CHAPTER 93: HEALTH AND SANITATION; NUISANCES

Section

GENERAL PROVISIONS

§ 93.01 VACANT BUILDINGS OR STRUCTURES.

A vacant house must be maintained by the owner or responsible party at all times. A house that is vacant must be secured at all times. The term ***SECURE*** means that the doors and windows must be locked to prevent entry into the structure. The owner or responsible party must keep the property moved and clean. If a vacant house is found to be in violation of the Minimum Housing Code, it may be "red tagged." If this occurs, a red tagged structure must remain vacant until all repairs have been made to bring it to code standards and the red tag has been removed by the Code Enforcement Department. If anyone moves into or occupies a structure that is still red tagged, there shall be a fine up to the sum of $2,000.
(`97 Code, § 9-1) (Am. Ord. 2000-I, passed 6-13-00)

§ 93.02 MOVING OF CERTAIN STRUCTURES INTO THE CITY PROHIBITED.

No person, firm or corporation shall move any building designed or intended for residential purposes from outside the city limits to a destination inside the city limits.
(`97 Code, § 9-2)

WEEDS, WILD GROWTH AND SANITATION

§ 93.15 NUISANCES PROHIBITED.

(A) It shall be unlawful for any person who owns or occupies any lot in the city to permit or allow holes or places on the lot where water may accumulate and become stagnant or to permit the accumulation of stagnant water thereon.

(B) It shall be unlawful for any person who owns or occupies any house, building, establishment, lot or yard in the city to permit or allow any carrion, filth or other impure or unwholesome matter to accumulate or remain thereon. It shall also be unlawful for that person to permit weeds, rubbish, brush, refuse, unsanitary matter, abandoned refrigerators, coolant containers and animal pens or enclosures to be or become impure or unwholesome.
(`97 Code, § 9-21) (Ord. 1975-D, passed 11-3-75; Am. Ord. 1981-E, passed 7-14-81; Am. Ord. 1992-E, passed 6-23-92; Am. Ord. 2000-I, passed 6-13-00) Penalty, see § 10.99
Statutory reference:
Authority to prohibit nuisances, see Tex. Health and Safety Code, §§ 342.001, 342.003 and 342.004

§ 93.16 ABATEMENT OF NUISANCES.

(A) The owner of a lot described in § 93.15 where stagnant water may accumulate and which is not properly drained, or the owner of any premises or building upon which carrion, filth or other impure, overgrown or unwholesome matter may be, shall be notified to drain or fill the lot, or remove the filth, carrion or other impure, overgrown or unwholesome matter and otherwise abate the nuisance within ten days. The notice shall be delivered to the owner in writing or by letter addressed to the owner at the last known post office address. If the address is unknown or personal service cannot be obtained, notice may be given by publication as many as two times within ten consecutive days in any newspaper of circulation in the county, by posting the notice on or near the front door of each building on the property to which the violation relates or, if the property contains no buildings, 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 owner shall fail to abate the nuisance within the ten days of notice of a violation, the city may do such filling or draining or removal of filth, carrion or other impure or unwholesome matter and otherwise abate the nuisance or cause it to be done and charge the expenses incurred for the work or improvements made at the expense of the city to the owner. The expense shall be assessed on the real estate or lots upon which the expense was incurred.

(B) The city, in the notice of a violation, may inform the owner by certified mail, return receipt requested, 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 one year anniversary of the 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 the violation covered by a notice under this section occurs within such one-year period and the city has not been informed in writing by the owner of an ownership change, then the city, without notice, may take any action permitted by division (A) of this section and § 93.17 and assess expenses as provided by § 93.19.
(`97 Code, § 9-22) (Ord. 1981-E, passed 7-14-81; Am. Ord. 1995-O, passed 10-10-95; Am. Ord. 1997-G, passed 6-24-97)

Statutory reference:

Similar provisions, see Tex. Health and Safety Code, §§ 342.006 and 342.007

§ 93.17 RECOVERY OF COSTS, CREATION OF LIEN.

