

HEALTH AND SAFETY CODE CHAPTER 342. LOCAL REGULATION OF SANITATION

HEALTH AND SAFETY CODE

TITLE 5. SANITATION AND ENVIRONMENTAL QUALITY

SUBTITLE A. SANITATION

CHAPTER 342. LOCAL REGULATION OF SANITATION

SUBCHAPTER A. MUNICIPAL REGULATION OF SANITATION

Sec. 342.001. MUNICIPAL POWER CONCERNING STAGNANT WATER AND OTHER UNSANITARY CONDITIONS. (a) The governing body of a municipality may require the filling, draining, and regulating of any place in the municipality that is unwholesome, contains stagnant water, or is in any other condition that may produce disease.

(b) The governing body of a municipality may require the inspection of all premises.

(c) The governing body of a municipality may impose fines on the owner of premises on which stagnant water is found.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 342.002. MUNICIPAL POWER CONCERNING SEWERS AND PRIVIES. The governing body of a municipality may:

(1) regulate the making, filling, altering, or repairing of sewers and privies;

(2) direct the mode and material for constructing sewers and privies; and

(3) regulate the cleaning and disinfecting of sewers and privies.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 342.003. MUNICIPAL POWER CONCERNING FILTH, CARRION, AND OTHER UNWHOLESOME MATTER. The governing body of a municipality may regulate the cleaning of a building, establishment, or ground from filth, carrion, or other impure or unwholesome matter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 342.004. MUNICIPAL POWER CONCERNING WEEDS OR OTHER UNSANITARY MATTER. The governing body of a municipality may

require the owner of a lot in the municipality to keep the lot free from weeds, rubbish, brush, and other objectionable, unsightly, or unsanitary matter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 342.005. VIOLATION OF ORDINANCE. The governing body of a municipality may punish an owner or occupant of property in the municipality who violates an ordinance adopted under this subchapter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 342.006. WORK OR IMPROVEMENTS BY MUNICIPALITY; NOTICE. (a) If the owner of property in the municipality does not comply with a municipal ordinance or requirement under this chapter within seven days of notice of a violation, the municipality may:

(1) do the work or make the improvements required; and
(2) pay for the work done or improvements made and charge the expenses to the owner of the property.

(b) The notice must be given:

(1) personally to the owner in writing;
(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; or

(3) if personal service cannot be obtained:
(A) by publication at least once;
(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.

(c) If a municipality mails a notice to a property owner in accordance with Subsection (b), 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.

(d) In a notice provided under this section, a municipality

may inform the owner by regular mail and a posting on the property, or by personally delivering the notice, 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 of the date of the notice, the municipality 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 municipality has not been informed in writing by the owner of an ownership change, then the municipality without notice may take any action permitted by Subsections (a)(1) and (2) and assess its expenses as provided by Section 342.007.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 252, Sec. 1, eff. June 5, 1991; Acts 1993, 73rd Leg., ch. 921, Sec. 1, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 209, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 413, Sec. 2, eff. Sept. 1, 2001.

Sec. 342.007. ASSESSMENT OF EXPENSES; LIEN. (a) The governing body of a municipality may assess expenses incurred under Section 342.006 against the real estate on which the work is done or improvements made.

(b) To obtain a lien against the property, the mayor, municipal health authority, or municipal official designated by the mayor must file a statement of expenses with the county clerk of the county in which the municipality is located. 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.

(c) The lien obtained by the municipality's governing body is security for the expenditures made and interest accruing at the rate of 10 percent on the amount due from the date of payment by the municipality.

(d) The lien is inferior only to:

- (1) tax liens; and
- (2) liens for street improvements.

(e) The governing body of the municipality may bring a suit

for foreclosure in the name of the municipality to recover the expenditures and interest due.

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

(g) The remedy provided by this section is in addition to the remedy provided by Section 342.005.

(h) The governing body of a municipality may foreclose a lien on property under this subchapter in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 921, Sec. 2, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 1017, Sec. 4, eff. Aug. 28, 1995.

Sec. 342.008. ADDITIONAL AUTHORITY TO ABATE DANGEROUS WEEDS. (a) A municipality may abate, without notice, weeds that:

(1) have grown higher than 48 inches; and

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

(b) Not later than the 10th day after the date the municipality abates weeds under this section, the municipality shall give notice to the property owner in the manner required by Section 342.006.

(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 violations of the ordinance that occurred on the property;

(3) a statement that the municipality abated the weeds; and

(4) an explanation of the property owner's right to request an administrative hearing about the municipality's abatement of the weeds.

(d) The municipality shall conduct an administrative hearing on the abatement of weeds under this section if, not later than the 30th day after the date of the abatement of the weeds, the property owner files with the municipality a written request for a

hearing.

(e) An administrative hearing conducted under this section shall be conducted not later than the 20th 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 municipality's abatement of the weeds.

(f) A municipality may assess expenses and create liens under this section as it assesses expenses and creates liens under Section 342.007. A lien created under this section is subject to the same conditions as a lien created under Section 342.007.

(g) The authority granted a municipality by this section is in addition to the authority granted by Section 342.006.

Added by Acts 1995, 74th Leg., ch. 359, Sec. 3, eff. Aug. 28, 1995.

SUBCHAPTER B. REGULATION OF SANITATION BY CERTAIN TYPES OF
MUNICIPALITIES

Sec. 342.021. POWER OF TYPE A GENERAL-LAW MUNICIPALITY CONCERNING CARCASSES OR OTHER UNWHOLESOME MATTER. (a) The governing body of a Type A general-law municipality may:

(1) prevent a person from bringing, depositing, or having in the municipal limits a carcass or other offensive or unwholesome substance or matter; and

(2) require a person to remove or destroy any offensive or unwholesome substance or matter, filth, putrid or unsound beef, pork, or fish, or hides or skins of any kind that the person is responsible for placing in the municipality.

(b) If the person does not comply with a provision adopted under Subsection (a), the municipality's governing body may:

(1) authorize a municipal officer to remove or destroy the offending material; or

(2) require the owner of a dead animal to remove the dead animal to a place designated by the municipality's governing body.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 342.022. JOINT SANITARY REGULATIONS OF TYPE A GENERAL-LAW MUNICIPALITY AND COUNTY. The governing body of a Type

A general-law municipality may cooperate with the commissioner's court of the county in which the municipality is located in making improvements considered necessary by those entities to:

(1) improve the public health and promote efficient sanitary regulations; and

(2) arrange for the construction of and payment for those improvements.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.