

## Chapter 18

### NUISANCES\*

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#### ARTICLE I. DEFINITIONS

##### Sec. 18-1. Definitions.

As used in this article I through IV, the following words, terms, and phrases shall be defined as follows:

*Abandoned* shall mean to cease the care or maintenance thereof, or to intentionally leave behind.

*Abate* shall mean to eliminate or cure by removal, repair, rehabilitation, or demolition.

*Approved receptacle* shall mean a container that is composed of durable material and designed to prevent the discharge of its contents and to make its contents inaccessible to animals, vermin, or other pests.

*Bar ditch* shall mean a depression along the side of a road that is intended to convey storm water from the roadway.

*Brush* shall mean any low woody vegetation, dense undergrowth, decaying scrub vegetation or the dead remains of such.

*Building* shall mean a structure built for the support, shelter, or enclosure of a person, chattel, machine, equipment, or other movable property.

*Building official* shall mean the building official charged with administration of this chapter or his duly authorized representative.

*Code enforcement director* shall mean the director of code enforcement charged with enforcement of this chapter or his duly authorized representative.

*Easement*, for the purpose of this chapter, shall mean a grant by a property owner to the

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<sup>1</sup>**Charter reference**—Authority to define and abate nuisances, § 18.

**Cross references**—Animals, Ch. 6; health and human services, Ch. 13; certain junkyards declared nuisance, § 15-27; old refrigerators and iceboxes, § 16-27; solid waste, Ch. 24.

**State law reference**—Authority of home rule municipalities to define and abate nuisances, V.T.C.A., Local Government Code § 217.041 et seq.

public or other entity for the use of a defined strip of land, for such purpose as the installation, maintenance, and/or repair of utility lines, or other public services whose ownership and care of the land encompassed by such easement is maintained by the property owner.

*Fill dirt* shall mean soil, gravel, rock, brick, concrete, mortar or other similar material brought to property to solidify the ground's foundation or increase elevation.

*Junk* shall mean used iron, metal, furniture, tires, appliances, and other similar items openly stored, discarded, or abandoned on property or premises.

*Litter* shall mean any garbage or rubbish as defined in section 24-26 and herein, and all other waste material which creates a nuisance or potential danger to public health, safety, and welfare if not deposited in an approved receptacle.

*Occupant* shall mean any person living or sleeping in a building or having possession of a space within a building.

*Open storage* shall mean the open storage or placement of an item on any premise or property which is not entirely enclosed by a building and is visible from any public street or right-of-way.

*Owner* shall mean any person, agent, firm, partnership, corporation, association, family, group, or owner's agent. It also includes the singular and plural.

*Person* shall mean any individual, firm, partnership, corporation, association, family, group, occupant, owner's agent, lessee, renter, or tenant. It also includes the singular and plural.

*Personal or movable property* shall include every species of property, except real property as defined in this section.

*Premises* shall mean a lot, plot, or parcel of land including the buildings or structures thereon. The term includes a yard, ground, walk, driveway, fence, porch, steps, or other structures appurtenant to the property.

*Property* shall mean any premise, personal or real property.

*Public nuisance* shall mean the allowance of, or the maintaining of, an unlawful condition, act, or use of any property or premise affecting the public's life, health, safety, or general welfare within the city limits.

*Public place, property, or right-of-way* shall mean any place to which the public or substantial group of the public has access and includes, but is not limited to, streets, alleys, parkways, sidewalks, highways and common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

*Real or immovable property* shall include land and whatever is erected or growing upon or affixed to land.

*Refuse* shall mean all solid waste (except body waste), including garbage, rubbish, ashes,

street cleanings, dead animals, and solid market and industrial wastes.

*Top soil* shall mean the top layer of soil that is removed when a lot is graded or prepared for construction.

*Weeds* shall mean any herbage or vegetation, but excludes cultivated shrubs, bushes, trees, flowers, and crops.

(Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06; Ord. No. 07-093, § I, 10-16-07)

**Cross reference(s)**--Solid waste, Ch. 24.

**State law reference(s)**--Authority of city to prohibit conditions, V.A.C.S. art. 4436.

**Secs. 18-2--18-10. Reserved.**

## **ARTICLE II. IN GENERAL**

**Sec. 18-11. Declaration of public nuisance.**

A person shall not cause, permit, or allow a public nuisance under this chapter on any lot or parcel of land, premise, or any public place within the city limits. (Ord. No. 00-78, § I, 10-24-00)

**Secs. 18-12--18-20. Reserved.**

## **ARTICLE III. SPECIFIC NUISANCES**

**Sec. 18-21. High weeds, grass, or brush.**

A. *Generally*: It shall be unlawful for any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the city limits to allow the accumulation of high weeds, grass, or brush to exist in excess of the standards provided herein. Such violation is considered a health and fire hazard and, as such, is hereby declared to be a public nuisance.

B. *Height limitations*.

1. *Property two (2) acres or less*. Any accumulation of weeds, grass, or brush on any lot, parcel of land, or premise two (2) acres or less shall not exceed a height of more than twelve (12) inches.
  - a. *Exception to 1*. Paragraph 1 above shall not apply to those portions of property that have unusually steep slopes which make mowing the property hazardous.
2. *Property over two (2) acres*. Any accumulation of weeds, grass, or brush on any property of more than two (2) acres shall not exceed a height of more than twelve (12) inches within fifty (50) feet adjacent to and along any dedicated public street or right-of-way or adjacent to any lot that is occupied by a residence or business.
  - a. *Exception to 2*: Paragraph 2 above shall not apply to property within the city limits for which a current agricultural exemption is filed with Bell County.

C. *Property adjoining public rights-of-way*.

1. Except as provided in paragraph 2 below, any private property adjoining a public right-of-way within the city including that which is between the sidewalk and the curb must be maintained by the owner, occupant, lessee, or person in control of such adjoining private property. Any growth of weeds and grass shall not exceed twelve (12) inches in height, and all brush must be cleared from such right-of-way. This requirement does not apply to private property that backs up to a street classified as an arterial or collector in the city's thoroughfare plan.
2. The city shall maintain all bar ditches adjoining a public right-of-way within the city limits.

(Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06)

### **Sec. 18-22. Dangerous weeds over 48 inches high.**

A. The city may abate, without notice, weeds that have grown higher than 48 inches and are an immediate danger to the life, health, or safety of any person. After such abatement, notice shall be given as follows:

1. Not later than the 10<sup>th</sup> day after the date the city abates weeds under this section, the city shall give notice to the property owner in the manner required by section 18-42.
  - a. The notice shall contain:
    - (i) an identification, which is not required to be a legal description, of the property;
    - (ii) a description of the violation(s) of the ordinance that occurred on the property;
    - (iii) a statement that the city abated the weeds; and
    - (iv) an explanation of the property owner's right to request an administrative hearing about the city's abatement of the weeds.
  - b. The city shall conduct an administrative hearing before the building official on the abatement of weeds under this section if, not later than the 30<sup>th</sup> day after the date of the abatement of the weeds, the property owner files with the building official a written request for a hearing.
  - c. An administrative hearing conducted under this section shall be conducted not later than the 20<sup>th</sup> day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the city's abatement of the weeds.
  - d. The city may assess expenses and create liens under this section as it assesses expenses and creates liens under sections 18-44 and 18-45.
  - e. This authority granted by this section is in addition to the authority in sections 18-41 and 18-42.

(Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06; Ord. No. 07-093, § I, 10-16-07)

**State law reference**—Additional authority to abate dangerous weeds, V.C.T.A. Health & Safety Code, § 342.008.

### **Sec. 18-23. Accumulation of litter, trash, or rubbish.**

It shall be unlawful for any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the city limits to allow the accumulation of any litter, trash, or rubbish.

