

Chapter 13

NUISANCES*

***Cross reference(s)**--Animals running at large declared a public nuisance, § 3-56; fire prevention standards adopted, § 7-51 et seq.

State law reference(s)--Nuisances, V.T.C.A., Local Government Code § 217.001 et seq.; sanitation, V.T.C.A., Health and Safety Code § 341.001 et seq.; nuisances, V.T.C.A., Health and Safety Code § 342.001 et seq.; litter, V.T.C.A., Health and Safety Code § 365.001 et seq.

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ARTICLE I. IN GENERAL

Sec. 13-1. Enumeration.

The following are declared to be nuisances and shall be abated. This enumeration shall not be deemed exclusive. Any person guilty of performing any of the

acts herein set out, or of causing any such nuisances, or of permitting or suffering any of them to remain upon his premises, or in any building occupied by, or controlled, by him, or on any public thoroughfare immediately adjacent to such premises shall, upon conviction thereof, be guilty of a misdemeanor.

(a) Any building, structure or basement, or part thereof used to house people, or in which people work, which is overcrowded, or has inadequate means of ingress and egress, or is insufficiently supported, ventilated, drained, cleaned, lighted, or which is not connected with the city's sewer system.

(b) All cellars, vaults, drains, pools, sewers, privies, yards, grounds or premises which have, for any cause, become foul, nauseous or offensive or injurious to the health, or unpleasant to persons in adjacent residences, or to persons passing such premises.

(c) All markets, laundries, stores or other buildings or places which are not kept clean and free from filthy and unwholesome substances and odors.

(d) Every trade, business or occupation injurious to the health or comfort of persons who reside in the vicinity where such trade, business or occupation is carried on.

(e) All lots or receptacles containing water allowed to become stagnant, offensive or unwholesome from any cause.

(f) All deposits or substances that are offensive or liable to engender disease; any nauseous, foul or putrid liquids or substances likely to become nauseous, foul, offensive or putrid, discharged, placed, thrown, or conducted into or placed upon any public thoroughfares; all carcasses, all decaying flesh, fish, fowl, fruit or vegetables, or all deposits of manure, all flesh of any kind or description whatever when thrown upon or into any public thoroughfare or enclosure so as to render substances unwholesome or offensive.

(g) All filthy or offensive water or slops in any private yard or premises when permitted to become unwholesome and offensive to the public.

(h) Any unwholesome food, liquor or adulterated medicine.

(i) All livestock pens, stables or enclosed areas in which livestock may be confined and which may, from use, become offensive.

(j) Any granaries, barns, elevators or other premises where rats and vermin breed or harbor.

(k) Any article or substance placed upon any public thoroughfare, except such articles as are permitted by ordinances of the city, in such manner as to obstruct the free passage upon such thoroughfare.

(l) The act of depositing any filth, or any foul, offensive, nauseous or injurious substance upon any public thoroughfare or other public place.

(m) The act of sweeping or depositing any trash, paper or rubbish into any public thoroughfare or other public place and allowing the same to remain in such place longer than six (6) hours.

(n) The act of burning any hair, leather, rags or any other substances of any kind which may cause or produce an offensive smell, smoke or odor capable of annoying persons living in the vicinity of such fire, or persons passing along the thoroughfare.

(o) The act of defecating or urinating upon any public thoroughfare, or at any place which may be seen from a private residence, or by persons passing along the public thoroughfares.

(p) The act of keeping, raising, possessing or having in or about the premises, except within enclosures, any pigeons with the intent to keep, raise or breed same.

(q) The act of allowing any weeds, filth or rubbish of any kind to remain owned or controlled by any person within the city.

(r) The act of expectorating mucus, or secretions from the nose or air passage, or the remains of any chewed or partly chewed tobacco or snuff, or the remnant of any partially chewed or smoked cigar, upon any sidewalk or upon any floor of a public vehicle or public building.

(s) The act of hauling, carrying or transporting any meat of slaughtered animals or fish through the streets of the city without having the same entirely covered, screened and protected from dust and public view.

(t) The act of scattering or distributing any advertisements, circulars, handbills, printed or written announcements, or paper of like character upon public thoroughfares or within public buildings or grounds within the city.

(u) The act of throwing from any opening, or carrying from any dwelling or place of abode, any night soil, feces, urine or filthy or unclean water into any public thoroughfare or into or upon any adjacent property.

(v) The failure of the owner of any animal which may die within the city to have the carcass of same removed and disposed of according to law within eighteen (18) hours after the death of such animal.

(w) The act of conducting, or causing to be conducted, into any alley or gutter, waste- water from any sink, tank or other source of water supply in such manner as to produce any pool of stagnant water in an alley or gutter.

(x) The act of dumping upon and removing from any public thoroughfare any coal or like material in a dry state, in such manner that annoying or offensive dust is generated from such materials.

(y) The act of throwing any glassware, crockery, tinware, or other rubbish upon any public thoroughfare.

(z) The act of allowing any privy, if permitted by law, to become dilapidated or out of repair so that any person within, or the contents thereof, may be exposed to view, or discharging the contents of any such privy into any public thoroughfare or upon the premises of another person.

(aa) The act of throwing or depositing any filth, substance or thing into any cistern.

(bb) The act of erecting or maintaining a building or structure, the roofs or eaves of which project lie beyond the property line, or shed water upon any property other than that belonging to the owner of such structure or building.

(cc) Any condition that is dangerous to human life or health; whatever renders the ground, water, air or any food or drink unwholesome or a hazard to human life and health.

