

CLEANLINESS OF PREMISES

Sec. 12-6. General prohibition.

Whatever is dangerous to human health, or whatever renders the ground, the water, the air, or food a hazard or injurious to human life or health or that is offensive to the senses or that is or threatens to become detrimental to the public health, is hereby declared to be a nuisance, and as such, is unlawful and liable to be abated.

(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-7. Specific enumeration.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions, or actions is hereby declared to be and constitutes a nuisance and is unlawful; provided however, this enumeration shall not be deemed or construed to be conclusive, limiting, or restrictive:

- (1) *Construction materials*, including all waste, debris, concrete, lumber, rock/brick, metal, or other materials resulting from construction or demolition.
- (2) *Earth materials*, including substances such as dirt, sand, gravel, mud, clay, wood chips, limbs or brush capable of blowing or spilling thereby creating unsightliness and/or creating a hazard for the general public.
- (3) *Garbage*, including decayable waste from public and private residences, businesses, establishments and restaurants including vegetable, animal and fish offal, and animal and fish carcasses.
- (4) *Junk*, including worn out, used and/or discarded material or items, including, but not limited to, odds and ends, lawn maintenance equipment, dilapidated or junked trailers, travel trailers or boats, automotive parts or other machinery parts, furniture, iron or other scrap metal, tires, and glass.
- (5) *Litter*, including garbage, refuse and rubbish and all other waste material which if thrown or deposited as herein prohibited tends to create a danger to public health, safety and welfare.
- (6) *Leaves and yard clippings* deposited into the gutter, street, or storm sewer.
- (7) *Weeds, grass, or other uncultivated plants* which grow in such profusion as to harbor vermin, reptiles or rodents, or create a fire hazard; and weeds or grass which attain a height greater than twelve (12) inches. Exemptions from the provisions of this section are as follows:
 - a. Actively utilized crop production and/or grazing areas.

- b. Heavily wooded areas containing uncultivated grass, weeds, or underbrush.
 - c. Property which is used for the production of hay if said property is a minimum lot size of five (5) acres and a mowed fifty-foot wide buffer is maintained adjacent to property used for residential or commercial purposes.
- (8) *Cisterns or wells uncovered*, or covered in so insecure a manner as to endanger the life or health of other persons; abandoned cisterns and wells not filled with earth or other appropriate material to the ground surface level.
 - (9) *Stagnant water* deposited or allowed to remain into, upon, or along any drain, gutter, alley, sidewalk, street, or vacant lot or upon any public or private premises.
 - (10) *Fences* in deteriorated condition or subject to falling down due to lack of maintenance or damage, or that have been repaired with materials that are not comparable to the original fence construction.
 - (11) *Appliances* intended for indoor use, working or nonworking, used, stored, abandoned or located anywhere in the public view.
- (Ord. No. O-09-12, § 1, 6-18-09; Ord. No. O-10-003, § 2, 3-4-10)

Sec. 12-8. Duty to abate nuisances.

(a) It shall be the duty of the owner or his agent or the occupant of any lot, building, premises, or place where any nuisance may exist, to remove, abate, or destroy the same without delay. On any refusal or failure by any owner or occupant of any lot, building, or place of any kind where a nuisance exists in the judgment of the health officer to remove or abate same, the health officer or his designee may abate the nuisance as provided herein.

(b) Whenever any nuisance is found in any place for removal, abatement, or destruction of which no person can be held liable under the provisions hereof, the health officer or his designee may remove, abate, or destroy same.

(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-9. Notice to property owners.

(a) When any violation of this article is found to exist in the judgment of the health officer, the health officer shall serve the owner or occupant or any other person responsible for creating the violation with a written notice alleging the specific violations occurring, the nature of the remedial action required to correct the violation, and informing the owner or occupant or any other person responsible for creating the violation of the person's right to appeal the matter by requesting an administrative hearing. For purposes of this article the "owner" includes an owner, occupant, and/or any person having supervision or control over the property.

