

Chapter 10

NUISANCES*

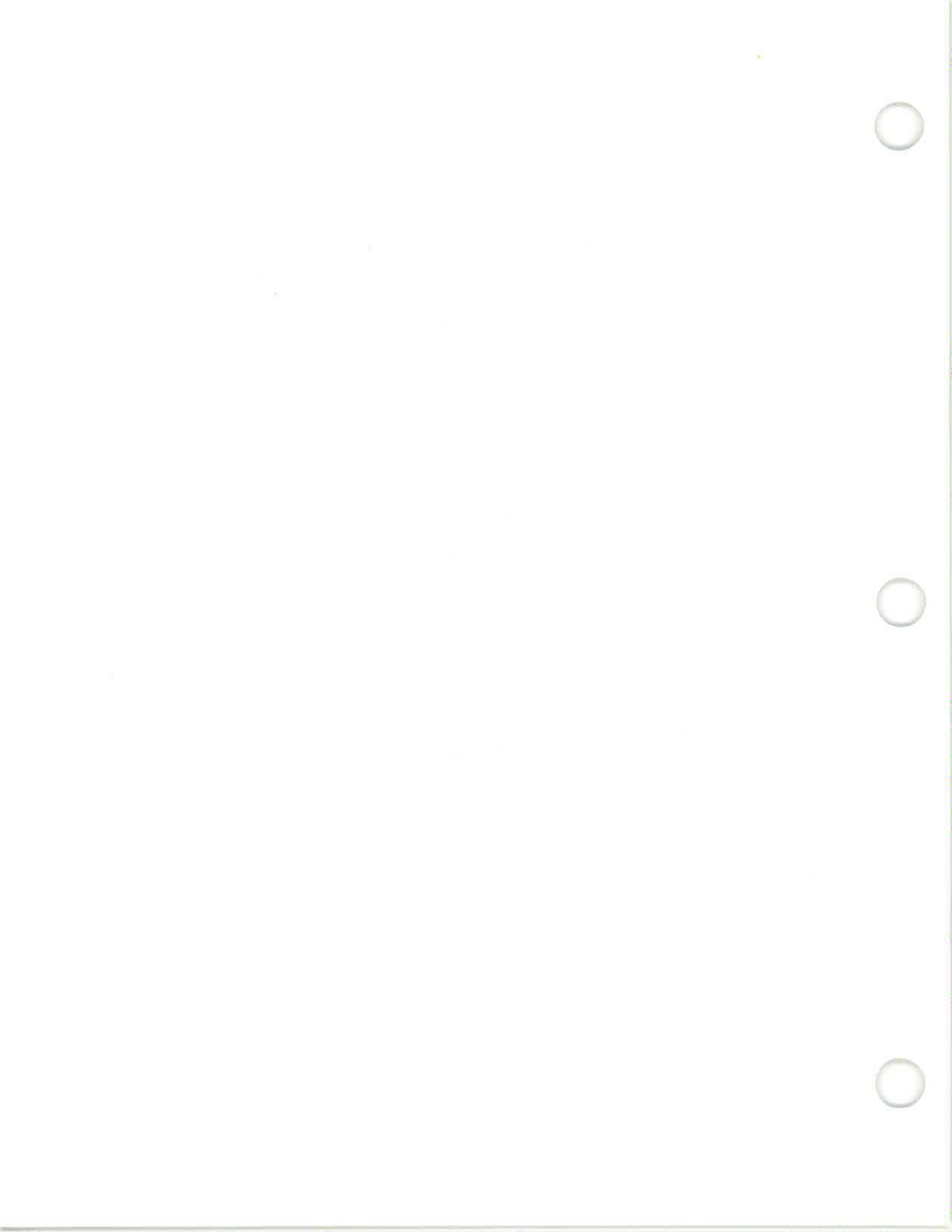
Art. I. In General, §§ 10-1–10-30

Art. II. Weeds, §§ 10-31–10-50

Art. III. Abandoned or Junked Motor Vehicles, §§ 10-51–10-59

***Cross references**—Nuisance dogs, § 3-38; unfit dwellings and buildings, § 4-121 et seq.; solid waste management, ch. 15.

State law reference—Municipal authority to regulate nuisances, V.T.C.A., Health and Safety Code § 342.001 et seq.



ARTICLE I. IN GENERAL**Sec. 10-1. Obstructions declared nuisances.**

Any vehicle or other property or obstruction, placed or left standing, parked, erected or lying in violation of any ordinance of the city or left unattended for more than 48 continuous hours in or on any public street, alley, sidewalk, park, or other public place of the city is declared to be a nuisance, and any such property when so found shall be removed summarily by any official designated by the mayor and taken to the city pound and kept there until redeemed or sold as provided in this article.