(dd) Any other act or thing done or suffered within the city which may interfere with the enjoyment by any persons, who may thereby be deprived of their right to be free from foul, noxious, offensive or unpleasant odors or vapors, and to breathe fresh air, and to be free from the sight of foul or offensive objects and substances.

(Code 1977, §§ 8-21, 8-22)

Cross reference(s)--Licenses, permits and business regulations, ch. 10.

State law reference(s)--Nuisances enumerated, V.T.C.A., Health and Safety Code §341.011.

Sec. 13-2. Removal of animal carcass, other substance.

Whenever any carcass of any dead animal or other offensive substance injurious to the health of the public, or of persons in its vicinity, is found in any place

within the city, for the removal of which no person can be held liable, it shall be the duty of the chief of police to remove or abate the same at the expense of the city.
(Code 1977, § 8-24(c))

Cross reference(s)--Animals, Ch. 3.

Sec. 13-3. Advertising restrictions.

(a) No person shall paint, post, or in any way affix any picture, bill or advertising matter of any kind upon any post, fence, tree, billboard or signboard, building, erection or structure of any kind within the city without the consent of the owner or the person in control thereof.

(b) No person in the city shall paint, print or post any picture, bill or advertising matter of any kind upon any curb, sidewalk or other public improvement in any public street or grounds, or upon any bridge or part of same, or public building, structure or erection of any kind belonging to the city unless express consent thereof shall have been first granted by the city council.

(c) No person shall give or hand to any person passing through or upon the streets, sidewalks or public grounds, or loosely scatter or throw, any bills or paper or other advertising matter or loose material on the surface of any of the public streets or thoroughfares, or on the public grounds of the city, or within the yards of private residences.

(d) No person carrying on the business of bill-poster shall post or in any manner affix bills or other forms of advertising matter in such manner as to create a nuisance, or a slovenly or unsightly appearance at any place within the city, but all such posting or affixing of bills or other advertisements of any kind whatsoever shall be carefully removed by such bill-poster at once.

(Code 1977, §§ 11-3--11-6)

Cross reference(s)--Licenses, permits and business regulations, ch. 10.

Secs. 13-4--13-30. Reserved.

ARTICLE II. RUBBISH, WEEDS, WILD GROWTH*

***Cross reference(s)**--Burning of grass, etc. prohibited in the city, § 7-59.

State law reference(s)--Nuisances and general sanitation, V.T.C.A., Health and Safety Code § 341.011 et seq.

Sec. 13-31. Definitions.

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

(1) **Abatement, abated** shall mean the doing away with, removing or correcting the cause of nuisances.

(2) **Public thoroughfare** shall mean any street, alley, sidewalk, gutter or other public grounds to which the public has free access and free use.

(Code 1977, § 8-20)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 13-32. Accumulation of weeds, rubbish, etc.

It shall be unlawful for any person who shall own or occupy any lot in the city to allow weeds, rubbish, brush or any other unsightly, objectionable, or unsanitary matter to accumulate or grow on lots. The same may be abated as provided below.

(Code 1977, § 8-23)

State law reference(s)--Authority regarding weeds and other unsanitary matter, V.T.C.A., Health and Safety Code § 342.004.

Sec. 13-33. Notice.

The notice to abate a condition coming under this article may be in writing, served upon such owner and person responsible by an officer or employee of the city, or it may be by letter addressed to such owner and person responsible at his

post office address. If personal service may not be had, or if the owner's address is unknown, notice may be given by publishing a brief summary of such order as many as two (2) times within ten (10) consecutive days in some newspaper of general circulation in the city addressed "Sanitary Improvements, To Whom It May Concern," and such publication shall be deemed sufficient notice.

(Code 1977, § 8-24(a))

State law reference(s)--Notice, V.T.C.A., Health and Safety Code § 342.006.

Sec. 13-34. Abatement by city.

In the event the owner of property or the person responsible for a nuisance under this article shall fail or refuse to abate the nuisance within ten (10) days after notice, the city may abate such nuisance or cause the same to be done, and make payment therefor. The expenses incurred in so doing or having such work done, or such improvements made, shall be chargeable to the owners of such property or the person responsible for such nuisance, and such charge shall be a personal liability of the owner and person responsible, to the city.

(Code 1977, § 8-24(a))

State law reference(s)--Similar provisions, V.T.C.A., Health and Safety Code § 342.006.

Sec. 13-35. Imposition of lien.

The city manager or city health officer shall file a statement of such expenses incurred under section 13-34, giving the amount of such expenses and the date on which such work was done or improvements made, with the county clerk. The city shall have a privileged lien on such lots or real estate upon which the work was done or improvements made to secure the expenditures made, in accordance with the provisions of V.T.C.A., Health and Safety Code § 342.007, which lien shall be second only to tax liens and liens for street improvements. The amount shall bear ten (10) percent interest from the date the statement was filed. For any such expenditures and interest, suit may be instituted and recovery and foreclosure of the lien may be had in the name of the city. The statement of expenses or a certified copy shall be prima facie proof of the amount expended for such work or improvements.

(Code 1977, § 8-24(b))

State law reference(s)--Similar provisions, V.T.C.A., Health and Safety Code §

342.007.

Sec. 13-36. Abatement by court order.

(a) In all cases arising under this article, whenever it shall appear to the court that the nuisance continues at the time of the conviction, the court shall order and adjudge removal or abatement of same, as the case may require, and shall issue a separate warrant therefor. The court shall inquire into the probable cost of such removal, abatement or destruction, and tax the cost against the defendant, with the provision that the same may be remitted if the defendant, without the interference of the chief of police or police officers, remove, abate or destroy the nuisance. Such cost, in case the warrant be executed by the chief of police or police officer, shall be taxed and collected as other costs in the case.