- (b) The notice must be given:
 - (1) Personally to the owner in writing; or
 - (2) By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located, by certified mail, return receipt requested. If the city mails a notice to a property owner in accordance with this subsection, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered; or
 - (3) If written notice cannot be given personally to the owner or the owner's address is unknown:
 - a. By publication in a local newspaper at least once; or
 - b. By posting the notice on or near the front door of each building on the property to which the violation relates; or
 - c. 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 property contains no buildings.
- (c) The notice shall inform the owner:
 - (1) Of each violation occurring on the property;
 - (2) That failure of the owner to abate, or cause abatement of, the violation within ten (10) calendar days of receipt or posting of said notice as provided herein:
 - a. Shall subject the owner to further penalties as set forth in this article and section 1-5 of the City of Brenham Code of Ordinances; and
 - b. May result in the city abating the nuisance, assessing the costs against the owner and filing a lien on the property; and
 - (3) That if the owner commits another violation of the same kind or nature as described herein on or before the first anniversary of the date of the notice, and the city has not been previously informed, in writing, by the owner of an ownership change, the city, without further notice, may correct the violation at the owner's expense and assess the expense against the property; and
 - (4) An explanation of the property owner's right to request an administrative hearing before the city manager or his designee about the city's abatement of the nuisance.
- (d) The city shall conduct an administrative hearing on the abatement of nuisance

under this section if, not later than the tenth calendar day after the date of the notice of the nuisance, the property owner files with the city secretary a written request for a hearing.

(e) An administrative hearing conducted under this section shall be conducted not later than the twentieth day after the date a request for hearing is filed. The owner may testify or present any witnesses or written information relating to the city's abatement of the nuisance. (Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-10. Correction or removal of nuisance by city.

(a) If the owner of property, notified as provided section 12-9, does not comply with the city's requirements set forth in the notice within ten (10) calendar days after the date of notification, the city may:

- (1) Perform the abatement or make the improvements required, charge the expenses to the owner of the property, and obtain a lien against the property as provided in section 12-11 herein; or
- (2) Employ the services of a contractor to perform the abatement or make the improvements, charge the expenses of the contractor's services to the owner of the property, and obtain a lien against the property as provided in section 12-11 herein; and/or

(3) File a complaint against the property owner in the municipal court. (Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-11. Assessment of expenses; lien.

(a) To obtain a lien against the property, the mayor or city official designated by the mayor shall file a statement of expenses, including administrative expenses, with the county clerk. The lien statement must state the name of the owner, if known, and the legal description of the property. The lien attaches upon the filing of the lien statement with the county clerk.

(b) The lien obtained by the city is security for the expenditures made and interest accruing at the rate of ten (10) percent per year on the amount due from the date of payment by the city.

- (c) The lien is inferior only to:
- (1) Tax liens; and
 - (2) Liens for street improvements.

(d) The city council may authorize the city attorney to bring a suit for foreclosure in the name of the city to recover the expenditures and interest due.

(e) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.

(f) The remedy provided by this section is in addition to any other remedies provided for herein or in the City of Brenham Code of Ordinances.

(g) The city council may authorize the city attorney to foreclose a lien on property under this article in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code, or other applicable law.

(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-12. Additional authority of city to abate dangerous weeds.

(a) The city may abate, without prior notice, weeds that:

(1) Have grown higher than forty-eight (48) inches; and

(2) Are in immediate danger to the health, life, or safety of any person.

(b) Not later than the tenth calendar day after the date the city abates weeds under this section, the city shall give notice to the property owner in the manner required section 12-9 herein.

(c) The notice shall contain:

(1) An identification, which is not required to be a legal description, of the property;

(2) A description of the violation that occurred on the property;

(3) A statement that the city abated the weeds; and

(4) An explanation of the property owner's right to request an administrative hearing before the city manager regarding the city's abatement of the weeds.

(d) The city shall conduct an administrative hearing on the abatement of weeds under this section if, not later than the thirtieth calendar day after the date of the abatement of the weeds, the property owner files with the city secretary a written request for a hearing.

(e) An administrative hearing conducted under this section shall be conducted not later than the twentieth day after the date a request for hearing is filed. The owner may testify or present any witnesses or written information relating to the city's abatement of the weeds.

(f) The city may assess expenses and create liens under this section in the same manner as it assesses expenses and creates liens under section 12-11. A lien created under this section is subject to the same conditions as a lien created under section 12-11.

(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-13. Penalty.

Any person violating any provision of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined any sum not to exceed two thousand dollars (\$2,000.00) for each violation. Each day a violation continues shall be considered a separate offense.

(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-14. Abatement of nuisances; other remedies.

Notwithstanding any penal provision herein, the city attorney is authorized to file suit on behalf of the city for such injunctive relief as may be necessary to abate such nuisance whenever any nuisance as herein defined is found in any place within the city. The city may pursue any available remedy at law or in equity regarding any nuisance as herein defined.

(Ord. No. O-09-12, § 1, 6-18-09)

Sec. 12-15. Same--Exceptions.

Section 12-7 shall not apply to such items where same are completely enclosed within a building or stored in connection with a used car or junk area lawfully established pursuant to the zoning regulations of the city.

(Ord. No. O-09-12, § 1, 6-18-09)

Secs. 12-16--12-22. Reserved.