All litter shall be kept in an approved receptacle designed to contain litter in a manner so as not to allow it to be blown, carried, or deposited by the wind upon any private or public property or any right-of-way. Such violation is considered a health and fire hazard and, as such, is hereby declared to be a public nuisance. (Ord. No. 00-78, § I, 10-24-00)

**State law reference**—Municipal power concerning filth, carrion, and other unwholesome matter, V.C.T.A. Health & Safety Code, § 342.003.

**Sec. 18-24. Littering by depositing or dumping.**

No person shall throw, deposit, drop, sweep, or place any litter or junk into or on any private or public property, right-of-way, street, sidewalk, or other place. All litter shall be disposed of in an approved receptacle. (Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06)

**Sec. 18-25. Allowing stagnant water to accumulate.**

It shall be unlawful for any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the city limits to allow holes, containers, or other various receptacles that contain stagnant water that may produce disease to exist on such lot, parcel of land, or premises. The code enforcement director may require an inspection of the premises and may require the filling, draining, and regulating of the unsanitary condition. (Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06)

**State law reference**—Municipal power concerning stagnant water and other unsanitary conditions, V.C.T.A. Health & Safety Code, § 342.001.

**Sec. 18-26. Allowing unsanitary conditions.**

It shall be unlawful for any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the city limits to allow any unwholesome unsanitary condition that may produce disease to exist on such lot, parcel of land, or premise. The code enforcement director may require an inspection of the premises and may require the filling, draining, and regulating of the unsanitary condition. (Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06)

**State law reference**—Municipal power concerning stagnant water and other unsanitary conditions, V.C.T.A. Health & Safety Code, § 342.001.

**Sec. 18-27. Care of premises.**

A. It shall be unlawful for any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the city limits to utilize such property for the open storage of any of the following:

1. *Abandoned vehicles.* Abandoned vehicles such as motor or non-motorized vehicles, boats, trailers, and similar items and parts thereof.
2. *Abandoned appliances.* Abandoned appliances and parts thereof.
3. *Supplies and materials.* The open storage of building materials, building rubbish, tires, or any accumulation of any other product or supplies.

(a) Note: It is not the intent of this section to prohibit the storage of building materials associated with a city-permitted construction project.

4. *Vegetation.* The open storage of dead trees, limbs, brush, or weeds.

B. It shall be the duty and responsibility of every such owner, lessee, occupant, or person in control of any lot, parcel of land, or premise to keep such property clean and to prevent a public nuisance.

C. *Exception:* Any of the above-listed items that are screened from public view by the methods stated in sections 31-250 or 31-280 (screening devices), or section 8-512 (landscaped buffer screening devices), and which will not cause health or sanitary nuisances are exempt. (Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06)

**Sec. 18-28. Fill Dirt.**

A. It shall be unlawful for any owner, lessee, occupant or person in control of any lot, parcel of land, or premise within the city limits to accumulate fill dirt visible from any public place unless the fill dirt is leveled at least once every six (6) months.

B. This section does not apply to top soil stock piled or stored for sale.

C. Soil, gravel, rock, brick, concrete, mortar and other similar material brought in for a purpose other than to solidify the ground's foundation or increase elevation is not allowed. (Ord. No. 06-36, § I, 3-28-06)

**Secs. 18-29–18-40. Reserved.**

**ARTICLE IV. NOTICE, REMEDIES, AND PENALTIES**

**Sec. 18-41. Notice of violation.**

A. Except as provided in paragraph B, any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the city limits having on it any of the nuisances described in articles I through III shall be required to remove, abate, or cure such nuisance within seven (7) days from the date of the written notice from the code enforcement director.

B. Any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise within the city limits having on it an accumulation of fill dirt as described in section 18-28 shall be required to remove, abate, or cure such nuisance within six (6) months from the date of the written notice from the code enforcement director.