(Ord. of 2-19-59, § 1)

Sec. 10-2. City to have lien on impounded nuisance property.

The city shall have a lien on property impounded under section 10-1 for all costs incurred in impounding, storing, and selling such property and such lien shall be a prior lien and superior to all liens, except ad valorem tax liens, and city may retain possession of such property until all costs and expenses are paid or may sell such property as provided in this article.

(Ord. of 2-19-59, § 2)

Sec. 10-3. Redemption by owner.

The owner or any person legally entitled to possession of personal property impounded under this article may redeem the same as follows:

- (1) Before sale, by paying to the city the impounding fee and any other actual expenses incurred by the city, as determined by mayor;
- (2) After sale, by paying to the buyer at the auction sale double the amount paid by him for such personal property, and any reasonable expenses incurred by him in keeping same; provided that if property is not redeemed from the auction buyer within 30 days after date of sale, excluding the date of sale, the title shall become absolute in the auction buyer.

(Ord. of 2-19-59, § 3)

Sec. 10-4. Sale of unredeemed property.

When any personal property, is not redeemed within 60 days after being impounded, and this includes any motor vehicles, the mayor or any city official designated by mayor shall sell the same to satisfy the lien of the city.

(Ord. of 2-19-59, § 4)

Sec. 10-5. Notice of sale to owner.

Before selling such personal property, including motor vehicles, the mayor or the official designated by the mayor shall post two notices thereof, one at the courthouse door of Delta County, Texas, and one at the city hall in Cooper, Texas; and in addition thereto shall mail a notice to owner or lienholder of such personal property if this information is known to the

city. The notice of sale shall describe the impounded property, state that the same is unredeemed, state that the same will be sold at public auction, designate the place of sale, and state a time and date of sale which shall not be less than 14 days from the date of posting such notices as required by this article.

(Ord. of 2-19-59, § 5)

Sec. 10-6. Sale at public auction authorized.

When any impounded property, including motor vehicles, is not redeemed by the date and time designated in the notice of sale, the mayor or any official designated by him shall sell such property at public auction and shall execute bill of sale of such property to the purchaser thereof, provided, it shall be a conditional bill of sale until the title of the buyer becomes absolute by an expiration of 30 days, exclusive of date of sale, from date of sale, without being redeemed by the owner of the impounded property.

(Ord. of 2-19-59, § 6)

Sec. 10-7. Distribution of proceeds of sale.

After deducting the impounding fee and all other actual expenses incurred by the city in the impounding, storing and selling of such property, as determined by the mayor, he shall pay the balance of the proceeds of such sale, if any, to the owner of the property. If the owner fails to call for such proceeds they shall be paid into the city treasury. Within six months after such sale, the owner alone may apply in writing to the city, and upon satisfactory proof of ownership, shall be entitled to receive the amount of the proceeds delivered to the city treasury.

(Ord. of 2-19-59, § 7)

Sec. 10-8. Disposition of unsaleable goods.

Impounded property which is offered for sale at public auction in accordance with the procedure prescribed in section 10-7 and upon which no person bids, shall thereafter be sold or otherwise disposed of as junk, and proceeds shall be disposed of in the same manner as provided in this article.

(Ord. of 2-19-59, § 8)

Sec. 10-9. Records required.

(a) The city shall keep a record book in which will be entered such information as it deems necessary in regard to each transaction and sale.

(b) The following fees shall be charged under this article and shall be paid into the city treasury:

- (1) Three dollars for taking and impounding any personal property;
- (2) Fifty cents for preparing notice of sale;
- (3) Fifty cents for selling each article;
- (4) Fifty cents for posting notice of sale.

(Ord. of 2-19-59, § 9)

Secs. 10-10–10-30. Reserved.

ARTICLE II. WEEDS*

Sec. 10-31. Height of growth restricted.

It shall be unlawful for any person owning, claiming, occupying, or having supervision or control of any premises within the city, whether occupied or unoccupied, to permit weeds, grass, brush, or other objectionable or unsightly vegetation to grow to a height greater than 12 inches upon the premises. Any premises, upon which weeds, or grass are permitted to grow to a height greater than 12 inches shall be presumed to be "objectionable and unsightly" within the meaning of this section, and shall further be deemed a fire hazard and a danger to public health.

(Ord. No. 04-06-85, § I, 4-8-85)

Sec. 10-32. Cutting required by owner, occupier.