(b) Upon the conviction of a defendant for obstructing the free use of any public thoroughfare within the city, if such obstruction shall still exist, the court shall order the chief of police to remove same at the cost of the defendant, which cost shall be taxed and collected as other costs in the case.

(Code 1977, § 8-25)

Cross reference(s)--Municipal court, § 2-386 et seq.

Secs. 13-37--13-55. Reserved.

ARTICLE III. PREVENTION OF WATER POLLUTION FROM DEFECTIVE WELLS*

***State law reference(s)**--The Water Quality Control Act, V.T.C.A., Water Code § 26.001 et seq.; standards for drinking water, V.T.C.A., Health and Safety Code § 341.031 et seq.

Sec. 13-56. Definition.

For the purpose of this article, an abandoned well is a defective well which, in the judgment of the city council, can not be corrected to comply with the requirements of this article, or any well which has been continuously out of use for a period of two (2) years or longer.

(Code 1977, § 8-50)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 13-57. Permit--Required generally.

It shall be unlawful for any person to drill or otherwise construct, repair, extend, correct, abandon and/or plug a water well or to engage in such work within the city, or to employ anyone else to engage in such work, without first applying for and securing a permit from the city secretary. Such permit may be granted with the approval of the city council to any person who files with the city secretary the application hereinafter provided for, and pays the fee hereinafter required, and complies with all other provisions of this article applicable to him.

(Code 1977, § 8-51)

Cross reference(s)--Water utilities, § 19-31 et seq.

Sec. 13-58. Same--Shallow wells.

The provisions of this article shall not apply to wells or other openings less than fifty (50) feet in depth; however, the owner of any proposed well less than fifty (50) feet in depth shall be required to apply for and receive from the city secretary a permit to construct such well, the application for which shall supply all the information required under section 13-59, and for such permit, the city will charge and receive the fee hereinabove provided for.

(Code 1977, § 8-52)

Sec. 13-59. Same--Application.

Every application for a permit for the drilling, construction, repair, extension, correction, abandonment and/or plugging of a well, shall state:

- (a) The name and address of the owner thereof; the purpose for which the permit is desired, which shall be one (1) or more of the acts just mentioned.
- (b) The definite location of the well or proposed well.
- (c) Its approximate depth; and if for a permit for the drilling, construction or repair, extension or correction of a well, the estimated amount of water to be or which is pumped daily, monthly or annually, the uses for which the water will be or is required, the proposed method of drilling or construction, or the proposed method of repair and correction, and the kind of equipment to be used.

(d) In all cases the name of the contractor, if done through a contractor, whom the owner desires to drill or construct, repair, extend or correct, or do the work pursuant to an abandonment of a well in compliance with this article.
(Code 1977, § 8-53)

Sec. 13-60. Same--Inspection to determine feasibility.

It shall be the duty of the city manager to inspect the property where any well is to be drilled, sunk, dug or bored, and to refuse the issuance of a permit to drill, sink, dig or bore a well in a place which does not meet with his approval as to drainage and other sanitary conditions.

(Code 1977, § 8-54)

Sec. 13-61. Same--Fees.

The fees to be paid to the city for the permits required by this article shall be on file in the city secretary's office.

(Code 1977, § 8-55)

Sec. 13-62. Same--Required for excessive depth.

It shall be unlawful for any applicant who obtains a permit to construct a well of a certain depth to extend such well to a depth exceeding the depth provided for in such permit without first obtaining an additional permit therefor.

(Code 1977, § 8-56)

Sec. 13-63. Same--Copies.

All permits shall be executed in triplicate, one (1) copy to be delivered to the applicant, one (1) copy to be delivered to the city manager, and one (1) copy to be retained by the city secretary.

(Code 1977, § 8-57)

Sec. 13-64. Disposition of fees and other money.

All fees and other moneys collected by the city by virtue of this article shall be expended by the city to cover the expense of making examination of wells within the city, to make or have made the necessary analyses and tests of water therefrom, to supervise the construction, repair, abandonment and plugging of wells and the operation of same, and such other expenses as may be necessary to the enforcement of this article, which fees or other money collected by the city shall be deposited in the general fund of the city.

(Code 1977, § 8-58)

Sec. 13-65. Examination of wells; analyses and testing of water; supervision of construction; register of condition of wells.

(a) It shall be the duty of the city manager to:

- (1) Make or have made examinations of all wells within the city, whether privately owned or otherwise.
- (2) Make or have made at any time the necessary analyses and/or tests of water therefrom.
- (3) Go upon the land and property of the owner or owners of wells for that purpose.
- (4) Require the owner or owners to furnish all information requested concerning the wells, including, in the case of new wells, complete logs of the wells, showing depth to and depth through, or geological formations encountered.
- (5) Supervise the construction, repair, abandonment and plugging of wells and the operation of the same.

(b) The city shall keep a register of all wells within the city which shall show the name of the owner, the location and date of construction of each well, its depth and diameter, the purpose for which the well was constructed, and if abandoned, the date of such abandonment. At such intervals as may be considered necessary by the city council, but not less frequently than every two (2) years, there shall be entered in the register the then condition of each well registered, together with an analysis of the water from each of said wells.

(c) Expressly excluded from the registration and periodic inspection of wells under subsection (b) above are all wells in existence as of November 12, 2002.

(Code 1977, § 8-59)

Sec. 13-66. Sealing off harmful water; casing requirements.