C. Any owner, lessee, occupant, or person in control of any lot, parcel of land, or premise who receives written notice of a violation described in this section who cannot remove, abate or cure the nuisance because of weather or who requires additional time to arrange a contractor to remove, abate or cure the nuisance may be given an extension of time, not to exceed seven (7) days, if contact is made with the city's code enforcement division within seven (7) days from the date of the notice. (Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06; Ord. No. 07-093, § I, 10-16-07)

## **Sec. 18-42. Notice to property owner and others.**

A. Once notice has been provided as required in section 18-41 above, the city may remove, abate, or cure such nuisance after the period prescribed in section 18-41, and charge all expenses incurred by the city, including administrative fees, to such owner as prescribed in section 18-46. Such notice shall be given to the property owner as follows:

1. personally to the owner in writing; or
2. by letter (regular mail) 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; or
3. if personal service cannot be obtained:
  - a. by publication 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.

B. A notice of a violation in section 18-41 may also be sent by letter (regular mail) to any lessee, occupant or person in control of the property as applicable.

C. In addition to the notice requirements of paragraph A of this section, notice for high weeds, grass or brush in violation of section 18-21 shall be sent to the lienholder of record by letter (regular mail) addressed to the lienholder at the lienholder's address as recorded in the appraisal district records in which the property is located, if lienholder information is available.

D. If the city mails a notice to a property owner, lessee, occupant or person in control of the property in accordance with this section, 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.

(Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06)

**State law reference**—Work or improvements by municipality; notice, V.C.T.A. Health & Safety Code, § 342.006.

## **Sec. 18-43. Repeat of same violation.**

The city may inform the owner by regular mail and a posting on the property 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 anniversary (12 months) of the date of notice, the city without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice under this subsection occurs within the 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 section 18-46 below. (Ord. No. 00-78, § I, 10-24-00)

**State law reference**—Work or improvements by municipality; notice, V.C.T.A. Health & Safety Code, § 342.006.

#### **Sec. 18-44. City authorized to abate.**

If the owner of any lot, parcel of land, premise, or any other property fails to comply with the notice given by sections 18-42 and/or 18-43 above, within the period prescribed by section 18-41 for notice, the city may enter the property and remove, abate, or cure such nuisance. (Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06)

**State law reference**—Work or improvements by municipality; notice, V.C.T.A. Health & Safety Code, § 342.006.

#### **Sec. 18-45. Same—lien on property.**

If the city abates a nuisance under articles I through III, the owner of such property shall be notified by regular mail of the expenses thereof. If such charges are not paid within thirty (30) days of the date of such notice, the code enforcement director shall cause to be filed with the county clerk documentation of such expenses sufficient to establish a lien against the property on which the nuisance was abated. (Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06)

**State law reference**—Assessment of expenses, lien, V.C.T.A. Health & Safety Code, § 342.007.

#### **Sec. 18-46. Remedies, expenses, and citation.**

Any person who violates a section in articles I through III shall be subject either to abatement restitution or penal fine(s) or both, or any other relief provided by law.

A. *Abatement restitution*: Any property owner notified by the provisions of sections 18-42 and 18-43 above of a violation of article III and who fails to abate such nuisance within the time specified shall be required to pay to the city all expenses incurred to abate the nuisance per sections 18-44 and 18-45, plus an administrative fee of one hundred dollars (\$100.00).

B. *Penal fine*: Except as provided by paragraph C of this section, the city may issue a citation or summons to any owner, lessee, occupant, or person in charge of property within the city limits who violates an ordinance in articles I through III. An individual receiving a citation or summons who is convicted of violating any provision of this article shall be guilty of a Class C misdemeanor, punishable by a fine of not less than one hundred dollars (\$100.00) nor more than two thousand dollars (\$2,000.00). Each day the violation continues shall be considered a separate offense. Such remedy under this section is in addition to the abatement restitution.

