

Chapter 12

NUISANCES¹

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ARTICLE I. IN GENERAL

Sec. 12-1. Definitions.

For the purposes of this article, the following definitions shall apply:

Nuisance. A nuisance consists in unlawfully doing any act, or omitting to perform a duty, which act or omission:

- (1) Annoys, injures or endangers the comfort, repose, health or safety of others;
- (2) Offends decency;
- (3) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any lake or navigable river, stream, canal or basin, or any public park, square, street or highway, or;
- (4) In any way renders other persons insecure in life, or in the use of property; provided, this section shall not apply to preexisting agricultural activities.

Public nuisance. A public nuisance is one which 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 the individuals may be unequal.

Private nuisance. Every nuisance not included in the definition of "public nuisance" herein set out is a "private nuisance."

(Code 1977, § 14-1)

Sec. 12-2. Nuisance unlawful.

It is unlawful for any person (owner, lessee or other) to create or maintain a nuisance within the city, or to permit a nuisance to remain on premises under his control within the city.

(Code 1977, § 14-10)

Sec. 12-3. General power of city.

(a) *Determination; summary abatement.* As provided in 50 O.S. § 16, the city has the power to determine what is, and what shall constitute, a nuisance within its corporate limits and, for the protection of the public health, the public parks and the public water supply, outside of its corporate limits. Whenever it is practical to do so, the city has power summarily to abate any such nuisance after notice to the owner and an opportunity for him to be heard, if this can be done.

¹Charter reference--Nuisances generally, § 1-3.

Cross references--Buildings and building regulations, Ch. 5; fire prevention and protection, Ch. 7; health and sanitation, Ch. 8; certain animals as nuisance, § 4-30; certain structures declared nuisances, § 5-8; street right-of-way obstructions as nuisance, § 16-17; uncollected or dumped garbage as nuisance, § 18-174.

State law references--Nuisances, 50 O.S.; municipal power to define and summarily abate nuisances, 50 O.S. § 16; health nuisances, 63 O.S. §§ 1-1011 *et seq.*

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- (b) *Remedies against public nuisance.* The remedies against a public nuisance are:
- (1) *Indictment or information.* The remedy by indictment or information is regulated by the law on crimes and punishment and criminal procedure;
 - (2) *Civil action.* A private person may maintain an action for a public nuisance if it is specially injurious to himself, but not otherwise;
 - (3) *Abatement:*
 - a. *Abatement by officer.* A public nuisance may be abated by any public body or officer authorized thereto by law;
 - b. *Abatement by person injured.* Any person may abate a public nuisance which is specially injurious to him, by removing or, if necessary, destroying the thing which constitutes the same, without committing a breach of the peace or doing unnecessary injury.
- (c) *Remedies against private nuisance.* The remedies against a private nuisance are:
- (1) *A civil action;*
 - (2) *Abatement.* A person injured by a private nuisance may abate it by removing, or, if necessary, destroying the thing which constitutes the nuisance, without committing a breach of the peace or doing unnecessary injury.
- (d) *Notice; when required.* Where a private nuisance results from a mere omission of the wrongdoer, and cannot be abated without entering upon his land, reasonable notice must be given to him before entering to abate it.

(Code 1977, §§ 14-4-14-6)

Sec. 12-4. Procedure cumulative.

The various procedures for abating nuisances prescribed by this article and by other provisions of law and ordinances shall be cumulative one to the other, and the city may elect to follow any such procedure which is applicable in abating any particular nuisance.

(Code 1977, § 14-28)

Sec. 12-5. Certain public nuisances enumerated.

In addition to other public nuisances declared by other sections of this Code or law, the following are hereby declared to be public nuisances (said enumeration shall be cumulative and not limit other provisions of law or ordinance defining public or private nuisances, either in more general or more specific terms):

- (1) *Unwholesome food or drink.* The sale, or offering for sale, of unwholesome food or drink, or the keeping of a place where such sales or offerings are made;
- (2) *Intoxicating liquor.* The sale, offering for sale, or furnishing of intoxicating liquor in violation of state law or ordinances of the city, or the keeping of a place where intoxicating liquor is sold, offered for sale or furnished in violation of state law or ordinances of the city;
- (3) *Obscene materials.* The exposure, display, sale or distribution of obscene pictures, books, pamphlets, magazines, papers, documents or objects, or the keeping of a place where such are exposed, displayed, sold or distributed;
- (4) *Gambling premises.* The keeping of a place where persons gamble, whether by cards, slot machines, punch boards or otherwise;
- (5) *Premises for prostitution, immoral acts, etc.* The keeping of a place where prostitution, illicit sexual intercourse or other immoral acts are practiced;

