

CHAPTER 63

NUISANCES

Sections:

- 63.1 Defining Nuisances.
- 63.2 Nuisances Prohibited.
- 63.3 Depositing Rubbish.
- 63.4 Notice to Abate Nuisance.
- 63.5 Contents of Notice to Abate.
- 63.6 Method of Service.
- 63.7 Request for Hearing and Appeal.
- 63.8 Abatement by Municipality.
- 63.9 Collection of the Cost of Abatement.
- 63.10 Abatement in Emergency.

SEC. 63.1 DEFINING NUISANCES. The term "nuisance" shall mean whatever is injurious to health, indecent, or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property. Nuisances are declared to be, but not limited to, the following:

1. All dogs, cats, goats, horses, cattle, swine, fowl, or other domestic animals running at large within the city limits.
2. All pools or ponds of stagnant water.
3. A carcass of any kind of dead animal not disposed of within twenty-four (24) hours after its death.
4. Dense growth of all vines, brush, or other vegetation in the city so as to constitute a health, safety, or fire hazard.
5. The corrupting or rendering unwholesome or impure the water of any river, creek, pond or ground water, or unlawfully diverting the same from its natural course to the injury or prejudice of others.
6. Accumulations of refuse or solid waste as defined in Chapter 69 of this code and further defined as "any solid waste or junk stored on the property (i.e., items of decomposing lumber, junk vehicles, tires, yard waste, household appliances, housing materials, scrap metal, solid waste, debris and garbage placed and/or stored on the property."
7. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities.
8. Abandoned Appliances. Abandoning or otherwise leaving unattended any refrigerator, ice box, or similar container, with doors that may become locked, outside of buildings and accessible to children, or allowing any such refrigerator, ice box, or similar container, to remain outside of buildings on premises in the person's possession or control, abandoned or unattended and so accessible to children.
9. Storing of Inflammable Junk. The depositing or storing of inflammable junk, such as

old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the city, unless it be in a building of fireproof construction.

10. All obscene pictures, books, pamphlets, magazines and newspapers.
11. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses.
12. The public use of profane or obscene language.
13. The burning of leaves, debris, or other materials upon a public street, sidewalk or other such public places.
14. All diseased animals running at large.
15. Trees infected with Dutch Elm Disease.
16. All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of any portion or part of a public street, road, highway, alley or railroad track so as to endanger the safety of the public.
17. All buildings, walls and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half their original value, and which are so situated so as to endanger the safety of the public.
18. All unnecessary noises and vibrations that are unreasonably disturbing to the public.
19. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks or public grounds, except under such conditions as are provided for by this code.
20. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather or an obstruction of traffic and the free use of the streets or sidewalks.
21. All explosives, inflammable liquids and other dangerous substances stored in any manner or in any amount other than that provided for by this code.
22. All use or display of fireworks except as provided by this code.
23. Weeds in violation of Chapter 64 of this code.
24. Abandoned or junked vehicles in violation of Chapters 65 and 66 of this code.

SEC. 63.2 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is hereby prohibited, and a nuisance, public or private, may be abated in the manner provided in this chapter.

SEC. 63.3 DEPOSITING RUBBISH. Depositing rubbish or blocking the dry run as prohibited of Chapter 68 of this code.

SEC. 63.4 NOTICE TO ABATE NUISANCE. Whenever the mayor or other municipal officer finds that a nuisance exists, he shall cause to be served upon the owner, agent, or

occupant of the property on which the nuisance is located, or upon the person causing or maintaining the nuisance, a written notice to abate or to request a hearing as provided for in this chapter.

SEC. 63.5 CONTENTS OF NOTICE TO ABATE. The notice to abate shall contain:

1. A description of what constitutes the nuisance or other condition;
2. The location of the nuisance or condition;
3. A statement of the act or acts necessary to abate the nuisance or condition;
4. A reasonable time within which to complete the abatement;
5. A statement that if the nuisance or condition is not abated as directed and no request for a hearing is made within the time prescribed, the city will abate it and assess the costs against the person to whom the notice was sent.

SEC. 63.6 METHOD OF SERVICE. The notice to abate shall be caused to be served by the police chief, upon the named person in the manner provided by law for the personal service of original notices or by certified mail delivered to the property owner.

SEC. 63.7 REQUEST FOR HEARING AND APPEAL. Any person ordered to abate a nuisance or condition may have a hearing with the officer ordering the abatement as to whether the prohibited condition exists. A request for hearing must be made in writing and delivered to the officer ordering the abatement within the time stated in the notice, or it will be conclusively presumed that a nuisance or prohibited condition exists, and it must be abated as ordered. At the conclusion of the hearing, the hearing officer shall render a written decision as to whether a nuisance or prohibited condition exists. If he finds that a nuisance or prohibited condition exists, he must order it abated within an additional time which must be reasonable under the circumstances. An appeal from this decision may be had by immediately filing a written notice with the hearing officer. This appeal will be heard before the city council at a time and place fixed by the council. The findings of the council shall be conclusive and, if a nuisance or prohibited condition is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

SEC. 63.8 ABATEMENT BY MUNICIPALITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the city may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the city clerk who shall pay such expenses on behalf of the municipality.

SEC. 63.9 COLLECTION OF THE COST OF ABATEMENT. The city clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one (1) month, the city clerk shall certify the costs to the county auditor and it shall then be collected with, and in the same manner, as general property taxes.

SEC. 63.10 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the city may perform any action which may be required to abate the nuisance or condition without prior

notice. The city shall assess the costs in the manner set out in this chapter, after notice to the property owner under the applicable provision of Sections 63.4 and 63.5 and hearing as provided in Section 63.7.