C. *Penal fine – weeds, grass, brush violations*: The city may issue a citation or summons to any owner of property within the city limits who violates section 18-21 and whose property has been abated by the city within the previous twelve (12) months. If the owner is not available to sign the citation or refuses to sign the citation, the municipal court shall mail a summons to the owner by certified mail, return receipt requested, restricted delivery. An individual receiving a citation or summons who is convicted of violating section 18-21 shall be guilty of a Class C misdemeanor, punishable by a fine of not less than one hundred dollars (\$100.00) nor more than two thousand dollars (\$2,000.00). Each day the violation continues shall be a separate offense. Such remedy under this section is in addition to the abatement restitution. (Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06)



**Sec. 18-47. Immediate citation for depositing or dumping.**

The code enforcement director or a police officer shall immediately issue a citation or summons to any person observed littering, as defined in section 18-24. (Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06)

**State law reference**—Violation of ordinance, V.C.T.A. Health & Safety Code, § 342.005.

**Secs. 18-48–18-50. Reserved.**

**ARTICLE V. JUNK VEHICLES\***

**Sec. 18-51. Definitions.**

Whenever the following terms are used in this article, they shall have the meanings respectively ascribed to them in this section:

*Antique vehicle* shall mean a passenger car or truck that is at least twenty-five (25) years old.

*Code enforcement director* shall mean the director of code enforcement or his designee.

*Demolisher* shall mean a person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

*Junked vehicle* shall mean a vehicle that is self-propelled and does not have lawfully attached to it:

- A an unexpired license plate; and
- B. a valid motor vehicle inspection certificate; and
  - 1. is wrecked dismantled, or partially dismantled, or discarded; or
  - 2. is inoperable and has remained inoperable for more than:
    - a. 72 consecutive hours, if the vehicle is on public property; or
    - b. 30 consecutive days, if the vehicle is on private property.

*Motor vehicle collector* shall mean a person who owns one or more antique or special interest vehicles and acquires, collects, or disposes of an antique or special interest vehicle or part of them for personal use to restore and preserve an antique or special interest vehicle for historic interest.

*Special interest vehicle* shall mean a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.

(Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06; Ord. No. 07-093, § I, 10-16-07)

**State law reference(s)**—Definitions, V.C.T.A. Transportation Code, Subchapter E, §

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<sup>1</sup>**Cross reference**—Traffic, Ch. 28.

**State law reference**—Abandoned, junked, etc., vehicles, VC.T.A. Transportation Code, Subchapter E, § 683.071 et seq.

683.071.

**Sec. 18-52. Declaration of nuisance.**

A junked vehicle, including a part of a junk vehicle, that is visible at any time of the year from a public place or public right-of-way:

- A. is detrimental to the safety and welfare of the public;
- B. tends to reduce the value of private property;
- C. invites vandalism;
- D. creates a fire hazard;
- E. is an attractive nuisance creating a hazard to the health and safety of minors;
- F. produces urban blight adverse to the maintenance and continuing development of the city; and
- G. is a public nuisance.

(Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06)

**State law reference(s)**—Junked vehicle declared to be a public nuisance, V.C.T.A. Transportation Code, Subchapter E, § 683.072.

**Sec. 18-53. Exception.**

The following are exempt from the provisions of this article:

A. A vehicle or vehicle part that is completely enclosed within a building in a lawful manner and is not visible from the street or other public or private property; or

B. A vehicle or vehicle part that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle and the outdoor storage area are:

- 1. maintained in an orderly manner;
- 2. that do not constitute a health hazard; and
- 3. are screened from ordinary public view by appropriate means, including a fence, rapidly growing trees or shrubbery; or

C. A motor vehicle designed or altered for competitive racing, used for hunting or used for off-road activities that is stored on private property for not more than thirty (30) days, except, however, only one such vehicle is allowed on the property at any one time.

(Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06)

**State law reference**—Inapplicability of subchapter, V.C.T.A. Transportation Code, Subchapter E, § 683.077.

**Sec. 18-54. Abatement requirements.**

A. The city shall abate and remove from private or public property or public right-of-way any junked vehicle or part of a junked vehicle which is a public nuisance.