(a) Every well constructed in the city, whether drilled, dug or excavated, which encounters salt- water containing mineral or other substance injurious to health or vegetation shall be securely plugged and sealed or cased in such manner that the waters be confined to the stratum or strata in which found. All wells shall be so constructed and cased that no water from one (1) stratum can, by reason of the construction of such well, come in contact with waters from another stratum. The casing shall be set in the top of the stratum from which water is to be taken and shall be cemented in place by suitable method to be approved by the city manager, to the end that cement be forced up around the outside of the casing from the bottom of the casing to the surface of the ground, so that all waters found in the strata except that from which water is to be used shall be sealed off one (1) from the other by the cement, or, if a better method of cementing shall be scientifically developed to accomplish the purpose mentioned, such better method may be prescribed by the city manager in lieu of cementing.

(b) The casing used shall be of weight per foot not less than the following:

Size of Casing	Minimum Weight per Foot
4-inch I.D.	10 pounds
5-inch I.D.	14 pounds
6-inch I.D.	18 pounds
8-inch I.D.	28 pounds
10-inch I.D.	40 pounds
12-inch I.D.	49 pounds
15-inch O.D.	60 pounds

18-inch O.D.	80 pounds
20-inch O.D.	89 pounds

(c) The casing shall be mechanically continuous from the point of setting in the bottom of the well to a point not less than twelve (12) inches above the ground level, or if in the judgment of the city manager a greater extension is required to prevent the possible contamination and pollution of the city's water supply, the casing shall extend such distance above the surface of the ground as in the judgment of the city manager is necessary to effect such purpose. The casing shall be so installed as to make impossible any leakage as against any pressures which may be encountered.

(d) If casing is of two (2) or more diameter sizes, the different sizes shall be connected with threaded nipples or sealed with rubber, cement or lead, or by some other manner satisfactory to the city manager.

(Code 1977, § 8-60)

Sec. 13-67. Correcting defects--Examination to determine necessity; notice and instructions.

(a) Every well, whether dug or drilled, which for any reason does not completely prevent the mixing of water or other liquid from above and below the source of the city's water supply with the water in the source of the city's water supply or which, for any reason, would tend to pollute or contaminate any other well or the water in the source of the city's water supply, shall be considered a defective well.

(b) The city manager on his own initiative, or upon information or complaint from any source, may make an examination of any well suspected of being defective, and if such examination indicates, in the opinion of the city manager, that the well is a probable source of contamination of the city's water supply or any other well, or that the water from said well is unsafe for human consumption, he shall issue written instructions to the owner or his agent in charge of such well or the property on which it is situated for correcting the defects to comply with the provisions of this article, and prescribe a time which, in his judgment, under the circumstances, is reasonable, and within which such instructions shall be complied with.

(c) It shall be unlawful for the owner or operator of such defective well to fail to comply with such instructions within the time limitation prescribed by the city manager, acting in behalf of the city.

(Code 1977, § 8-61)

Sec. 13-68. Same--Affidavit of compliance.

Upon completion of the work of correcting the defects of any well, and before putting it into operation, the owner of such well shall file with the city secretary a sworn statement that all defects have been corrected to comply with this article in accordance with instructions issued by the city manager. Failure to file such statement within thirty (30) days after completion of correction of the defects shall be deemed a violation of this article.

(Code 1977, § 8-62)

Sec. 13-69. Wells constituting nuisance; abatement.

Any well or other opening, now constructed or which may be constructed, penetrating the city's underground water supply, and which pollutes or contaminates or tends in the judgment of the city council to pollute or contaminate the city's water supply, and which cannot be corrected to prevent pollution or contamination in the judgment of the city council, is declared a nuisance. On notice to the owner of such well or opening, or the operator thereof, or to the agent of either, issued by the city manager, such nuisance shall be abated by the owner or operator within ten (10) days from the date of such notice by filling and plugging the well or opening in the manner provided for in this article for abandoned wells. If such owner or other person responsible shall fail to abate such nuisance within such time, or if after exercising reasonable diligence the city manager is unable to locate the owner or operator, the city manager shall have the right to go on the land or property upon which the well is situated and abate such nuisance in the manner above provided, and the owner thereof shall be liable to the city for the cost of such work and shall pay the same upon demand. The city shall have the right to file a lien on such land for the cost of doing such work in the same manner and with the same effect as is given by the statutes of the state and sections 13-33 through 13-35.

(Code 1977, § 8-63)

Sec. 13-70. Plugging and filling abandoned wells.

(a) Whenever any well has not been in active use for more than two (2) years, the owner or operator of the same shall report such fact to the city manager.

(b) Every abandoned well shall be filled and plugged with such

materials and in such manner as, in the judgment of the city council, will prevent the pollution and contamination of the city's water supply or any other well within the city. Such filling and plugging shall be done under the supervision of the city manager and at the expense of the owner of the well.

(c) Whenever the city manager shall receive notice from any source of the existence of an abandoned well which has not been plugged or filled in accordance with the provisions of this article, he shall notify the owner or agent in charge of such well or of the property upon which it is situated that such well is abandoned and shall instruct him to fill and plug such well in accordance with this article. The owner or operator of such well shall comply with such order within sixty (60) days after the date of same. Should he fail to comply within such period, or if after using reasonable diligence, should the city manager fail to locate the owner or agent in charge of such well or of the property on which the well is situated, he may go on the land or property on which the well is situated and plug and fill or cause to be plugged and filled the same, in the manner required by this article.

