DIVISION 2. WEEDS, BRUSH, RUBBISH AND UNSANITARY MATTER*

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***State law references:** Protection of public health, V.T.C.A., Health and Safety Code § 122.005; minimum standards of sanitation and health protection measures, V.T.C.A., Health and Safety Code § 341.001 et seq.; local regulation of sanitation, V.T.C.A., Health and Safety Code § 342.001 et seq.; Texas Litter Abatement Act, V.T.C.A., Health and Safety Code § 365.001 et seq.; pesticide regulation, V.T.C.A., Agriculture Code § 76.001 et seq.; noxious weed control districts, V.T.C.A., Agriculture Code § 78.001 et seq.

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Sec. 34-56. Definitions.

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

Brush means all trees or shrubbery under seven feet in height which are not cultivated, maintained or cared for by persons owning or controlling the premises on which such trees or shrubbery are growing.

Nuisance and *public nuisance* mean whatever is dangerous to life or health; or whatever renders the ground, the water, the air or any food or drink unhealthy and a hazard to life or health.

Objectionable, unsightly or unsanitary matter of whatever nature means all uncultivated vegetable growth, objects and matter not included within the meaning of the other terms defined in this section, which are liable to produce or tend to produce disease or an unhealthy, unwholesome or unsanitary condition on the premises or within the general locality where the growth, objects or matter is situated, including, without limitation, the accumulation of stagnant water, carrion, filth, impure or unwholesome matter, weeds in excess of 12 inches, rubbish and brush.

Rubbish means all refuse, discarded or useless articles, discarded clothing and textiles of all sorts, and in general all litter and other things usually included within the meaning of the term "rubbish."

Weeds means uncultivated vegetable growth or matter, including grasses, which has grown to a height of more than 12 inches, or which, regardless of height, has become an unwholesome or decaying mass or breeding place for mosquitoes or vermin.

(Ord. No. 004-86, art. I, § 1(a)--(c), (e), (f), 8-13-86)

Cross references: Definitions generally, § 1-2.

Sec. 34-57. Certain conditions declared nuisance.

Within the city each of the following, without limiting the definitions in section 34-56, is specifically declared to be a public nuisance, and as such is liable to be abated, and the person guilty of causing, permitting or suffering any such nuisance to exist upon a lot, parcel of real estate or premises, or in any building occupied or controlled by him, or in or upon any street, alley, sidewalk or gutter immediately adjacent to such premises, shall be deemed in violation of this division:

(1) The accumulation of stagnant water.

(2) The accumulation of carrion, filth or other impure or unwholesome matter of any kind.

(3) Weeds which have grown to a height of more than 12 inches or which, regardless of height, have become an unwholesome or decaying mass or breeding place for mosquitoes or vermin.

(4) The accumulation of rubbish, brush or other unsightly, objectionable or unsanitary matter.

(5) Trees that are dead or diseased, or trees that contain dead or diseased limbs, if such dead or diseased tree or dead or diseased tree limb creates an unreasonable risk of injury to persons or damage to property.

(Ord. No. 004-86, art. I, § 2, 8-13-86; Ord. No. 008-05, § 2, 3-14-05)

State law references: Stagnant water, V.T.C.A., Health and Safety Code § 342.001; filth, carrion, etc., V.T.C.A., Health and Safety Code § 342.003; weeds, V.T.C.A., Health and Safety Code § 342.004.

Sec. 34-58. Abatement; collection of expenses by city.

(a) *Notice to owner.* Should the city health officer or other designated representative determine that a nuisance exists on any lot or parcel of real estate within the city, written notice shall be given to the owner of the lot upon which the nuisance exists. Such notice shall identify the nuisance, identify the property upon which the nuisance exists, and direct the owner to take such action as the city deems reasonable, appropriate and necessary to remove the nuisance. Such notice shall be delivered personally to the owner in writing, 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, if personal service cannot be obtained, by publication at least once in the city's official newspaper, by posting the notice on or near the front door of each building on the property to which the violation relates, or 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) *Abatement by city.* If the owner fails or refuses to remove the nuisance within seven days following notice as provided in subsection (a) of this section, the city may do or cause to be done that which will abate such public nuisance, and may pay therefore, and charge the expenses incurred in doing such work or having such work done or improvements made to the person who owns such lot or building. If such work is done or improvements made at the expense of the city, then the expenses shall be assessed on the real estate or lot for which such expense was incurred. In a notice provided under subsection (a) of this section, the city 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 that poses a danger to the public health and safety on or before the first anniversary date of the notice, the city without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by such notice occurs within the one-year period, and the city has not been informed in writing by the owner of an ownership change, then the city without further notice may cause the work to be done or make the improvements required, and pay for the work done and improvements made and charge the expenses to the owner as otherwise provided herein.

(c) *Collection of expenses.* The mayor, city health officer or city official designated by the mayor shall file a statement of expenses giving the name of the owner, if known, the amount of such expense, the date on which such work was done, and the legal description of the premises upon which such work was done or improvements made with the county clerk. The city shall have a privileged lien on such lot or real estate upon which such work was done, or improvements made, to secure the expenditures so made, in accordance with V.T.C.A.,Health and Safety Code ch. 342, which lien shall be second only to tax liens or liens for street improvements, and such amount shall bear ten percent interest from the date of payment by the city. For any such expense and interest, suit may be instituted and recovery and foreclosure of such lien may be had in the name of the city, and the statement of expenses so made, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements.

(Ord. No. 004-86, art. I, §§ 3, 4, 8-13-86; Ord. No. 020-00, § 1, 8-28-00)

State law references: Work or improvements by municipality, notice, V.T.C.A., Health and Safety Code § 342.006; assessment of expenses, lien, V.T.C.A., Health and Safety Code § 342.007.

Secs. 34-59--34-70. Reserved.