

TITLE III COMMUNITY PROTECTION

CHAPTER 2 NUISANCES

3-2-1	Definitions	3-2-7	Request for Hearing and Appeal
3-2-2	Nuisances Prohibited	3-2-8	Abatement in Emergency
3-2-3	Other Conditions Regulated	3-2-9	Abatement by Municipality
3-2-4	Notice to Abate Nuisance or Condition	3-2-10	Collection of Cost of Abatement
3-2-6	Method of Service	3-2-11	Installment Payment of Cost of Abatement

3-2-1 Definitions. For use in this ordinance, the following terms are defined:

1. The term “nuisance” means 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. The following are declared to be nuisances:
 - a. The erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which by occasioning noxious fumes, offensive smells or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
 - b. The causing or suffering any offal, filth or noisome substance to accumulate or to remain in any place to the prejudice of others.
 - c. The obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.
 - d. The corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state to the injury or prejudice of others.
 - e. The obstructing or encumbering by fences, buildings or otherwise the public roads, private ways, streets, alleys, commons, landing places or burying grounds.
 - f. House of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, or houses resorted to for the use of opium or hashish or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.
 - g. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof, especially near intersecting street.
 - h. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees in the city.

- i. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones and paper, by any person, including a dealer in such articles, within the fire limits of this city, unless it be in a building of fire-resistant construction.
 - j. The emission of dense smoke, noxious fumes or fly ash.
 - k. Dense growth of all weeds, grasses, vines, brush or other vegetation in the city so as to constitute a health, safety or fire hazard.
 - l. Trees infected with Dutch elm disease.
 - m. Effluent from septic tank of drain field running or ponding on the ground in the open.
 - n. Any article or substance placed upon a street, alley, sidewalk, public ground or in any ditch, waterway or gutter so as to obstruct the drainage.
 - o. Accumulations of rubbish or trash tending to harbor vermin, rodents and rank growth of weeds or other vegetation and plants, which is conducive to hazard.
2. The term “property owner” means the contract purchaser if there is one of record, otherwise the record holder of legal title.

3-2-2 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided in this chapter.

3-2-3 OTHER CONDITIONS REGULATED. The following actions are required and may also be abated in the manner provided in this ordinance.

- 1. The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public streets.
- 2. The removal, repair or dismantling of dangerous buildings or structures.
- 3. The numbering of buildings.
- 4. The connection to public drainage systems from abutting property when necessary for public health or safety.
- 5. The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property.
- 6. The cutting or destruction of weeds or other growth which constitutes a health, safety or fire hazard.
- 7. The removal of junk and junk vehicles as described in Title III Chapter 10.

3-2-4 NOTICE TO ABATE NUISANCE OR CONDITION. Whenever the mayor or mayor's designee finds that a nuisance or other condition exists which is listed in Section 3, the mayor or mayor's designee shall cause to be served upon the property owner as shown by the records of the county auditor a written notice to abate the nuisance within a reasonable time after notice.

3-2-5 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 hearing is made within the time prescribed, the city will abate it and assess the costs against such person.

3-2-6 METHOD OF SERVICE. The notice may be personally served or served by certified mail to the property owner as shown by the records of the county auditor.

3-2-7 REQUEST FOR HEARING AND APPEAL. Any person ordered to abate a nuisance or condition may have a hearing with the City Council as to whether a nuisance or prohibited condition exists. A request for hearing must be made in writing and delivered to the City Clerk 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 City Council shall render a written decision as to whether a nuisance or prohibited condition exists, the findings of the council being conclusive. If the council finds that a nuisance or prohibited condition exists, the council shall order it abated within an additional time which must be reasonable under the circumstances.

3-2-8 ABATEMENT OF EMERGENCY. If it is determined that an emergency exists, by Resolution of the City Council, by reason of the continuing maintenance of the nuisance or condition, the city may perform any action that may be required under this chapter without prior notice, and assess the costs as provided herein, after notice to the property owner under the applicable provision of sections 3-2-4 and 3-2-5 and hearing as provided in section 3-2-7.

3-2-9 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.

3-2-10 COLLECTION OF COST OF ABATEMENT. The 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 month, the city clerk shall certify the costs to the county auditor and they shall then be collected with and in the same manner as general property taxes.

3-2-11 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds \$100, the city may permit the assessment to be paid in up to ten annual installments, to be paid in the same manner and with the same interest as benefited property.