B. Procedures to abate:

1. A public hearing as set forth in section 18-57 shall be required before removal of the public nuisance.
2. A junked vehicle shall not be allowed to be reconstructed or made operable after removal by the city.
3. Notice shall be sent to the Texas Department of Transportation no later than the fifth day of removal.

C. The municipal court may issue necessary orders to enforce the order from the building official to remove the public nuisance.

D. Procedures for abatement and removal of the public nuisance shall be administered by the code enforcement director, and he may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance.

E. Any person authorized by the city may enter private property to remove the nuisance. (Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06; Ord. No. 07-093, § I, 10-16-07)

### **Sec. 18-55. Relocation of a junked vehicle.**

The relocation of a junked vehicle that is a public nuisance to another location within the city limits after a proceeding for the abatement and removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location. (Ord. No. 00-78, § I, 10-24-00)

**State law reference**—Authority to abate nuisance, procedures, V.C.T.A. Transportation Code, Subchapter E, § 683.074.

### **Sec. 18-56. Notice to abate.**

A. The procedures for the abatement and removal of a public nuisance under this article shall provide not less than ten (10) days notice of the nature of the violation and must be sent by certified mail with a five-day return requested or delivered by the United States Postal Service with signature confirmation service to:

1. the last known registered owner of the nuisance;
2. each lien holder of record of the nuisance; and
3. the owner or occupant of:
  - a. the property on which the nuisance is located; or
  - b. if the nuisance is located in a public right-of-way, the property adjacent to the right-of-way.

B. The notice must state:

1. the nuisance must be abated and removed not later than the tenth (10<sup>th</sup>) day after the date on which the notice was mailed; and
2. any request for a hearing must be made before the ten (10) day period expires.

C. If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, hand delivered.

D. If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the eleventh (11<sup>th</sup>) day after the date of the return.  
(Ord. No. 00-78, § I, 10-24-00; Ord. No. 07-093, § I, 10-16-07)

**State law reference**–Notice, V.C.T.A. Transportation Code, Subchapter E, § 683.075.

#### **Sec. 18-57. Hearing.**

A. If a person for whom notice was sent requests an administrative hearing not later than the date by which the nuisance must be abated and removed, such hearing shall be held before the building official not earlier than the eleventh (11<sup>th</sup>) day after the date of service of notice.

B. At the hearing the junked motor vehicle is presumed to be inoperable, unless demonstrated otherwise by the owner.

C. Any order requiring the removal of a vehicle or vehicle part must include the vehicle's description, identification number, and license number of the vehicle if the information is available at the location of the nuisance.

(Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06; Ord. No. 07-093, § I, 10-16-07)

**State law reference**–Hearing, V.C.T.A. Transportation Code, Subchapter E, § 683.076.

#### **Sec. 18-58. Voluntary abatement.**

If, within ten (10) days after receipt of notice to abate the nuisance as provided in this article, the owner of the vehicle shall give his written permission to the code enforcement director for the removal of the junked motor vehicle from the premises, the giving of such permission shall be considered compliance with the provisions of this article. (Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06)

#### **Sec. 18-59. Disposal of junked vehicles; remedies.**

A. A junked vehicle or vehicle part shall be disposed of by removal to a scrapyard, motor vehicle demolisher, or any suitable site operated by the city for processing as scrap or salvage.

B. Any individual who fails to timely abate a nuisance may be required to pay the city restitution for the city's cost in removing, abating, or curing such nuisance, plus an administrative fee of one hundred dollars (\$100.00).

C. Any vehicle or vehicle part, after removal by this article, shall not be reconstructed or made operable.

(Ord. No. 00-78, § I, 10-24-00)

**State law reference**–Junked vehicle disposal, V.C.T.A. Transportation Code, Subchapter E, § 683.078.

#### **Sec. 18-60. Obstructions to traffic.**

Nothing in this article shall affect a law or ordinance authorizing the immediate removal, as an obstruction to traffic, of a vehicle left on public property. (Ord. No. 00-78, § I, 10-24-00)