The Mayor or city health officer shall file a statement of the expenses incurred under §§ 93.16 and 93.18 giving the amount of the expenses and the date on which the work was done or improvements made with the County Clerk. The city shall have a lien on the real estate upon which the work was done or improvements made to secure the expenditures in accordance with the provisions of the Tex. Health and Safety Code, § 342.007. The lien shall be second only to tax liens and liens for street improvements. The amount shall bear 10% interest from the date of payment by the city. Suit may be instituted for recovery of any such expenditures and interest, and foreclosure of the lien may be had in

the name of the city. The statement of expenses or a certified copy thereof shall be prima facie proof of the amount expended for the work or improvements. The city may foreclose a lien on the property in accordance with the Tex. Tax Code, Chapter 33. The remedy for recovery of cost and assessment of lien is in addition to the city's ability to punish the owner of occupant of property within the city for violation of §§ 93.15 *et seq.*
(`97 Code, § 9-23) (Ord. 1981-E, passed 7-14-81; Am. Ord. 1997-G, passed 6-24-97)
Statutory reference:
Similar provisions, see Tex. Health and Safety Code, § 342.007

§ 93.18 MAINTENANCE OF PREMISES TO CONTROL WEEDS, GRASS, BRUSH OR OTHER OBJECTIONABLE OR UNSIGHTLY MATTER.

(A) *Generally.* A person commits an offense if he or she is an owner, occupant or person in control of occupied or unoccupied premises in the city and:

(1) Permits weeds, grass, brush or other objectionable or unsightly matter to grow to a height greater than six inches (all vegetation not regularly cultivated and which exceeds six inches in height shall be presumed to be objectionable and unsightly matter). Trash includes debris, rubble, stone, fragments of building materials and any other noxious materials. Refuse is any type of accumulation of worn out, used up, broken, rejected or worthless materials. The weeds, grass, brush or other objectionable or unsightly matter, trash or refuse must be placed in proper receptacles at all times. The front, back, side yards, the alley and easement must remain free of all litter, trash and refuse. The receptacle must be placed in the proper location, either on the front right-of-way or in an alley and shall not be placed out prior to 7:00 p.m. on the day prior to the scheduled day of collection and shall be placed back on the property before 11:00 p.m. on the day of collection. Brush may not be placed out prior to the weekend before the schedule day of pickup.

(2) Fails to remove weeds, grass, brush or other objectionable or unsightly matter, including trash and refuse, from the premises after they have been cut.

(B) *Joint responsibility.* Property owners, their agents and tenants shall be jointly responsible for eliminating all nuisances to the center line of the street, the alley, rights-of-way and abutting property.

(C) *Encroachments.* All encroachments (any object, structure or vegetation) that fail to allow the vehicular and pedestrian traffic over any street, alley, easement or sidewalk must be eliminated. Overhanging tree limbs or shrubs over the street must be trimmed to the curb and 14 feet high from the ground. The shrubs, trees and tree limbs over the sidewalk must be trimmed to the sidewalk and must be at least 8 feet high above the sidewalk. All tree limbs and shrubs in the alley must be trimmed so that they do not extend more than 1 foot from the fence nor be closer than 14 feet from the ground.

(D) *Requirements and limitations: brush size and weight.*

(1) *Size.* Brush bundles may not exceed four feet in length nor may they be higher than three feet. Limbs must be cut into four foot lengths and must be bundled.

(2) *Weight.* Bundled limbs or brush may not weigh more than 40 pounds. The property owners, their agents or tenants shall be responsible for the removal of tree trunks.

(E) *Items not picked up by solid waste carrier.* Large trees, paint cans, trunks, tires, building materials and household appliances must be removed by the property owner, their agents or tenants at their own expense.

(F) *Remodeling materials and furniture.*

(1) Property owners, their agents and tenants are responsible for removal of all excess shingles and remodeling projects.

(2) Rental property owners are responsible for the disposal of furniture and all other items listed in subsection (1) when tenants remodel or leave property.

(G) *Defenses.* It is a defense to prosecution under:

(1) Division (A)(1) of this section, that weeds, grass, brush or other objectionable or unsightly matter are maintained at or below a height of six inches at all points on the premises within 100 feet of its perimeters; and

(2) Division (A)(2) of this section, that the weeds, grass, brush or other objectionable or unsightly matter have been mulched or raked.

(3) The city may issue citations and prosecute persons for violating § 93.15 regardless of whether a notice is issued under this section.