It shall be the duty of any person having supervision or control of any lot, tract, or parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the city, to cut, or cause to be cut, and removed or caused to be removed, as necessary to comply with this article all such stagnant water, grass, weeds, plants, rubbish, brush, and any and all objectionable, unsightly, or unsanitary matter of whatever nature as often as is necessary to comply with the provisions of this article.

(Ord. No. 04-06-85, § II, 4-8-85)

Sec. 10-33. Penalty.

Any person who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in accordance with section 1-14. This section shall be in addition to the provision for abatement of the condition and charging the cost of same against the owner of the premises by the city.

(Ord. No. 04-06-85, § III, 4-8-85)

***State law reference—Municipal authority to regulate weeds, rubbish, etc., V.T.C.A., Health and Safety Code § 342.004.**

Secs. 10-34–10-50. Reserved.

ARTICLE III. ABANDONED OR JUNKED MOTOR VEHICLES*

Sec. 10-51. Adoption of state law.

There is hereby adopted and made a part of this article the same as if set forth in full herein Vernon's Ann. Civ. St. art. 4477-9a.

(Ord. No. 03-12-87, § 1, 12-28-87)

Sec. 10-52. Procedures for abatement generally.

In accordance with the state law permitting cities within the state to adopt procedures for the abatement and removal of a junked vehicle or a part of a junked vehicle as a public nuisance, from private property, public property, or public rights-of-way, the procedures of this article are hereby adopted.

(Ord. No. 03-12-87, § 2, 12-28-87)

Sec. 10-53. Nuisance on private property.

A notice of not less than ten days shall be given stating the nature of the public nuisance on private property, that it must be removed and abated within ten days, and that a request for a hearing must be made before expiration of the ten-day period. The notice must be mailed, by certified mail with a five-day return requested, to the last known registered owner of the junked motor vehicle, any lienholder of record, and the owner or occupant of the private premises on which the public nuisance exists. If 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 days after the return.

(Ord. No. 03-12-87, § 2(b), 12-28-87)

Sec. 10-54. Nuisance on public property.

A notice of not less than ten days shall be given stating the nature of the public nuisance on public property or on a public right-of-way, that the nuisance must be removed and abated within ten days, and that a request for a hearing must be made before expiration of the ten-day period. The notice must be mailed, by certified mail with a five-day return requested, to the last known registered owner of the junked vehicle, any lienholder of record, and the owner or occupant of the public premises or to the owner or occupant of the premises adjacent to the public right-of-way on which the 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 days after the date of the return.

(Ord. No. 03-12-87, § 2(c), 12-28-87)

***Cross references**—Solid waste management, ch. 15; vehicles and traffic, ch. 18.

State law reference—Municipal authority to establish procedures for abatement of nuisances including abandoned and junked automobiles, Vernon's Ann. Civ. St. art. 4477-9a, §§ 5.01–5.11.

Sec. 10-55. Public hearing.

A public hearing must be held before the removal of the vehicle or vehicle part as a public nuisance. The hearing shall be held before the city council or an official of the city, as designated by the city council, if 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 days after service of notice to abate the nuisance. A resolution or order requiring the removal of a vehicle or vehicle part must include a description of the vehicle and the correct identification number and license number of the vehicle if the information is available at the site.

(Ord. No. 03-12-87, § 2(d), 12-28-87)

Sec. 10-56. Notice to state department of highways.

A notice must be given to the state department of highways and public transportation not later than the fifth day after the date of removal. The notice must identify the vehicle or vehicle part. The department shall immediately cancel the certificate of title to the vehicle pursuant to the certificate of title act.

(Ord. No. 03-12-87, § 2(e), 12-28-87)

Sec. 10-57. Vehicle reconstructed or made operable.

It is prohibited for a vehicle after it has been removed to be reconstructed or made operable.

(Ord. No. 03-12-87, § 2(f), 12-28-87)

Sec. 10-58. Completely enclosed vehicles.

The procedures adopted in this article do not apply to a vehicle or vehicle part that 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 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 an unlicensed, operable or inoperable antique or special interest vehicle stored by a collector on the collector's property, if the vehicle and the outdoor storage area are maintained in a manner so 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.

(Ord. No. 03-12-87, § 2(g), 12-28-87)

Sec. 10-59. Administration of procedures.

The procedure adopted in this article must be administered by regularly salaried, full-time employees of the city, except that the removal of a vehicle or vehicle part from property may be by any duly authorized person.

(Ord. No. 03-12-87, § 2(h), 12-28-87)