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- (6) *Premises where laws or ordinances are violated.* The keeping of a place where activities in violation of state law or ordinance are practiced or carried on;
- (7) *Contagious disease.* The public exposure of a person having a contagious disease;
- (8) *Loud or unusual noises.* The continued making of loud or unusual noises which annoy persons of ordinary sensibilities, or the keeping of an animal which makes such noises;
- (9) *Interference with radio or television reception.* The operation or use of any electrical apparatus or machine which materially or unduly interferes with radio or television reception by others;
- (10) *Obstruction of street or sidewalk.* Any use of a street or sidewalk, or a place adjacent thereto, which causes crowds on such street or sidewalk, or which otherwise obstructs traffic thereon, except as may be authorized by law or ordinance.
- (11) *Water, snow, etc., on street or sidewalk.* Permitting water or other liquid to flow or fall, or ice or snow to fall, from any building or structure upon any street or sidewalk;
- (12) *Mosquito breeding places.* All wells, pools, cisterns, bodies or containers of water in which mosquitoes breed or are likely to breed, or which are so constructed, formed, conditioned or situated as to endanger the public safety;
- (13) *Breeding places for insects, vermin, etc.* Rank weeds or grass, carcasses, accumulations of manure, refuse or other things which are, or are likely to be, breeding places for flies, mosquitoes, vermin or disease germs, and the premises on which such exist;
- (14) *Dangerous building or structure.* Any building or structure which is dangerous to the public health or safety because of damage, decay or other condition;
- (15) *Dangerous pits, holes, etc.* Any pit, hole or other thing which is so constructed, formed, conditioned or situated as to endanger the public safety;
- (16) *Fire or explosion hazard.* Any fire or explosion hazard which endangers the public safety;
- (17) *Dangerous or destructive occupation or activity.* Any occupation or activity which endangers the public peace, health, morals, safety or welfare;
- (18) *Motor vehicle or trailer without current license plate.* Any motor vehicle (whether in operating condition or not) without a current vehicle license plate as required by law for vehicles used on the public highway, when stored or kept in a residential district; and any trailer without a current trailer license plate as required by law for trailers used on the public highway, when stored or kept in a residential district;
- (19) *Noisy, unsanitary stable, etc.* Any stable or other place where animals are kept that may become obnoxious or annoying to any resident of this city by reason of any noise or noises made by the animal therein, or by reason of lack of sanitation;
- (20) *Offensive dog kennels.* The keeping of any dog kennels within this city for the breeding and raising of dogs, that shall become offensive or annoying to the public by reason of the barking and noise made by the animals therein contained;
- (21) *Vault, cesspool, etc.* Any vault, cesspool or sink used to receive human excrement, slops, garbage, refuse or other filthy substance;
- (22) *Dangerous pond, refuse, manure, etc.* Any pond, slop, trash, refuse, cobs, manure or decayed or decaying vegetable matter, left, kept or maintained in such condition as to endanger the public health;
- (23) *Hog pen.* The keeping of any hog pen within the limits of this city;
- (24) *Unsanitary privy, water closet.* Every privy or water closet which shall not be in an overflowing, leaking or filthy condition;
- (25) *Exposed animal hides.* Any green or unsalted hides of any animal kept in any exposed or open place within the limits of this city;

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- (26) *Unsanitary drainage, waste receptacle.* Any unclean, foul, leaking or broken or defective ditch, drain, gutter, slop, garbage or manure barrel, box or other receptacle, in this city; and
- (27) *Decayed or burned building or structure.* Every building or other structure that shall become unsafe and dangerous from fire, decay or other cause, or shall be detrimental to the health, safety or welfare of this city or its inhabitants from any cause.

(Code 1977, § 14-7; Ord. No. 704, § 1, 5-15-79)

Cross references—Noise made by animals, § 4-11; buildings and building regulations, Ch. 5; fire prevention and protection, Ch. 7; licenses and business regulations, Ch. 9; motor vehicles and traffic, Ch. 10; use and obstruction of streets, §§ 16-16 et seq.; sewers, §§ 18-66 et seq.

Sec. 12-6. Summary abatement.

(a) Some nuisances are of such nature as to constitute a grave and immediate danger to the peace, health, safety, morals or welfare of one or more persons of the public generally. It is recognized that circumstances may be such as to justify, and even to require, the mayor or other appropriate officer or agency of the city to take immediate and proper action summarily to abate such nuisances, or to reduce or suspend the danger until more deliberate action can be taken toward such abatement.

(b) The chief of the fire department, the chief of police, the city attorney, the code enforcement officer, the building official, the electrical inspector, the plumbing inspector, any other official, employee or board member of the city, or any resident or residents of the city may submit to the city beautification commission or, pursuant to subsection (g) hereof, to the city council a statement as to the existence of a nuisance as defined by the ordinances of the city or state law, and a request or recommendation that it be abated.

(c) In addition to proceedings hereunder being commenced by statement as provided in subsection (b) hereof, said proceedings may also be commenced upon motion of any member of the city beautification commission made in any meeting of said commission.