**Sec. 18-61. Criminal penalties.**

A person who commits an offense under section 18-52 is, on conviction, subject to a fine not to exceed \$200.00. On conviction, the court shall order removal and abatement of the nuisance. (Ord. No. 00-78, § I, 10-24-00; Ord. No. 06-36, § I, 3-28-06)

**Secs. 18-62–18-80. Reserved.**

**ARTICLE VI. GRAFFITI REMOVAL**

**Sec. 18-81. Findings.**

The city council finds and determines as follows:

- (1) The existence of graffiti is directly linked to gang-related activities and therefore injurious to the health, safety and welfare of the general public and contributes directly, substantially and increasingly to the deterioration of neighborhoods;
- (2) The immediate removal of graffiti is the most effective deterrent to its reoccurrence; and
- (3) The abatement of graffiti will improve the general health, safety and welfare of the city, as well as the public image of the city.

(Ord. No. 91-15, § I(10-7-1), 4-9-91)

**Sec. 18-82. Definitions.**

For the purpose of this article, the following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abatement* shall mean the repair, rehabilitation, demolition or removal of a public nuisance.

*Director* shall mean the director of code enforcement or his designated representative.

*Graffiti* shall mean the unauthorized application of paint, ink, chalk, dye or other similar substance, or other inscribed or engraved material on public or private permanent structures located on publicly or privately owned real property within the city.

*Public nuisance* shall mean anything injurious to health so as to interfere with the comfortable enjoyment of life or property, which nuisance affects, at the same time, an entire community or neighborhood, or any considerable number of persons; although the extent of the annoyance or damage inflicted upon individuals may be unequal.

*Public right-of-way* shall include any road, parkway, alley, sidewalk or other way.

*Real property* shall mean any lot or parcel of land, including, but not limited to, an alley, sidewalk, or unimproved public easement abutting said lot or parcel of land.

*Structure* shall mean that which is built or constructed.

(Ord. No. 91-15, § I(10-7-2), 4-9-91; Ord. No. 06-36, § I, 3-28-06)

### **Sec. 18-83. Declaration of public nuisance.**

The city council does hereby find and declare that graffiti on publicly or privately owned permanent structures located on publicly or privately owned real property within the city constitutes a public nuisance. (Ord. No. 91-15, § I(10-7-3), 4-9-91)

### **Sec. 18-84. Removal by city.**

Whenever the director determines that graffiti is located on publicly or privately owned permanent structures so as to be capable of being viewed by any person utilizing any public right-of-way of this city, said director is authorized to provide for the removal of said graffiti in accordance with this article. Painting or repair of the structure shall be limited to the area where the graffiti or other inscribed material is located.

The property owner or person in control of property with graffiti may make written request to have the city remove the graffiti. Requests shall be on forms provided by the director. The property owner shall be responsible for payment of costs incurred by the city for the removal of the graffiti. The cost of removing the graffiti will be based on the amount of time required to remove the graffiti and costs established in, section 2-150, fees.  
(Ord. No. 91-15, § I(10-7-4), 4-9-91; Ord. No. 07-093, § I, 10-16-07)

### **Sec. 18-85. Removal by owner.**

(a) Upon determination by the director of the existence of graffiti upon a privately owned permanent structure, he shall notify the owner of said property or the agent of said owner, of the existence of said condition.

(b) Said notice shall be in writing to the extent possible, and shall inform the owner or agent:

- (1) That the city requests the removal of the graffiti in question within ten (10) calendar days after notice is received; said removal to be at owner's expense.
- (2) That if extension of the ten-day limit is desired, or if the owner is financially unable to pay the expense of removal, the director must be contacted and informed within the ten-day period.

(c) The director shall have the authority to extend the period for compliance with a property owner or agent for the removal of graffiti. In no case shall any extension of time for compliance amount to a total time of more than twenty (20) days.  
(Ord. No. 91-15, § I(10-7-5), 4-9-91; Ord. No. 07-093, § I, 10-16-07)

### **Sec. 18-86. Entry onto private property.**

(a) After receipt of notice required by section 18-85, a private property owner maintains a public nuisance if he:

- (1) Fails to remove graffiti himself within the time limits imposed in section 18-85; and
- (2) Refuses to consent to removal of graffiti by the city.