(H) *Recovery of costs, creation of lien.* The Mayor or city health officer shall file a statement of the expenses incurred under division (A) of this section, giving the amount of the expenses and the date on which the work was done or improvements made with the County Clerk. The city shall have a lien on the real estate upon which the work was done or improvements made to secure the expenditures in accordance with the provisions of the Texas Health and Safety Code, § 342.007. The lien shall be second only to tax liens and liens for street improvements. The amount shall bear 10% interest from the date of payment by the city. Suit may be instituted for recovery of any such expenditures and interest and foreclosure of the lien may be had in the name of the city. The statement of expenses or a certified copy thereof shall be prima facie proof of the amount expended for the work or improvements.

(I) *Definition.* For the purposes of this section, the term ***PREMISES***, means the lot, plot or parcel of land, plus the front or side parkway between the property line or sidewalk and the curb or traveled way, and the rear or side parkway between the property line and the center line of an adjacent alley.

(J) *Mental state.* Allegation and evidence of a culpable mental state are not required for the proof of an offense defined by this section.
(`97 Code, § 9-24) (Ord. 1992-E, passed 6-23-92; Am. Ord. 1994-E, passed 5-10-94; Am. Ord. 1997-G, passed 6-24-97; Am. Ord. 2000-I, passed 6-13-00)

§ 93.19 ADMINISTRATIVE FEE FOR WORK SERVICES.

(A) A charge, which shall be known as the administrative fee for work services, shall be made against each lot or tract of land, and the owner thereof, whose lot or tract of land is found in violation, pursuant to this subchapter, and causes the city to do or have done work, to a lot or tract of land necessary to obtain compliance with the sections. The administrative fee shall be an amount as established by City Council from time to time. A separate administrative fee shall be assessed for each violation causing work to be done.

(B) All actual expenses incurred as a result of a violation of this chapter, including, but not limited to manpower hours, labor, mowing costs, foreclosure costs and attorney's fees and expenses, shall be assessed against the real estate on which the work is done or improvements made in addition to the administrative fee.
(`97 Code, § 9-25) (Ord. 1995-P, passed 10-10-95; Am. Ord. 1997-G, passed 6-24-97)

HAZARDOUS CONDITIONS ON CERTAIN PROPERTY PROHIBITED

§ 93.30 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURE. Any garage, shed or other such building designed, intended or used primarily for purposes other than human occupancy.

HOUSE. Any building or structure designed, intended or used primarily for human occupancy.

OCCUPANT. Any person 18 years of age or older occupying residential property as owner, tenant or otherwise.

OWNER. Any person holding record title to real estate and any mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, rental agent or other person directly or indirectly in control of residential property.

RESIDENTIAL PROPERTY. Any improved or unimproved real property in the city which is occupied, intended, held or zoned for residential purposes.
(`97 Code, § 9-41)

§ 93.31 APPLICATION.

(A) The provisions of this chapter shall apply to every part of every building or structure on any premises, regardless of when any such building or structure was constructed, altered or repaired and regardless of any permits, certificates or licenses which have been issued in connection with the construction or occupancy thereof. The provisions govern the use and occupancy of all buildings, structures and premises but do not replace or modify standards otherwise established for the construction, repair, alteration or use thereof.

(B) Where the occupant or occupants of any premises are not owners thereof, the parties may agree between themselves as to the responsibility for compliance with this chapter; but no such agreement shall relieve any person of any responsibility hereunder.
(`97 Code, § 9-42) (Ord. 1993-F, passed 6-22-93)

§ 93.32 CONDITIONS ENUMERATED.

The following conditions are declared to constitute a hazard to the health, safety, comfort and general welfare of the public and a nuisance which may injure or affect the public health or comfort, to the extent that the condition shall be found to exist on any residential, commercial or other real property within the city:

(A) Any building, fence, shed or structure of any type which is from any cause whatsoever liable to fall down and endanger persons or property.

(B) Any electrical wiring, devices or equipment used, designed, installed, damaged, deteriorated or worn so as to constitute a potential source of ignition of combustible material or a potential source of injury to any person.

(C) Any accumulation of combustible material or materials which constitutes a fire hazard.

(D) Any unfilled or uncovered excavation, well, drain or other hole or opening made in the surface of the ground which constitutes a potential source of injury to any person; provided, however, that this provision shall not apply to any excavation in the ordinary course of any construction project with respect to which all other duties imposed by law have been satisfied.

