

Review of Health and Sanitation—95.02 – 95.99

The dictionary defines sanitation as: The process of keeping places clean and healthy, especially by providing a sewage system and a clean water supply.

95.02 Purpose – The way it currently reads seems to me to include septic tanks in (public) nuisances. Is stagnant filth the intended term? Not used elsewhere. Should nuisance be “public nuisance or public health nuisance”? Texas Code says “ each of the following is a “public health nuisance.”

Could some verbage such as reduce or prevent vermin, rodents, mosquitoes and other pests that may spread disease or destroy property be added to the purpose? Put health before property values?

Example: ...so that the City Council may promote the public health, safety and general welfare within the City through the regulation of private sewage treatment facilities (Septic systems). The City also promotes public health thru regulation of stagnant water, filth, carrion, and dangerous weeds to prevent establishment of vermin, rodents, mosquitoes and other pests that may spread disease, cause injury or destroy property.

95.03 Definitions

1. Remove Fire Safety Buffer Zone—there is nothing related to public health or sanitation in these rules. **The whole section should move to site plan.**
2. Is there a reason that the definitions are different between Public Works and Sanitation?

From Public Works definitions (50.08): Rubbish. Non-putrescible (KD--dictionary -- means solid waste that does not contain organic matter) solid waste, excluding ashe, that consist of:

(1) Combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves and similar materials; and

(2) Non-combustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture and similar materials that do not burn at ordinary incinerator temperatures (160°F to 180°F).

From Sanitation definitions: *Rubbish*. Trash, garbage, debris, rubble, rocks, wrappings, unused fragments of building materials, tree trimmings, brush and other miscellaneous waste or rejected matter.

The Ordinance definition of Nuisance sounds like porn. “impure and unwholesome matter of any kind.” A public health nuisance is any condition with the potential to cause of promote pathogens, infection or disease in any individual or the public in general. (pulled from some law review).

Privy: it is not a facility (this is the definition in Texas law); it is an outhouse.

Can the City PLEASE pass an ordinance that forbids “privies “ within the City limits???
Texas law: Cannot be built within 75 feet of a drinking water well, or human habitation other than the owner’s without approval. Most bans are through zoning.

From Texarkana—nuisance includes maintaining a privy on private property where a public sewer is within 150 feet from any side of the property or lot. And where a water line is adjacent to or across the street from the property. Malodorous, dilapidated, etc.

95.04 Sanitation requirements:

(A) Fill drain or regulate any location (rather than hole or place)

(C) What is the difference between an on-site sewage facility and a septic system (private sewage system)??

95.05 Sanitation Restrictions

95.05

95.05 (B) (1) is in Construction 151.11 (D)and says place in receptacle daily. Sanitation says every 4 days. Should be removed from Sanitation.

95.05 (B) (2) is in Construction 151.11 (D) and says any matter which is within 100 feet of the construction site is assumed to be from the site and must be disposed of daily. Sanitation says matter which may blow is secured. If this needs to be said, it should be in construction. Should remove from Sanitation.

95.05 (B)(3) Seems to be an additional trash container for non-construction type trash. I did not find in Construction.. but should be moved there and removed from Sanitation.

Construction 151.11 (D): Removal of all construction materials and debris. It shall be the permit holder's responsibility to provide an appropriate temporary trash receptacle on each site prior to beginning any construction activity. This receptacle shall be a commercial dumpster or one on-site constructed box no larger than four feet high by eight feet wide by eight feet deep. It shall be the permit holder's responsibility during construction that all of the herein defined waste, **construction material**, be placed in the trash receptacle daily and that the receptacle be emptied promptly when it becomes full. For the purposes of this section, any construction material located within 100 feet of any construction site, or deposited on any City street to or from the site, shall be presumed to be from that construction site. The holder of any permit granted under this subchapter shall, at the conclusion of each day's activities, collect, remove or clean, and place in an appropriate solid waste container all waste material on site or on any adjacent property. In the event the permit holder fails to clean up under this section, the City may issue a stop work order until the cleanup has been completed. If the City has to take charge of the clean up, the City shall be entitled to recover from the permit holder the actual expenses incurred by the City, including attorney's fees and other reasonable expenses.

95.05 (B)(4) Portable toilets are covered in construction 151.11 (E) with more specific requirements. Should remove from Sanitation.

Construction 151.11 (E) Portable toilets.

(1) For all new construction, a portable chemical toilet must be placed on each site before any construction activity is begun and not in the street right-of-way. Toilets should be so located so the doors open into the lot on which the construction is taking place. Toilets must be serviced on regular basis.

(2) No permit shall be required for any portable toilet or materials storage shed placed on a construction site and promptly removed upon completion of construction or expiration of the permit.

95.05 (C), (D), (E) are ok unless someone else finds something.

95.05 (F) If the definition of dangerous vegetation is primarily creating a driving hazard, then what difference does it make if it is a decorative grass?

Option for (F): Any vegetation that creates a driving hazard must be cut to less than 6 inches. Vegetation that is unsightly or a threat to health, life or safety should be cut to less than 6 inches. Decorative grasses are assumed to grow to greater than 6 inches and except

when identified as a driving hazard are excluded from this section. Change “the city shall” to “the City may”.

95.05 (G) Fire Buffer Zone: has nothing to do with sanitation or health. Should move to site development. And be referenced in the fire prevention chapter. Maybe..154.040 (A) (7)says there is a landscaping ordinance.. but I don’t know what it is referring to...could not find.. but the fire buffer zone could go there... or 154.060 (C)(8) landscaping evaluation of site development also might need to include the fire buffer zone.

95.05 (H) is ok unless someone finds something.

95.06 Investigations.. I assume there is common language with other ordinances for (A) and (B).

95.06(C): Although there may be Public Health purpose requiring entrance into a private residence, unless it has to do with a private sewage system in a way that I do not understand, none of them are described in the Health and Sanitation ordinance—which describes issues outside the residence.

Here is the section of the Texas law:

an authorization to inspect the residence for a specific public health purpose by a magistrate or by an order of a court of competent jurisdiction on a **showing of a probable violation of a state health law, a control measure under Chapter 81 (Communicable Diseases), or a health ordinance of a political subdivision.**

95.06 (E) has quite a bit of drama.

96.06 (H). Why is dangerous vegetation abatement different than any other violations? I would suggest that this be incorporated into (D), (E) and (F); giving a notice and a timeframe to the property owner. Why is mowing the vegetation different?

95.06 (I): The lien seems like a penalty.. even though it is not a fine.. it could be a lot more costly. This is rather confusing.. the city can chose to incur expenses and file a lien.. but I do not see an appeal process for the property owner concerning the Code Officers determination that a violation exists before the lien can be filed.

95.99 (A) what happens if the violation is declared a to be a nuisance? Is that to allow Civil penalties as well?

95.99 (D) (2) The fines for municipal court violations and Civil penalties are different. I cannot tell that the offenses are different.

