

ARTICLE III. NUISANCES¹

Sec. 18-163. 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:

Nuisance means any unlawful act, or omitting to perform a duty, or the suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others;
- (2) Offends decency;
- (3) Is offensive to the senses;
- (4) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;
- (5) In any way renders other persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(Code 1978, § 15-1; Code 1993, § 30-156)

Sec. 18-164. Illustrative enumeration.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (1) Noxious weeds and other rank vegetation.
- (2) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
- (3) Any condition which provides harborage for rats, mice, snakes and other vermin.
- (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
- (5) All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
- (6) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.

¹State law reference(s)—Authority to define, prohibit, V.T.C.A., Local Government Code § 217.042.

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- (7) The carcasses of animals or fowl not disposed of within a reasonable time after death.
 - (8) The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
 - (9) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
 - (10) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
 - (11) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

(Code 1978, § 15-2; Code 1993, § 30-157)

Sec. 18-165. Prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance.

(Code 1978, § 15-3; Code 1993, § 30-158)

Sec. 18-166. Owners required to keep lots of free of weeds, etc.; procedure for abatement.

- (a) *Rubbish, brush, stagnant water, sinks, filth, carrion, or any other unwholesome, unsightly, unsanitary, or objectionable matter.* Every owner, part owner, joint owner, or owner of any interest whatever, hereinafter referred to as the owner, in real estate which is located within a subdivision, either recorded or unrecorded, within the city; or which real estate is open acreage located within 200 feet of any residence, if same be occupied, or commercial establishment; or within 200 feet of any dedicated street right-of-way, shall keep such property free of rubbish, brush, stagnant water, sinks, filth, carrion or any other unwholesome, unsightly, unsanitary or objectionable matter.
- (b) *Weeds prohibited.* Every owner shall keep his property free from weeds, in accordance with the following regulations:
 - (1) *Weeds defined.* The term "weeds" means uncultivated vegetable growth or matter, including grasses, which has grown to a height of more than 12 inches. Cultivated crops, plants, or grasses must be farmed or managed in accordance with customary area practices. Property or parcels which have an area coverage of 50 percent or more in wildflowers or wildflower seed heads are not included within this definition until such time as seeds have matured following the final blooming of the majority of the plants, but in no case later than August 1 of the calendar year.
 - (2) *Parcels larger than four acres.* Parcels larger than four acres which have prohibited weeds present must be cut (i.e., the weeds must be controlled,) for a distance of 25 feet back from the curb, or the edge of the road surface if there is no curb.
 - (3) *Defenses to prosecution.* It shall be a defense to prosecution for violation of this subsection (b) if the owner can prove that:
 - a. Weather conditions have totally prevented cutting or controlling the weeds; or
 - b. The property or parcel has been mowed or the weeds controlled within the previous 30 days.
- (c) *Work or improvements by city; notice.* If the owner of property in the city does not comply with this section within ten days of notice of a violation, the city may do the work or make the improvements required and pay for the work done or improvements made and charge the expenses to the owner of the property. The notice of violation must be given:

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- (1) Personally to the owner in writing;
 - (2) By letter addressed to the owner at the owner's post office address; or
 - (3) By publication at least twice within ten consecutive days if personal service cannot be obtained or the owner's post office address is unknown.
- (d) *Assessment of expenses; lien.* The city council may assess expenses incurred against the real estate on which the work is done or improvements made. To obtain a lien against the property, the city manager, municipal health authority, or other city official designated by the city manager must file a statement of expenses with the county clerk. The lien obtained by the city is security for the expenditures made with interest accruing at the rate of ten percent on the amount due from the date of payment by the city. The lien is inferior only to:
- (1) Tax liens; and
 - (2) Liens for street improvements.
- (e) *Foreclosure.* The city council may bring a suit for foreclosure in the name of the city to recover the expenditures and interest due.
- (f) *Statement of expenses.* The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.
- (g) *Remedy cumulative.* The remedy provided by this section is in addition to other remedies available to the city.

(Code 1978, § 15-9; Code 1993, § 30-159; Ord. No. 92-12, § 2.0, 7-20-1992; Ord. No. 2012-03, § 1, 4-2-2012; Ord. No. 2012-13, § 1, 6-18-2012)

Sec. 18-167. Release of pollutants.

All industrial or commercial endeavors are hereby prohibited from releasing particulate matter, eye irritants, radiation, or odorous matter into the atmosphere or water. All industries are hereby prohibited from posing fire, explosion or chemical hazards, or producing toxic and/or noxious matter.

(Code 1978, § 5-11; Code 1993, § 14-11)

Sec. 18-168. Tire storage and mosquito control.

- (a) Every person in possession of land within the corporate limits of the city, either as owner, purchaser, under contract, lessee, tenant or licensee, upon which land there are situated one or more tires, shall keep such tires inside a building or other structure, which building or structure must be capable of preventing the tires from gathering water, or allowing weeds to grow around such tires. Each tire must be stored in such a manner that in the determination of the city the tires are not capable of breeding mosquitoes or other vermin.
- (b) Every person in possession of land within the corporate limits of the city, either as owner, purchaser, under contract, lessee, tenant or licensee, is hereby prohibited from having, storing or otherwise keeping any vessels or vats capable of containing or holding liquids, which vessel or vat in the sole determination of the city would be a breeding place for mosquitoes or other vermin.
- (c) Anyone who stores tires or has tires, or other vessels or vats, without having complied with the provisions of this section or who shall violate any of the provisions of this section shall be guilty of an offense. Cumulative with any other remedy available to the city, the city may proceed against such violator by injunction or other appropriate remedy to correct any violations of this section.

(Code 1978, § 13-4; Code 1993, § 42-1)

Sec. 18-169. Commercial establishments, hours of operation.

It shall be unlawful for any person to operate a commercial establishment, or otherwise be open for business, between the hours of 11:01 pm and 4:59 am. Exemptions to this provision include:

- (1) Commercial establishments with frontage along FM 2920, SH 249 Business, Tomball Parkway, Hufsmith-Kohrville Road, and Holderrieth Road.
- (2) Commercial establishments that are deemed essential for health, safety, and general welfare.
- (3) Commercial establishments that are not contiguous to a residential zoning district as defined in Section 50-82.

Secs. 18-~~17069~~—18-185. Reserved.