(E) Any condition liable to produce disease or substantially increase the risk of disease.

(F) Any house which is not weathertight and watertight.

(G) Any house which is not structurally capable of preventing entry by vermin, insects and rodents.

(H) Any house or accessory structure which is constructed in whole or in part of a wood which is not inherently resistant to decay or which has not been treated with a protective coating or other preservative sufficient to prevent structural deterioration.

(I) Any other lack of maintenance of any building, structure or premises, or any other condition therein or thereon, which causes or may cause a substantial depreciation in property values in the surrounding area.

(J) Any other condition which constitutes a hazard to the health, safety, comfort or welfare of the public.
(`97 Code, § 9-43) (Ord. 1975-D, passed 11-3-75)

§ 93.33 DUTY OF OWNER OR OCCUPANT.

It shall be unlawful for any owner or occupant of any residential property to:

(A) Permit any one or more of the conditions enumerated in § 93.32 to exist on the premises; or

(B) Fail to maintain the premises, including every part of every building, fence or other structure of any type whatsoever thereon, and every other part of the premises, to the extent necessary to prevent the existence of any one or more of the conditions.
(`97 Code, § 9-44) (Ord. 1975-D, passed 11-3-75) Penalty, see § 10.99

§ 93.34 NOTIFICATION OF VIOLATIONS; ABATEMENT BY CITY.

(A) Whenever any condition enumerated in § 93.32 is found to exist in the city, each owner and occupant of the premises shall be notified in writing by certified mail, return receipt requested, to appear at a public hearing before the City Council or a hearing officer appointed by the City Council, to show cause why the city should not proceed to initiate and carry out remedial action to remove any condition

or building as enumerated in § 93.32 with the hearing to be held not less than ten days after the date that the notice is received. In lieu of notice by mail as provided above, the written notice may be personally served upon the person to whom it is addressed by any person competent to make oath of the fact of service.

(B) If at the conclusion of the abovementioned public hearing the City Council or the hearing officer shall determine any of the conditions enumerated in § 93.32 have not been complied with within the times specified by the City Council or the hearing officer, the City Council may in its discretion:

(1) Direct the City Attorney to institute appropriate action in a court of competent jurisdiction to remedy the abovementioned condition; or

(2) Cause the condition to be corrected, remedied or eliminated and charge the expenses incurred in connection therewith to the owner of the property and cause the expenses to be assessed on the real estate. If city employees or equipment are used to mow or clean any premises, there shall be a charge which is on file in the City Secretary's office for mowing any one lot and a charge which is on file in the City Secretary's office per hour or any part thereof for the cleaning of any lot or lots. Whenever the city shall incur any such expenses, the Mayor shall file with the County Clerk a statement of the expenses, and the city shall thereafter have a privileged lien on the real estate, second only to tax liens and liens for street improvements, to secure the expenditure so made plus 10% interest on the amount from the date of the payment. For any such expenditures and interest, suit may be instituted and foreclosure had in the name of the city, and the statement so made, or a certified copy thereof, shall be prima facie proof of the amount expended in any such work or improvements to correct, remedy or eliminate the condition.

(C) Whenever any water or other such service to any unoccupied residential property in the city has been discontinued, the service shall not be resumed if any of the conditions enumerated in § 93.32 exist on the property, unless resumption of the service is authorized by resolution of the City Council in order to enable the owner or occupant to correct, remedy or eliminate the condition.
(`97 Code, § 9-45) (Ord. 1977-F, passed 10-25-77)

Statutory reference:

Notice to remove insanitary, unsightly and the like conditions, see Tex. Health and Safety Code, § 342.006

§ 93.35 AUTHORITY TO ABATE OR REMOVE NUISANCES.

Nothing in this subchapter shall be deemed to abolish, repeal or impair any existing authority or remedies of the city relating to the abatement or removal of nuisances or to the removal or demolition of any buildings or structures which are deemed to be dangerous, unsafe or unsanitary.
(`97 Code, § 9-46)

NOISE VIOLATIONS

§ 93.50 NOISES INTERFERING WITH ENJOYMENT OF PROPERTY OR PUBLIC PEACE AND COMFORT.