(d) Whenever it becomes necessary for the city to fill and plug any abandoned well, the owner thereof shall be liable to the city for the cost of doing such work and shall pay the same upon demand, and the city shall have the right to file a lien on said land for the cost of doing such work in the same manner and with the same effect as is given by the statutes of the state and sections 13-33 through 13-35.

(Code 1977, § 8-64)

ARTICLE IV. JUNKED, WRECKED, ABANDONED PROPERTY*

***State law reference(s)**--Litter, V.T.C.A., Health and Safety Code § 365.001 et seq.; abandoned and junked vehicles, Health and Safety Code § 683,001 et seq.

DIVISION 1. GENERALLY

Secs. 13-91--13-105. Reserved.

DIVISION 2. JUNKED VEHICLES*

***Cross reference(s)**--Traffic and motor vehicles, ch. 18.

State law reference(s)--Junked vehicles, Transportation Code, Section 683.071.

Sec. 13-106. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

(2) **Collector** shall mean the owner of one (1) or more antique or special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest or antique vehicles or parts of them for his own use in order to restore, preserve, and maintain an antique or special interest vehicle for historic interest.

(3) **Demolisher** shall mean any person whose business is to convert a motor vehicle into processed scrap or scrap metal, or otherwise to wreck or dismantle motor vehicles.

(4) **Junked vehicle** shall mean any motor vehicle as defined in Transportation Code, Section 683.071, which is inoperative and which does not have lawfully affixed thereto both an unexpired license plate or plates and a valid motor vehicle safety inspection certificate and which is wrecked, partially dismantled, discarded or that remains inoperative for a continuous period of more than forty-five (45) days.

(5) **Motor vehicle** shall mean any motor vehicle subject to registration pursuant to the Transportation Code, Section 541.201.

(6) **Police department** shall mean the police department of the city acting under the general police power authority as vested in such department by the city.

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

(Code 1977, § 8-26)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 13-107. Declaration of nuisance.

The city council declares that junked vehicles which are located in any place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public, tend to reduce the value of private property, invite vandalism, create fire hazards, constitute an attractive nuisance creating a hazard to the health and safety of minors and are detrimental to the economic welfare of the state by producing urban blight which is adverse to the maintenance and continuing development of the municipalities in the state and such vehicles are therefore declared to be a public nuisance.

(Code 1977, § 8-27)

State law reference(s)--Similar provision, Transportation Code, Section 683.072.
Sec. 13-108. Notice of nuisance.

In the event that the police department shall deem a junked vehicle to constitute a public nuisance, the department shall give at least ten (10) days' notice as follows:

(a) *Private property.* If such junked vehicle is situated on private property, such notice shall state the nature of the public nuisance on private property and that it must be removed and abated within ten (10) days and further that a request for a hearing must be made before expiration of such ten-day period. Such notice shall be mailed, by certified mail with a five-day return requested, to the last known registered owner of the junked motor vehicle, any lien holder of record and the owner or the occupant of the private premises on which such public nuisance exists. If the notice is returned undelivered by the United States post office, official action to abate the nuisance shall be continued to a date not less than ten (10) days from the date of such return.

(b) *Public property.* If the junked vehicle is situated on public property, the notice shall state the nature of the public nuisance on public property or on a public right-of-way and that it must be removed and abated within ten (10) days and further that a request for a hearing must be made before expiration of the ten-day period. Such notice shall be mailed, by certified mail with a five-day return requested, to the owner or the occupant of the public premises or to the owner or the occupant of the premises adjacent to the public right-of-way whereupon such public nuisance exists. If the notice is returned undelivered by the United States post office, official action to abate such nuisance shall be continued to a date not less than ten (10) days from the date of such return.

(Code 1977, § 8-28)

State law reference(s)--Similar provision, Transportation Code, Section 683.074, et. seq.

Sec. 13-109. Public hearing.

A public hearing shall be held prior to the removal of the vehicle or part thereof as a public nuisance. The hearing shall be held before the city council or any other board, commission, or official of the city as may be designated by the city council from time to time, when such a hearing is requested by the owner or occupant of the public or private premises or by the owner or occupant of the premises adjacent to the public right-of-way on which the vehicle is located, within ten (10) days after service of

notice to abate the nuisance. If the city council determines the vehicle or part thereof in question is a public nuisance, it shall pass a resolution declaring and requiring the removal of the vehicle or part thereof and including a description of the vehicle and the correct identification number and license number of the vehicle, if available at the site. (Code 1977, § 8-29)

State law reference(s)--Similar provision, Transportation Code, Section 683.076.

Sec. 13-110. Removal of junked vehicles.

The police department shall enforce and administer this division. Upon the passage of a resolution by the city council so directing or in the event no demand for a public hearing is received pursuant to section 13-108, upon the expiration of ten (10) days from the date of notice as provided above the police department shall remove the junked vehicles and dispose of them in accordance with this division. The police department may enter upon private property for the purposes specified herein to examine vehicles or parts thereof, obtain information as to the identity of vehicles and to remove or cause the removal by other duly authorized persons of a vehicle or parts thereof declared to be a nuisance pursuant to this division. The municipal court shall have the authority to issue all orders necessary to enforce this division.

(Code 1977, § 8-29.1)

State law reference(s)--Similar provision, Transportation Code, Section 683.074.

Sec. 13-111. Disposal of junked vehicles.

Once a junked vehicle has been removed pursuant to this division, it shall not be reconstructed or made operable in any manner. Such junked vehicles or parts thereof shall be disposed of by removal to a scrapyards, demolishers or any suitable site operated by the city for processing as scrap or salvage.

