

CHAPTER 74: NUISANCES

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Nuisances Generally

§ 74.01 Certain Acts Constituting Nuisances

The following shall constitute nuisances when allowed, maintained or suffered to exist within the City. The person guilty of causing or permitting a nuisance to exist shall be fined as provided in this Code.

- (a) Whatever is dangerous to human life or health; whatever renders the ground, the water, the air or any food or drink unwholesome and a hazard to human life and health.
- (b) Any building, erection or cellar or any part of such building or erection or cellar which is overcrowded, or not provided with adequate means of ingress or egress or is not sufficiently supported, ventilated, sewerred, drained, cleaned or lighted.
- (c) All cellars, vaults, drains, pools, privies, sewers, yards, ground or premises which have for any cause become foul, nauseous or offensive or injurious to the health, or unpleasant to adjacent residences or to persons passing such premises.
- (d) All carcasses, all decaying flesh, fish, fowls, fruit or vegetables, all deposits of manure, all flesh of any kind or description whatever, all other unwholesome substances when thrown upon or conducted into or upon any street, alley, public ground or enclosure in such manner as to

render such substances unwholesome and offensive or liable to become unwholesome or offensive.

(e) All privies that are offensive from use; all markets, cellars, laundries, stores or other buildings or places which are not kept clean and free from filthy and unwholesome substances and odors; all deposits or substances that are offensive or liable to engender disease.

(f) Every trade, business or occupation injurious to the health or comfort of persons who reside in the vicinity, and any can or receptacle containing water or slops suffered to become stagnant or offensive or unwholesome from any cause.

(g) The act of depositing fifth or any foul, offensive, nauseous or injurious substance upon any sidewalk, street, alley, public thoroughfare or other public place.

(h) The act of sweeping or depositing any trash, paper or rubbish into any street, alley, public thoroughfare or other public place and allowing the same to remain in such place longer than twenty-four (24) hours.

(i) The act of burning any hair, leather, rags or any other substance of any kind which may cause or produce an offensive smell, smoke or odor capable of annoying persons living in the vicinity.

j) The act of defecating or urinating upon the streets, alleys or public grounds, or in any place that may be seen from a private residence or by persons passing along the streets, alleys or public thoroughfares.

(k) The act of keeping, raising, possession or having in or about the premises, except within enclosures, any pigeons with intent to keep, raises or breeds same.

(l) The act by any person of permitting or allowing any weeds, filth or rubbish of any kind to remain on any sidewalk in front of or at the side of any premises owned by such persons, or in the street, to the middle thereof, in front or at the side of any premises owned or controlled by such person, or upon any alley, that may be at the rear or side of any lots owned or controlled by such persons.

(m) The act of hauling, carrying or transporting any meat or slaughtered or dead animals or fish for commercial use through the streets of the City without having the same entirely covered, screened and protected from dust and public view.

(n) The act of scattering any advertisements, circulars, handbills, printed or written announcements or paper of like character upon the streets, sidewalks, alleys or within the public buildings or grounds within the City.

(o) The act of the owner or possessor of any animal which may die in failing to have the carcass of the same properly disposed of by burial or cremation within twelve hours after death of the animal.

(p) The act of throwing from any opening in, or carrying from, any dwelling or place of abode, any night soil, feces, urine or filthy or unclean water into or upon any alley, street or sidewalk or into or upon any adjacent property not owned by the principal.

(q) The act of conducting or causing to be conducted into any alley or gutter of wastewater from any sink or tank or any source of water supply which may produce any pool of stagnant water in the alley or gutter.

(r) The act of dumping upon and removing from any sidewalk, street or alley any coal or like material in a dry state, in such manner that annoying or offensive dust is generated from such material, or the act of leaving coal dust or like material upon any sidewalk, street or alley at or near the place where such coal or material was deposited or from which it was removed.

(s) Any article or substance placed upon any street, sidewalk, alley, gutter, and drain or public ground except such articles as are permitted by this Code or other ordinances of this City, in such manner as to obstruct such passageway.

(t) The act of throwing any glass, tin, queen's ware, crockery, or other rubbish into or upon the sidewalks, streets, alleys, public thoroughfares, common drains or gutter.

(u) The act of keeping, feeding, raising or breeding of hogs.

(v) The act of allowing any privy to become dilapidated or out of repair so that any person within, or the contents thereof may be exposed to view; the act of constructing or keeping on the premises any privy, the contents whereof are exposed to view, or can be seen from the street or public places; the act of discharging or causing to be discharged into any street alley, public thoroughfare or other public places or upon premises belonging to any other person the contents of such privy.

(w) Any nauseous, foul or putrid liquids or substances likely to be nauseous, foul, offensive or putrid, discharged, placed, thrown or conducted into or upon any street, alley, public ground or common.

(x) The act of wrongfully casting, throwing or depositing any filth, substance or thing into any private or public well or cistern.