No person shall make or cause to be made any loud and raucous 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.
(`97 Code, § 9-111) (Ord. 1996-C, passed 7-9-96)

§ 93.51 ENUMERATED VIOLATIONS.

The following acts, among others, are declared to create loud and raucous noises, thus causing the peace and quiet of the neighborhood or the occupants of adjacent premises to be disturbed or reasonably liable to be disturbed and shall be deemed a violation of this chapter, but the enumeration shall not be deemed to be exclusive or exhaustive:

(A) The sounding of any horn or signal device on any automobile, motorcycle, bus, streetcar or other vehicle, except as a danger signal, as required by state law.

(B) The playing of any radio, phonograph or musical instrument in such a manner, or with such volume, as to disturb the peace, quiet, comfort or repose of persons in any dwelling, apartment, hotel or other type of residence.

(C) The keeping of any animal or fowl which emits or makes a loud and raucous noise, including, but not limited to loud or unusual barking or howling.

(D) The use of any automobile, motorcycle, bus, streetcar or vehicle so out of repair or so loaded that it emits or creates loud grating, grinding or rattling noise.

(E) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.

(F) The discharge into the open air of the exhaust of any stationary steam engine, stationary internal combustion engine or motor boat engine, except through a muffler or other device which will effectively and efficiently prevent loud noises.

(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 raucous noises.

(H) The erection, including excavation, demolition, alteration or repair of any building in or adjacent to a residential area other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in the case of urgent necessity in the interest of public safety, for which a permit shall be obtained from the Director of Public Works of the city.

(I) The creation of loud and raucous 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 the streets indicating that schools, hospitals and courts are adjacent thereto.

(J) The shouting and crying of peddlers, hawkers and vendors, or the making of any loud or unusual noise while engaged in such activities, which disturbs the quiet and peace of the neighborhood.

(K) The use of any drum or other instrument or sound amplifying equipment 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.

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

(M) The starting or acceleration of a motor vehicle from a stopped position or low rate of speed with such force so as to cause the slipping and spinning of tires on the motor vehicle so as to create a loud noise capable of being heard at a distance of at least 500 feet.
(`97 Code, § 9-112) (Ord. 1996-C, passed 7-9-96)

§ 93.52 USE OF BELLS, SIRENS, COMPRESSION OR EXHAUST WHISTLES ON VEHICLES.

No vehicle shall be equipped with and no person shall 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 Department and ambulances may attach and use a bell, siren, compression or exhaust whistle.
(`97 Code, § 9-113) (Ord. 1996-C, passed 7-9-96)

§ 93.53 LOUDSPEAKERS AND AMPLIFIERS.

(A) Any person who operates or causes to be operated in a public place or upon the public sidewalks, streets, alleys or highways of the city any mechanical loudspeaker or sound amplifier shall comply with the following limitations and requirements:

(1) The loudspeaker or sound amplifier shall be limited in operation when within 150 feet of a single-family, duplex or multi-family zoned area to times between the hours of 8:00 a.m. and sunset as designated by publication in a local newspaper of general circulation.

(2) The loudspeaker or sound amplifier shall not emit loud and raucous noises so as to interfere with the enjoyment of life or property or to interfere with public peace and comfort.

(3) The mechanical loudspeaker or sound amplifier shall be operated so as not to cause traffic congestion or congregation of crowds which obstruct the public streets, alleys or highways.

(B) If conduct that would otherwise violate this section consists of speech or other communication, of gathering with others to hear or observe the speech or communication or of gathering with others to picket or otherwise express in a nonviolent manner a position on social, economic, political or religious questions, the person must be ordered to move, disperse or otherwise remedy the violation prior to his or her arrest or citation.

(C) The order required by division (B) of this section may be given by a peace officer, a firefighter, a person with authority to control the use of the premises or any person directly affected by the violation.

(D) It is a defense to prosecution under division (A) of this section that:

(1) In circumstances in which this section requires an order no order was given;

(2) An order, if given, was manifestly unreasonable in scope;

(3) An order, if given, was promptly obeyed; or

(4) The mechanical loudspeaker or sound amplifier was operated in a public place within an enclosed structure and was not audible beyond the property line of the premises on which it was located. (`97 Code, § 3-114) (Ord. 1996-C, passed 7-9-96)