(Code 1977, § 8-29.2)

State law reference(s)--Similar provision, Transportation Code, Section 683.078.

Sec. 13-112. Notice to the highway department.

The police department shall give notice to the state highway department and public transportation within five (5) days after the date of removal identifying the vehicle or part thereof. The department shall forthwith cancel the certificate of title to

such vehicle pursuant to Transportation Code, Section 683.074.
(Code 1977, § 8-29.3)

State law reference(s)--Similar provision, Transportation Code, Section 501.001, et. seq.

Sec. 13-113. Exceptions.

This division shall not apply to a vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property, a vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard or unlicensed, operable or inoperable antique or special interest vehicles stored by a collector on his property, provided that the vehicles and the outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

(Code 1977, § 8-29.4)

State law reference(s)--Similar provision, Vernon's Ann. Civ. St. art. 4477-9a, § 5.09(9).

Sec. 13-114. Violation and punishment.

In the event a nuisance of which notice is given pursuant to section 13-108 is not removed and abated, and a hearing is not requested as provided in section 13-109 within the ten-day period provided in this division, a complaint shall be filed in the municipal court for the violation of maintaining a public nuisance. In the event a person is found guilty of maintaining a public nuisance as defined in this division, the person shall be punished pursuant to section 1-15, and the court shall further order the removal and abatement of the nuisance. Each calendar day during which the nuisance remains unabated following the expiration of the above ten-day period shall constitute a separate offense.

(Ord. No. 289, § 1, 1-28-80)

Secs. 13-115--13-130. Reserved.

DIVISION 3. ABANDONED MOTOR VEHICLES*

***Cross reference(s)**--Traffic and motor vehicles, ch. 18.

State law reference(s)--Abandoned motor vehicles, Transportation Code, Section 683.

Sec. 13-131. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) **Abandoned motor vehicle** shall mean a motor vehicle that is inoperable and over five (5) years old and is left unattended on public property for more than forty-eight (48) hours, or a motor vehicle that has remained illegally on public property for a period of more than forty-eight (48) hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours, or a motor vehicle left unattended on the rights-of-way of any designated roadway within this city in excess of forty-eight (48) hours.

(2) **Antique auto** shall mean passenger cars or trucks that were manufactured in 1925 or before, or which become thirty-five (35) or more years old.

(3) **Collector** shall mean the owner of one (1) or more antique or special interest vehicles who collects, purchases, acquires, trades or disposes of special interest or antique vehicles or parts of them for his own use in order to restore, preserve and maintain an antique or special interest vehicle for historic interest.

(4) **Motor vehicle** shall mean any motor vehicle subject to registration pursuant to the Transportation Code, Section 541.201.

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

(Ord. No. 269, § 1(18-71), 2-12-79)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

State law reference(s)--Similar provision, Transportation Code, Section 683.001, et

seq.

Sec. 13-132. Chief of police authorized to take possession.

The Chief of Police is hereby authorized to remove and take into custody any abandoned motor vehicle found on public or private property in this city pursuant to the procedure set forth in section 13-133.

(Ord. No. 269, § 1(18-72), 2-12-79)

State law reference(s)--Similar provision, Transportation Code, Section 683.011.

Sec. 13-133. Notification to owner.

(a) The police department, when it takes into custody an abandoned motor vehicle, shall notify not later than the tenth day after taking the motor vehicle into custody, by certified mail, the last known registered owner of the motor vehicle and all lien holders of record pursuant to the Transportation Code, Section 541.201, or Chapter 31, Parks and Wildlife Code, if it is a boat, motor boat or vessel, that the vehicle has been taken into custody. The notice shall describe the year, make, model, and vehicle identification number of the abandoned motor vehicle, set forth the location of the facility where the motor vehicle is being held, inform the owner and any lien-holders of their right to reclaim the motor vehicle not later than the twentieth day after the date of the notice, on payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody, or garage keeper's charges if notice is under Transportation Code, Section 683.032. The notice shall also state that the failure of the owner or lien holders to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owner and lien holders of all right, title, and interest in the vehicle and their consent to the sale of the abandoned motor vehicle at a public auction.

(b) If the identity of the last registered owner cannot be determined, if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lien holders, notice by one (1) publication in a newspaper of general circulation in the area where the motor vehicle was abandoned is sufficient notice under this article. The notice by publication may contain multiple listings of abandoned vehicles, shall be published within the time requirements prescribed for notice by certified mail, and shall have the same contents required for a notice by certified mail.

(c) The consequences and effect of failure to reclaim an abandoned motor vehicle are as set forth in a valid notice given under this section.

(d) The police department or an agent of a police department that takes custody of an abandoned motor vehicle is entitled to reasonable storage fees for:

- (1) A period of not more than ten (10) days beginning on the day the department takes custody and continuing through the day the department mails notice as provided by this section; and
- (2) A period beginning on the day after the day the department mails notice and continuing through the day any accrued charges are paid and the vehicle is removed.

(Ord. No. 269, § 1(18-73), 2-12-79)

State law reference(s)--Similar provisions, Transportation Code, Section 683.012, et. seq.

Sec. 13-134. Auction.

If an abandoned motor vehicle has not been reclaimed as provided for in section 13-133, the chief of police shall sell the abandoned motor vehicle at a public auction. Proper notice of the public auction shall be given with the time and place of such auction. The purchaser of the motor vehicle shall take title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the police department and shall be entitled to register the purchased vehicle and receive a certificate of title. From the proceeds of the sale of an abandoned motor vehicle, the police department shall reimburse itself for the expenses of the auction, the costs of towing, preserving and storing the vehicle which resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred under section 13-133 whenever the proceeds from a sale of such other abandoned motor vehicles are sufficient to meet these expenses and costs. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for ninety (90) days and then shall be deposited in a special fund that shall remain available for the payment of auction, towing, preserving, storage, and all notice and publication costs that result from placing another abandoned vehicle in custody, if the proceeds from a sale of another abandoned motor vehicle are insufficient to meet these expenses and costs.