(y) The act of erecting or maintaining buildings or structures with roofs or eaves projecting beyond the property line or shedding water upon any property other than that belonging to the owner of such erection or building.

§ 74.02 Notice to Abate; Abatement by City upon Property Owners Refusal

In the event a property owner shall fail or refuse to comply with any of the provisions of this Chapter within ten (10) days after notice to do so, the City may do such work or cause the same to be done and nuisance to be abated and pay therefor, and charge the expenses in doing or having such work done, or improvement made, to the owners of the property, whereupon such charge shall be a personal liability of such owner to the City. Such notice may be in writing served upon such owner in person by an officer or employee of the City, or may be by letter addressed to such owner at his post office address, or if personal service may not be had as aforesaid, or the owner's address is not known, the notice may be given by publishing a brief summary of the order as many as two (2) times within ten (10) consecutive days in some newspaper of general circulation in the City addressed, "Sanitary Improvements" "TO WHOM IT MAY CONCERN", and such publication shall be deemed sufficient notice.

Unsanitary Conditions on Private Property

§ 74.10 Prohibited Conditions Designated - Stagnant Water

(a) It shall be unlawful for any person, who shall own or occupy any lot in the City, or who is exercising custody and control of such a lot to permit or allow holes or places on such lot where water may accumulate and become stagnant or to permit same to remain thereon.

(b) It shall be unlawful for any person, who shall own or occupy any lot in the City, to permit or allow the accumulation of stagnant water thereon, or to permit the same to remain thereon.

§ 74.11 Accumulations of Downed Timber, Trash, Etc.

It shall be unlawful for any person, who shall own or occupy, or who is exercising custody and control of any house, building, establishment, lot or yard in the City, to permit or allow any downed timber or brush, tin cans, old clothes, sacks, or any trash or rubbish, carrion, filth or other impure or unwholesome matter to accumulate or remain thereon.

§ 74.12 Abandoned Iceboxes or Refrigerators

It shall be unlawful for any person to place, or permit to remain outside of any dwelling, building or other structure, or within any garage, barn, outbuilding, warehouse, storage room or any unoccupied or abandoned dwelling, building, porch, yard, lot or any other portion of any premises under such circumstances as would be accessible to children or where children at play may come upon such icebox or refrigerator and be attracted to it, unless the door has been removed from such icebox or refrigerator or unless the latch or lock holding each door shut is dismantled or removed so that the door may be open from within by simply pushing on it. Jamming or obstructing the lock or latch will not be in compliance herewith, but the same must be removed or dismantled so that accidental latching or locking is impossible.

The abandonment or dangerous exposure of any icebox or refrigerator with its door or doors in normal latching or locking condition is hereby declared to be a public nuisance and a serious

menace to life because of the danger of children entering such an icebox or refrigerator and becoming locked therein and suffocating.

The duties of this section are imposed alike on the owner of the icebox or refrigerator and the owner or occupant of the premises where the icebox or refrigerator is located.

§ 74.13 Impoundment and Diversion of Water; Duty to Drain

(a) It shall be unlawful for any person to construct, maintain, possess or permit the use of any embankment, dump, building or other obstruction or impediment within the City, which causes either directly or indirectly a diversion of any surface water, or water in creeks, streams and drains, from their natural course or the impounding of any water on any of the streets, alleys or other thoroughfares of the City, or on any privately owned property. Such construction, maintenance, possession or use of such embankment, building, structure, or other such impediment, is hereby declared to be a nuisance per se, subject to redress and abatement by any person, including the City, either in law or in equity, for any damage caused thereby or for the abatement of same as such nuisance.

(b) It shall be the duty of all persons owning or using property of any kind or character within the City to construct, provide and maintain adequate cut-outs, sluices, drain-boxes and storm sewers through, over and under their property when necessary to insure, and in such manner as to permit, the natural passage, drainage and flow of all surface waters and the water flowing through and in creeks, branches, streams and drains, and prevent the impounding of surface waters on the said streets, alleys and other thoroughfares of said City, and on privately owned property within the City, and to alter, change and repair such facilities as and when new and changed conditions may arise, in such manner as at all times to insure such results. Failure to do so shall constitute negligence per se in any suit by any property owner of the City filed either in law or in equity for damages or for the abatement of such condition.

§ 74.14 Notice to Owner to Remove or Remedy Condition

Whenever any condition described in this article is found to exist upon any lot or premises in the City, the City Manager shall notify the owner of such lot or premises to remove or remedy the condition within ten (10) days after the date of such notice. Such notice shall be in writing and served on the owner in person or mailed to him at his latest known address. In the event that personal service cannot be had and the owner's address is not known, such notice shall be given by publication in a newspaper of general circulation in the City, at least twice within ten (10) consecutive days.

