished or unfinished, that contains water in an amount that poses a risk of drowning to children.

(2) *Correction of the violation.* Upon determination by the code enforcement department, in accordance with subsection (1) of this section, that such lands contain a nuisance or a threat to the public health, safety and welfare, the code enforcement department shall be further empowered to:

- a. Clear the lands of grass, weeds, brush or undergrowth exceeding 12 inches in height, debris or any noxious material of any kind that tends to be a breeding place or haven for snakes, rodents, insects or vermin of any kind or character, or that tends to be a breeding place for mosquitoes, or that tends to create a fire hazard endangering lives and property. For lands that are one acre or more, only a 30-foot-wide strip along the common boundaries with a developed parcel shall be cleared.
- b. Abate the threat of tree collapse by removing all or part of an offending tree.

- c. Exterminate or relocate an offending hive, swarm or nest of stinging insects.
- d. Secure a swimming pool consistent with requirements outlined in section 530.4 of the county land development code, as now or subsequently amended.
- e. Secure, remove, or otherwise make safe abandoned or discarded iceboxes, refrigerators, deep freeze lockers, clothes washers, clothes dryers, or similar airtight units. The county may correct offending conditions or employ an independent contract to perform these services.

(3) *Notice and demand to owner.* Upon determination by the code enforcement department that lands contain a nuisance or a threat to the public health, safety and welfare, the code enforcement department shall make a demand, in writing, on the owner of such lands, notifying the landowner of the code enforcement department's determination and demanding that the offending condition(s) be corrected. Such demand shall be posted on the property and served upon the property owner in accordance with section 1-12 of the County Code. The notice shall identify the offending condition(s) and demand that the condition(s) be corrected within 14 calendar days from the date of posting. The notice shall inform the owner that if the condition is not corrected within 14 calendar days of the date of posting, the offending condition will be corrected by the county or an independent contractor, and the costs thereof, plus a penalty, administrative costs, interest, and attorney fees, shall be assessed as a lien against the lands. The notice shall explain the process to appeal the code enforcement department's determination.

(4) *Appeal of determination.* Any owner upon whom any demand is made shall have seven calendar days from service or posting of the demand to request, in writing, a public hearing before the board of county commissioners for purposes of appealing the correctness of the code enforcement department's determination. The public hearing shall be held within 30 days of filing of such appeal. If the code enforcement department's determination is upheld by the board of county commissioners, the owner shall have ten days from the date of such denial to correct the condition or to appeal the board's ruling to the circuit court.

(5) *Imposition of lien.* If any landowner to whom a demand or order has been directed fails to correct an offending condition within the applicable time periods provided for in subsection (3), the board of county commissioners through its designee is authorized to correct the offending condition and, by resolution, to assess a lien on behalf of the county. A notice of the lien in such form as the board of county commissioners shall determine may be filed in the office of the clerk of the circuit court of the county and recorded as a special assessment. The actual costs of correcting the offending condition(s), plus a penalty in the amount equal to the costs or \$75.00, whichever is greater, plus administrative costs (including the necessary expenses for investigation of the complaint, preparation, filing and recording of the assessment lien, and legal expenses incident thereto), plus interest, plus reasonable attorney's fees, shall be assessed against such lands. The lien shall be a special assessment lien against the property and shall be given the same priority with the lien of county ad valorem taxes and will be superior in priority to all other liens, encumbrances, titles and claims in, to or against the lands involved and shall remain a lien until paid.

(6) *Correction without notice to owner.* Conditions that present a serious threat to the public health, safety or welfare may be corrected immediately without prior notice to the

owner(s) or occupant(s) of the parcel, and the costs and penalties shall be assessed pursuant to subsection (5).

(7) *Citation for failure to remedy violation.* In the event the owner or owners of any lot, tract, parcel of land, should fail to remedy a prohibited condition on such property after proper notice pursuant to subsection (3), the code enforcement department may elect to issue a citation. Any such citation shall be prosecuted in accordance with the provisions of section 1-11. Any violation of this article may be considered a civil infraction for purposes of the issuance of a citation.

(8) *Citation for existence of violation.* At any time, the code enforcement department may elect to cite the owner, owners or occupants of particular property, or any or all of them, for any conditions on such property that are prohibited by this section. Any such citation shall be prosecuted in accordance with the provisions of section 1-11. Such election may be made in lieu of, or in addition to, other enforcement measures taken pursuant to this article or any other authority against any party with an interest in the property.

(9) The authority to correct dangerous conditions provided by this section does not impose any affirmative duty on the county to warn of or to correct such conditions. Making such repairs does not create a continuing obligation on the part of the county to make further repairs or to maintain the property and does not create any liability against the local governing body for any damages to the property if such repairs were completed in good faith.

(Ord. No. 03-27, § 2, 11-4-03)

Editor's note: Ord. No. 03-27, § 2, adopted Nov. 4, 2003, repealed section 42-1 in its entirety and replaced it with a new section 42-1. Former section 42-1 pertained to removal of weeds, brush, debris and noxious material from certain areas, and derived from the Code of 1970, § 11-5; Ord. No. 72-04, §§ 1--3, adopted April 26, 1972; Ord. No. 76-9, § 1, adopted May 4, 1976; Ord. No. 84-03, § 1, adopted March 6, 1984; Ord. No. 86-20, § 1, adopted June 17, 1986; Ord. No. 92-03, §§ 1, 2, adopted Feb. 7, 1992; Ord. No. 98-05, § 2, adopted March 17, 1998; Ord. No. 99-09, § 3, adopted July 20, 1999.