(Ord. No. 269, § 1(18-74), 2-12-79)

ARTICLE V. USE OF TOBACCO PROHIBITED IN CERTAIN PUBLIC AREAS

Sec. 13-75. Definitions.

(a) Smoke or smoking includes the carrying or holding of a lighted pipe, cigar, or cigarette of any kind, or any other lighted smoking equipment or device, hereinafter collectively referred to as a "smoking device", and the lighting of, emitting, or exhaling the smoke of a smoking device of any kind.

(b) "Use of Tobacco" is defined as including chewing, dipping, and/or smoking tobacco by placing the same or some instrument thereof in one's mouth.

(Ord. No. 449, §1, 1/13/97, sec. amended)

Sec. 13-76. City Facilities Defined

For the purposes of this article, the term "city facilities" shall mean and include (a) all or any portion of the city owned building situated in Block 101 of the Townsite of Columbia, J. H. Bell 1-1/2 League Grant, Abstract 40, Brazoria County, Texas, which buildings are commonly referred to and known as the City Hall, the Civic Center, the San Jacinto Room, the Library, the American Legion Hall, and the First Capitol Replica; and (b) the police station located at 310 East Clay, West Columbia, Texas, being all areas enclosed within the exterior walls of that building. Expressly excluded from the term "city facilities" are the former city hall located on Clay Street, the old city warehouse located at 800 Loggins Drive, the new warehouse located at 300 Crews Way, the fire station, and the wastewater treatment plant.

(Ord. No. 449, §1, 1/13/97, sec. amended)

Sec. 13-77. Use of Tobacco Prohibited in City Facilities.

A person commits an offense if he knowingly or intentionally uses tobacco in the city facilities, and is not in any area as may be designated by action of the City Council from time to time as a tobacco use area.

(Ord. No. 449, §1, 1/13/97, sec. amended from "smoking" to "tobacco use".)

Sec. 13-78. Discretionary Designation of Tobacco Use Area.

The City Council, by formal action, may, but is not required to, from time

to time, designate one or more areas within the city facilities as tobacco use area. If the City Council designates one or more tobacco use areas within a city facility, each such tobacco use area shall:

(a) Not be larger in size than will reasonably accommodate the number of tobacco users normally requesting a tobacco use area;

(b) Be situated so that the natural ventilation of the room in which the tobacco use area is located minimizes the effect of smoke in adjacent non-tobacco use areas and so that air from the tobacco use area is not drawn into or across a non-tobacco area;

(c) Be designated by appropriate signs and other markings which are clearly visible to the persons in or entering the area;

(d) Contain ash trays, containers or other facilities for extinguishment of smoking materials and/or the disposal of other tobacco products and/or the disposal of other tobacco products; and,

(e) Be set apart or separated from non-tobacco use areas.

(Ord. No. 449, §1, 1/13/97, sec. amended to include term of “non-tobacco”, instead of “non-smoking”.)

Sec. 13-79. Notice of Non-Tobacco Use Areas.

The City Manager shall place a sign or signs, visible at each entrance to the city facilities notifying persons entering the premises that tobacco use is prohibited, with similar signs to be posted inside each public meeting room within the city facilities.

(Ord. No. 449, §1, 1/13/97, sec. amended from “smoking” to “tobacco use”.)

Sec. 13-80. Violation and Punishment.

Any person who violates this ordinance shall be guilty of a misdemeanor punishable by a fine of not to exceed Two Thousand and 00/100 Dollars (\$2,000.00).

(Ord. No. 418, §1, §4, 1/4/93)

Secs. 13-81--13-90. Reserved.

State law reference(s)--Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.04.

ARTICLE VI. NOISE ABATEMENT

Sec. 13-151. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) **Noise Nuisance** means any loud, irritating, vexing or disturbing noise which, giving due regard to the actual and potential circumstances existing, is unreasonable and which causes distress, annoyance, discomfort or injury to, or which interferes with the comfort and repose of any person of normal nervous sensibilities in the vicinity or hearing thereof and includes, but is not limited to, the following acts when such acts are done or accomplished or carried on in such a manner or with such volume, intensity or with continued duration, so as to disturb the quiet, comfort or repose of a person of normal nervous sensibilities within the vicinity or hearing thereof:

- (1) The playing of any radio, phonograph, juke box, nickelodeon, or any musical instrument.
- (2) Vehicular sound amplification systems. A sound amplifier which is part of or connected to a radio, stereo receiver, compact disc player, cassette tape player or other similar device within motor vehicle operated at such a volume that it causes material distress, discomfort or injury to a person of ordinary sensibilities in the vicinity thereof. If the sound is audible at a distance of thirty feet (30') from the source or causes a person to be aware of or feel the vibration accompanying the sound at a distance of thirty feet (30') from the source, a prima facie case shall be established that the radio, stereo receiver, compact disc player, cassette player or other similar device is being operated at a volume that causes material distress, discomfort or injury to person of ordinary sensibilities.
- (3) Any loud or vociferous language or any soliciting for, or description of, any amusement house, moving picture theater, or other like place of amusement, or for the performance therein, in the entrance thereto, the foyer or

lobby thereof, or on the sidewalks adjoining the same.