§ 74.15 Removal or Correction by City

In the event the owner of any lot or premises fails to remove or remedy any condition described in § 74.10 - §74.13 within ten (10) days after notice has been given as provided in § 74.14, the City may do whatever is necessary to remove or remedy the condition, or cause the same to be done, and charge the expenses incurred thereby to the owner of such lot or premises and such expenses shall be assessed against the real estate upon which the work was done. The doing of

such work and the charging and assessing of the expenses thereof against the owner shall not relieve the owner or occupant of any such prosecution for violation of this article.

§ 74.16 Statement of Expenses Incurred; Lien for and Collection of Expenses

The City Manager shall file a statement of expenses incurred under § 74.15 giving the amount of such expenses, and the date on which the work was done or improvements made, with the county clerk, and the City shall have a privileged lien on such lot or real estate upon which the work was done or improvements made to secure the expenditures so made in accordance with Article 4436, Revised Civil Statutes of Texas, or appropriate statute related thereto, which lien shall be second only to tax liens and liens for street improvements. The amount of such expense shall bear ten percent (10%) interest from the date such statement is filed. For any such expenditures 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.

Noise

§ 74.20 Making Of Noise Detrimental To Life or Health Prohibited

It shall be unlawful for any person to make, or cause to be made, noise of such character, intensity and duration as to be detrimental to life or health of an individual in the City.

§ 74.21 Noise Interfering With Enjoyment of Property or Public Peace and Comfort

It shall be unlawful for any person to make or cause to be made any unreasonably loud, disturbing and unnecessary noise in the City which is offensive to the ordinary sensibilities of the inhabitants of the City, which noise renders the enjoyment of life or property uncomfortable or interferes with public peace and comfort.

§ 74.22 Unreasonably Loud, Disturbing, and Unnecessary Noises

It shall be unlawful for any person to make or cause to be made any unreasonably loud, disturbing and unnecessary noise in the City. In this connection, bells and music boxes used on vehicles of ice cream vendors and similar vendors to attract children as patrons are exempt from the operation of this chapter; except that when used the bells and music boxes are not operated so loudly as to be offensive to the ordinary sensibilities of the inhabitants of the City and interfere with public peace and comfort or make the enjoyment of life or property uncomfortable.

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§ 74.23 Acts Creating Unlawful Noises

The following acts, among others, are declared to create loud, disturbing and unnecessary noises, in violation of this chapter, but such enumeration shall not be deemed to be exclusive:

- (a) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, while in motion, except as a danger signal, as may be required by state law, if another vehicle is backing, starting or turning in such a way as likely to cause a collision.
- (b) The playing of any radio, CD, cassette, or musical instrument in such a manner, or with such volume as to disturb the peace, quiet, comfort or repose of persons within 100 feet.
- (c) The keeping of any animal or fowl which emits or makes an unreasonably loud, disturbing and unnecessary noise.
- (d) The use of any automobile, motorcycle or other vehicle so out of repair, or so loaded, which emits or creates loud or unnecessary grating, grinding or raffling noise.
- (e) The blowing of any steam whistle attached to any stationary boiler, except to give notice of time to begin or stop work, or as a warning of danger.
- (f) The discharge into the open air of the exhaust from any stationary steam engine or stationary internal combustion engine, except through a muffler or other device which will effectively and efficiently prevent bus or unusual noises, annoying smoke and the escape of gas or steam.
- (g) The discharge into the open air of the exhaust from any motor vehicle except through a muffler, or other device, which will effectively and efficiently prevent loud and unusual noises and annoying smoke.
- (h) The erection, including excavation, demolition, alteration or repair of any building in a residential district, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in the case of urgent necessity in the interest of public safety, for which a permit shall be obtained from the City secretary.
- (i) The creating of any unreasonably loud, disturbing and unnecessary noise on any street adjacent to any school, or court, which is in session, or adjacent to any hospital; provided, that conspicuous signs are located in such streets indicating that schools, hospitals and courts are adjacent thereto.
- (j) The creation of unreasonable, loud, disturbing and unnecessary noise on any street. adjacent to any school, or court, which is in session, or adjacent to loading and unloading of any vehicle, or the opening and destruction of bales, boxes, crates and containers, or the sounding of any bell or gong attached to any building located on the premises which disturbs the quite or repose of persons occupying adjoining property or those occupying property across any street or alley and within two hundred feet radius.

(k) The shouting and crying of peddlers, hawkers and vendors which disturbs the quiet and peace of the neighborhood.

(l) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by the creation of noise to any performance, show, sale or display of merchandise as to attract customers to any place of business.

(m) The use of mechanical loudspeaker or amplifiers on trucks or other moving vehicles for the purpose of advertising any show, sale or display of merchandise, or any other purpose.

§ 74.24 Use of Bell, Siren, Compression, or Exhaust Whistle on Vehicles

It shall be unlawful for any vehicle to be equipped with, or for any person to use upon a vehicle, any bell, siren, compression or exhaust whistle; except, that vehicles operated in the performance of duty by law enforcement officers, fire departments and ambulances may attach and use a bell, siren, compression or exhaust whistle.