(b) The director may enter upon private property to abate the public nuisance pursuant to the

provisions of this article. No person shall obstruct, impede, or interfere with any officer, employee, contractor or authorized representative of the city whenever said person is engaged in the work of abatement, pursuant to the provisions of this article, or is performing any necessary act preliminary to or incidental to such work as authorized or directed pursuant to this article. (Ord. No. 91-15, § I(10-7-6), 4-9-91; Ord. No. 06-36, § I, 3-28-06; Ord. No. 07-093, § I, 10-16-07)

#### **Sec. 18-87. Performance of abatement.**

(a) Abatement of graffiti as a public nuisance may, in the discretion of the director, be performed by city employees or by a contractor retained pursuant to the provisions of this code, the city charter or other applicable law.

(b) The city may utilize the services of volunteer groups or county probationers ordered to perform community service hours in abating graffiti upon:

(1) Public structures; or

(2) Private property only after obtaining the written consent of the owner of said property.

(Ord. No. 91-15, § I(10-7-7), 4-9-91)

#### **Sec. 18-88. Civil remedies available.**

Nothing in this article shall preclude the abatement of graffiti by the city through civil process by means of restraining order, preliminary or permanent injunction, or in any other manner provided by law for the abatement of such nuisance. (Ord. No. 91-15, § I(10-7-8), 4-9-91)

#### **Sec. 18-89. Prohibition of certain pressurized paint container sales or purchases.**

(a) It shall constitute an offense for any person to knowingly or intentionally sell, exchange, give or loan, or knowingly or intentionally cause or permit to be sold, exchanged, given or loaned, any pressurized can containing paint, dye or a similar substance to anyone knowing that the person who receives the pressurized container intends to use it to place graffiti upon permanent structures within the city.

(b) It shall constitute an offense for anyone to purchase any pressurized can containing paint, dye or a similar substance with the intent of using said substance to place graffiti upon permanent structures within the city.

(Ord. No. 91-15, § I(10-7-9), 4-9-91)

#### **Sec. 18-90. Possession of pressurized paint containers.**

It shall constitute an offense for any person to have in his possession any pressurized can containing paint, dye or a similar substance while upon any public highway, street, alley, easement, right-of-way or other public place, whether said person is or is not in any automobile, vehicle or other conveyance, with the intent of using said substance to place graffiti upon permanent structures within the city. (Ord. No. 91-15, § I(10-7-10), 4-9-91)

**Sec. 18-91. Possession of pressurized paint containers in public parks and buildings.**

It shall constitute an offense for any person to have in his possession any pressurized can containing paint, dye or a similar substance while in any public park, playground, swimming pool, recreational facility or other such public place owned, operated or managed by the city, except authorized employees of the city or an individual or authorized employee of an individual or company under contract with the city. (Ord. No. 91-15, § I(10-7-11), 4-9-91)

**Sec. 18-92. Store display.**

It shall constitute an offense for any person licensed to operate a business in the city to display:

- (1) Felt tip pens, markers or the like with a writing tip larger than one-quarter (1/4) inch in diameter;
- (2) Etching materials capable of making markings, scratching, etc., on plate glass; or
- (3) Aerosol spray cans containing paint, dye or similar substances, which container displays are not otherwise regulated by state or federal law, for sale from any self-service or self-help counter that is not under constant supervision of store personnel.

(Ord. No. 91-15, § I(10-7-12), 4-9-91; Ord. No. 07-093, § I, 10-16-07)

**Sec. 18-93. Penalty.**

Any person who violates any of the provisions of this article shall be guilty of a misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00), nor more than two thousand dollars (\$2,000.00). Each day that a violation occurs shall constitute a separate offense. (Ord. No. 91-15, § I(10-7-13), 4-9-91)