- (4) The keeping of any animal, fowl or bird, which makes frequent or long continued noise.
- (5) The continued or frequent sounding of any horn or other signal device on any automobile or vehicle, motorcycle, bus or other vehicle, except as a danger signal.
- (6) The running of any motor of any automobile or vehicle, motorcycle, or other motor vehicle so out of repair, or so loaded, or so operated, as to create loud, grating, grinding, jarring or rattling noise vibrations.
- (7) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, automobile, motorcycle, other motor vehicle or boat, except through a muffler or other device which prevents loud or explosive noises therefrom.
- (8) The crying, calling, or shouting, in person or by a mechanical device, or the use of any whistle, rattle, bell, gong, clapper, hammer, drum, horn loudspeaker or phonograph with or without an amplifier, hand organ, or other devices or instruments, musical or otherwise, for the purpose of advertising any candidates for elective office, any goods, wares or merchandise, or for the purpose of attracting attention to or inviting persons to any political rally, meeting or gathering, to any place of amusement, to any performance of show, or to any business or activity whatsoever.
- (9) The raucous shouting, whistling, yelling, signing, hooting or crying of peddlers, hawkers, vendors or any other persons.

(b) **Quiet Zone** means all territory embraced within a distance of two hundred fifty (250) feet of the real property upon which is situated any accredited school or institution of learning, public or private.

See. 13-152. Noise Nuisance Prohibited.

It shall be unlawful for any person within the incorporated limits of the City to:

- (a) make, create or cause any noise nuisance;
- (b) permit or allow to be made, created or caused a noise nuisance upon any real property owned, occupied or otherwise controlled by such person;
- (c) make, create or cause any noise nuisance within a quiet zone which interferes with the operation of any school or institution of learning located in that zone; or,
- (d) permit or allow to be made, created or caused in a quiet zone upon any real property owned, occupied, or controlled by such person any loud, vexing, irritating or disturbing noise which interferes with the operation of any school or institution of learning located in that zone.

Sec. 13-153. Exceptions and Variances.

- (a) Exceptions.
 - (1) Sound caused in the performance of emergency or public service work including public utility operations acting to protect the health, safety, or welfare of the community shall not be a violation of this Article.
 - (2) Sound caused by the spectators and/or participants in an organized athletic or other extracurricular activities contest affiliated with the public schools or some other organized league play or practice or rehearsal for such contest before the hour of 11:00 p.m. Sunday through Thursday and before midnight on Friday or Saturday shall not be a violation of this Article.
 - (3) Sound caused by or otherwise associated with public celebrations and/or activities associated with holidays such as the San Jacinto Day Festival shall not be a violation of this Article.
 - (4) Sound caused by the erection (including excavation), demolition, alteration or repair of any building between the hours of 7:00 a.m. and 9:00 p.m. shall not be a violation of this Article.
- (b) Issuance of Variance Permits.

The City Manager may issue variance permits for any special activities or events not covered under sub-section (a) above. The City Manager shall evaluate all applications for permits of variance from the requirements of this Article and may grant said variance with respect to time and/or location for compliance, subject to such terms, conditions, and requirements as the City Manager may deem reasonable giving due regard to the general purpose and provisions of this Article.

Sec. 13-154. Erection of Signs Denoting Quiet Zones.

The City Manager shall, at the request of the City Council, place and maintain, or cause to be placed and maintained, on lampposts or other such post or object in some conspicuous place on every street, avenue and alley in the vicinity of accredited school or other institution of learning, public or private, within the incorporated limits of the City of West Columbia, Texas, and at a point approximately two hundred fifty feet (250') from the real property on which such school or institution of learning is located, signs or placards which shall indicate the beginning of each quiet zone. Such signs or placards shall contain the following words: "School-Quiet Zone" or other words of similar import.

Sec. 13-155. Complaints and Prima Facie Evidence.

(a) A complaint filed in the Municipal Court of the City alleging any violation of this Article is not required to allege all or any portion of definitions contained in this Article, with the use of the word or phrase defined being sufficient.

(b) In any prosecution under this Article in the Municipal Court of said City, or any other court of competent jurisdiction, proof that any person committed an act prohibited by this Article or omitted an act required by this Article shall be prima facie proof that such act or omission, as the case may be, was done knowingly and intentionally.

Sec. 13-156. Penalty.

Any violation of this Article shall be a misdemeanor punishable by a fine of not less than Twenty-Five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00); and each day any such violation continues or occurs shall constitute a separate offense.

Sec. 13-157. Savings Clause.

This Article is cumulative of and in addition to all other provisions of the

City of West Columbia, Texas, on the same subject and all such other provisions are hereby expressly saved from repeal; but where this Chapter conflicts or overlaps with any other code provisions of the City, whichever imposes the more stringent regulations or penalties, as the case may be, shall prevail.

Sec. 13-158. Severability.

It is hereby declared to be the intention of the City Council that the several provisions of this ordinance are severable, and if any court of competent jurisdiction enters a final order which holds that any section, sub-section, sentence, clause, phrase, or other portion of this ordinance is invalid, illegal, or otherwise unenforceable, then any such portion shall be deemed a separate, distinct and independent provision, and any such ruling shall not affect any other provisions of this ordinance which are not specifically designated as being illegal, invalid, or unenforceable.

Sec. 13-159. Publication and Effective Date.

This ordinance shall be effective and applicable immediately from and after the date of its passage and approval and from and after the publication of its caption as provided by law.

Ord. No. 439, §1, 9/11/95, added Art. V. Noise Abatement