

AGENDA – SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, TO BE HELD ON MONDAY, JANUARY 16, 2012, AT 6:00 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS.

I. CALL TO ORDER

II. PURPOSE OF THE MEETING:

- 1. CONSIDERATION AND POSSIBLE ACTION – FIRST AND ONLY READING OF ORDINANCE NO. 633-3 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AMENDING CHAPTER 13, HEALTH AND SANITATION, OF THE CITY OF PEARLAND CODE OF ORDINANCES, AS IT MAY HAVE BEEN, FROM TIME TO TIME, AMENDED, TO AMEND SECTION 13-17, ENTITLED UNSANITARY OR HAZARDOUS CONDITIONS UNLAWFUL; HAVING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND A REPEALER CLAUSE; AND PROVIDING FOR CODIFICATION AND AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY BECAUSE THE NEED TO REGULATE HEALTH AND SANITATION INURES TO THE BENEFIT OF THE PUBLIC AND, THEREFORE, BEARS DIRECTLY UPON THE HEALTH, SAFETY AND WELFARE OF THE CITIZENRY.**
Mr. Darrin Coker, City Attorney.

EXECUTIVE SESSION UNDER TEXAS GOVERNMENT CODE

- 1. SECTION 551.074 – PERSONNEL MATTERS – REGARDING APPOINTMENTS TO THE CITY’S VARIOUS BOARDS AND COMMISSIONS.** *Mayor Tom Reid.*
- 2. SECTION 551.087 – CONSULTATION WITH CITY ATTORNEY – REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS.**
Mr. Bill Eisen, City Manager.

NEW BUSINESS CONTINUED:

- 2. CONSIDERATION AND POSSIBLE ACTION – REGARDING APPOINTMENTS TO THE CITY’S VARIOUS BOARDS AND COMMISSIONS.** *City Council.*
- 3. CONSIDERATION AND POSSIBLE ACTION – REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS.** *City Council.*

III. ADJOURNMENT

This site is accessible to disabled individuals. For special assistance, please call Young Lorfing at 281-652-1840 prior to the meeting so that appropriate arrangements can be made.

New Business Item No. 1

1. **CONSIDERATION AND POSSIBLE ACTION – FIRST AND ONLY READING OF ORDINANCE NO. 633-3** – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AMENDING CHAPTER 13, *HEALTH AND SANITATION*, OF THE CITY OF PEARLAND CODE OF ORDINANCES, AS IT MAY HAVE BEEN, FROM TIME TO TIME, AMENDED, TO AMEND SECTION 13-17, ENTITLED *UNSANITARY OR HAZARDOUS CONDITIONS UNLAWFUL*; HAVING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND A REPEALER CLAUSE; AND PROVIDING FOR CODIFICATION AND AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY BECAUSE THE NEED TO REGULATE HEALTH AND SANITATION INURES TO THE BENEFIT OF THE PUBLIC AND, THEREFORE, BEARS DIRECTLY UPON THE HEALTH, SAFETY AND WELFARE OF THE CITIZENRY.
Mr. Darrin Coker, City Attorney.

**AGENDA REQUEST
BUSINESS OF THE CITY COUNCIL
CITY OF PEARLAND, TEXAS**

AGENDA OF: 1-16-2012	ITEM NO.: Ordinance No. 633-3
DATE SUBMITTED:	DEPARTMENT OF ORIGIN: Legal
PREPARED BY: Darrin Coker	PRESENTOR: Darrin Coker
REVIEWED BY: NA	REVIEW DATE: NA
SUBJECT: Health and Sanitation Ordinance	
EXHIBITS: Ordinance No. 633-3	
EXPENDITURE REQUIRED: AMOUNT AVAILABLE: ACCOUNT NO.:	AMOUNT BUDGETED: PROJECT NO.:
ADDITIONAL APPROPRIATION REQUIRED: ACCOUNT NO.: PROJECT NO.:	
To be completed by Department: <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Legal <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution	

EXECUTIVE SUMMARY

The Code Enforcement Division, through the use of a search warrant, recently initiated an enforcement action against a property located in the City (Shadycrest Subdivision) for the existence of the following nuisance conditions on the property:

- Rubbish (non-decayable waste) throughout the property
- Collection of stagnant water that provides a breeding area for Culex mosquitoes
- Garbage and decayable waste that attracts mosquitoes, rodents and disease-carrying pests

Code Enforcement intended to file the cases under the City's Health and Sanitation Ordinance, but the Ordinance only addresses nuisance conditions created by the existence of high weeds. Chapter 342 of the Texas Health and Sanitation Code is an enabling statute that authorizes home rule municipalities to regulate property by prohibiting the creation of certain nuisance conditions and authorizing municipalities to abate nuisance conditions in a timely manner. Pursuant to Chapter 342, if a property owner does not abate the nuisance condition(s) within 7 days of receiving notice, the

municipality may abate the nuisance and charge the abatement costs to the property owner. The City would have the ability to recover such costs through either a lien or a restitution award from the court. By amending the City's Ordinance to include the above referenced conditions, the Code Enforcement staff will have the ability to seek enforcement of extreme nuisance cases in a more timely and efficient manner. The language used to amend the ordinance mirrors the language used in the state statute.

ORDINANCE NO. 633-3

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS, AMENDING CHAPTER 13, *HEALTH AND SANITATION*, OF THE CITY OF PEARLAND CODE OF ORDINANCES, AS IT MAY HAVE BEEN, FROM TIME TO TIME, AMENDED, TO AMEND SECTION 13-17, ENTITLED *UNSANITARY OR HAZARDOUS CONDITIONS UNLAWFUL*; HAVING A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND A REPEALER CLAUSE; AND PROVIDING FOR CODIFICATION AND AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY BECAUSE THE NEED TO REGULATE HEALTH AND SANITATION INURES TO THE BENEFIT OF THE PUBLIC AND, THEREFORE, BEARS DIRECTLY UPON THE HEALTH, SAFETY AND WELFARE OF THE CITIZENRY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEARLAND, TEXAS:

Section 1. That Article II, *Offensive Conditions*, of Chapter 13, *Health and Sanitation*, of the City of Pearland Code of Ordinances, is hereby amended to AMEND Section 13-17, entitled *Unsanitary or Hazardous Conditions Unlawful*, to read as follows:

“Sec. 13-17. Unsanitary or hazardous conditions unlawful.

(a) *Weeds.*

- (1) A person, owner, tenant, agent or person responsible for any premises, occupied or unoccupied, commits an offense if said person permits or allows weeds to grow on the premises to a greater height than twelve (12) inches. Said premises shall include, but not be limited to, the parkway between sidewalk and the curb; the right-of-way between any fence, wall or barrier and the curb or pavement if such exists or the center line of said right-of-way; or 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.
- (2) It shall be a defense to subsection (a)(1) that such vegetation upon such property is actually being used for agricultural purposes.

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- (3) With respect to uncultivated agricultural properties or tracts of land that contain no structures used or designed for human occupancy for residential or commercial purposes, a person, owner, tenant, agent or person responsible for such property commits an offense if said person permits or allows weeds to grow to greater height than twenty-four (24) inches within fifty (50) feet from any adjacent property under different ownership or any street right-of-way. However, on cultivated agricultural properties where the distance between the growing crop and abutting property under different ownership or street right-of-way is less than fifty (50) feet, the person, owner, tenant, agent or person responsible for such property commits an offense if said person permits or allows weeds to grow to a greater height than twelve (12) inches.
- (b) *Offensive vegetation.* It shall be unlawful for any owner, tenant, lessee, agent, or occupant of any premises to permit any vegetation to grow, regardless of height, upon such premises owned, leased, occupied, or controlled by such person, so that such vegetation becomes offensive or emits foul or noxious odors, or becomes a breeding place for flies or insects, or becomes in any way injurious to the public health.
- (c) *Swimming pools.* A person, owner, tenant, agent or person responsible for any premises, occupied or unoccupied, commits an offense if said person maintains a swimming pool in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests.
- (d) *Rubbish.* A person, owner, tenant, agent or person responsible for any premises, occupied or unoccupied, which is zoned or utilized for residential use, commits an offense if said person keeps, stores, or accumulates thereon rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on said premises for ten (10) days or more, unless the rubbish is completely enclosed in a building and not visible from a public street.
- (e) *Insects.* A person, owner, tenant, agent or person responsible for any premises, occupied or unoccupied, commits an offense if said person permits or allows upon those premises
- (1) a condition or place that is a breeding place for flies; or
- (2) a collection of water that is a breeding place for mosquitoes.

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(f) *Unsanitary conditions.* A person, owner, tenant, agent or person responsible for any premises, occupied or unoccupied, commits an offense if said person maintains those premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests."

Section 2. **Declaration of Emergency.** The Council finds and determines that the need to regulate the maintenance of swimming pools and to tighten the restrictions on weeds inures to the benefit of the public and, therefore, bears directly upon the health, safety and welfare of the citizenry; and that this Ordinance shall be adopted as an emergency measure, and that the rule requiring this Ordinance to be read on two (2) separate occasions be, and the same is hereby waived.

Section 3. **Savings.** All rights and remedies which have accrued in favor of the City under this Ordinance and amendments thereto shall be and are preserved for the benefit of the City.

Section 4. **Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid, unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 5. **Repealer.** All ordinances and parts of ordinances in conflict herewith are hereby repealed but only to the extent of such conflict.

Section 6. **Codification.** It is the intent of the City Council of the City of Pearland, Texas, that the provisions of this Ordinance shall be codified in the City's official Code of Ordinances as provided hereinabove.

ORDINANCE NO. 633-3

Section 7. Effective Date. The City Secretary shall cause this Ordinance, or its caption and penalty, to be published in the official newspaper of the City of Pearland, upon passage of such Ordinance. The Ordinance shall then become effective on February 1, 2012.

PASSED and APPROVED on FIRST AND ONLY READING this the _____ day of _____, A.D., 2012.

TOM REID
MAYOR

ATTEST:

YOUNG LORFING, TRMC
CITY SECRETARY

APPROVED AS TO FORM:

DARRIN M. COKER
CITY ATTORNEY

New Business Item No. 2

2. **CONSIDERATION AND POSSIBLE ACTION – REGARDING APPOINTMENTS TO THE CITY'S VARIOUS BOARDS AND COMMISSIONS.** *City Council.*

New Business Item No. 3

3. **CONSIDERATION AND POSSIBLE ACTION – REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS.** *City Council.*