(d) The city beautification commission, or the city council acting pursuant to subsection (g) hereof, shall determine whether or not the alleged public nuisance is a public nuisance in fact. For the purpose of gathering evidence on the subject, the city beautification commission, or the city council, as the case may be, through the city attorney, shall have the power to subpoena and examine witnesses, books, papers and other effects. Before proceeding to abate the nuisance, or to have it abated, the city clerk shall give notice of a hearing on the proposed abatement to the owner of any property concerned and to any other person alleged or deemed responsible for or to be causing the public nuisance, and an adequate opportunity to be heard, if such notice and opportunity for a hearing can be given. Such notice to the owner and other persons concerned shall be given in writing by mail or by service by a police officer, if their names and addresses are known; however, if the names and addresses are not known, and the peace, health, safety, morals or welfare of the person, persons or public adversely affected would not be unduly jeopardized by the necessary delay, a notice of the hearing shall be published in a paper of general circulation within the city one time at least seven (7) days prior to the date of the hearing.

(e) If the city beautification commission, or the city council, as the case may be, finds that a public nuisance does in fact exist, it shall direct the owner and/or other persons responsible for or causing the public nuisance to abate it within a specified time if the public interest would not be unduly jeopardized by the consequent delay, or if the owner (or other persons responsible for or causing the public nuisance) does not abate within the specified time, the commission or council shall direct the city manager to abate the public nuisance, or to have it abated, if summary abatement is practical, as authorized by 50 O.S. Section 16.

(f) If a public nuisance is abated pursuant to this section by the city, the city manager shall determine the actual cost of such abatement and any expenses necessary in connection therewith, including the cost of notice and mailing. The municipal clerk shall forward by mail to the owner of the property on which such nuisance existed a statement of such actual cost and demanding payment. If the abatement was done by the city, the cost to the property owner for said abatement shall not exceed the actual cost of the labor, maintenance, and equipment required. If the abatement was done on a private contract basis, such contract must have been awarded to the lowest and best bidder. If payment is not made within thirty (30) days from the date of the mailing of the statement, the municipal clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law.

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(g) It shall be the duty of the city beautification commission of Pauls Valley, Oklahoma, to institute and hear all proceedings for the abatement of nuisances pursuant to this section. The property owner, or any other person or entity aggrieved by a decision of said commission made pursuant to this section shall have a right of appeal to the city council from any order or decision of said commission. Such appeal shall be taken by filing written notice of appeal with the municipal clerk within ten (10) days after such decision or order is rendered. Provided, however, that in the case an alleged nuisance is believed by the complaining party to constitute an immediate threat to the safety, health, or welfare of the city the delay in abatement of which (due to an appeal or otherwise) would be detrimental to the public safety, health or welfare, then the complaining party may proceed to have the matter heard by the city council at the earliest time at which the council may convene and the council may directly hear such alleged emergency nuisance and take action thereon as provided herein and by law.

(Code 1977, § 14-8; Ord. No. 827, § 1, 3-16-92)

Cross reference—Fire prevention and protection, Ch. 7.

State law reference—Power of city to define and summarily abate nuisances, 50 O.S. § 16.

Sec. 12-7. Abatement by suit in district court.

In cases where it is deemed impractical summarily to abate a nuisance, the city may bring suit in the district court of the county where the nuisance is located, as provided in 50 O.S. Section 17.

(Code 1977, § 14-9)

Sec. 12-8. Health nuisances; abatement.

(a) Pursuant to authority granted by Oklahoma Statutes, the health officer or the city beautification commission shall have authority to order the owner or occupant of any private premises in the city to remove from such premises, at his own expense, any source of filth, cause of sickness, condition conducive to the breeding of insects or rodents that might contribute to the transmission of disease, or any other condition adversely affecting the public health, within twenty-four (24) hours or within such other time as may be reasonable; a failure to do so shall constitute an offense. Such order shall be in writing and may be served personally on the owner or occupant of the premises, or authorized agency thereof, by the health officer or by a policeman, or a copy thereof may be left at the last usual place of abode of the owner, occupant or agent, if known and within the state. If the premises are unoccupied and the residence of the owner, occupant or agent is unknown, or is without the state, the order may be served by posting a copy thereof on the premises, or by publication in at least one issue of a newspaper having a general circulation in the city.

(b) If the order is not complied with, the health officer or the city beautification commission may cause the order to be executed and complied with, and the cost thereof shall be certified to the city clerk, and the cost of removing or abating such nuisance shall be added to the water bill or other municipal utility bill of the owner or occupant, if he is a user of water from the municipal water system or such other utility service. The costs shall be treated as a part of the utility bill to which it is added and shall become due and payable, and be subject to the same regulations relating to delinquency in payment, as the utility bill itself. In addition to collection of said costs as a utility assessment, such cost may also be certified to the county clerk, who shall add the same to the ad valorem taxes assessed against the property, and such cost shall be a lien against the property until paid, and shall be collected in the same manner as ad valorem taxes against the property, and when collected shall be paid to the city for reimbursement of the funds used to pay such costs.

(Code 1977, § 14-20; Ord. No. 827, § 6, 3-16-92)

Cross reference—Health and sanitation, Ch. 8.

State law reference—Authority for above section, 63 O.S. § 1-1011.

Sec. 12-9. Political advertising; defined; prohibited.

(Code 1977, § 14-24; Repealed Ord. No. 842, 10-18-94)

Cross references—Administration, Ch. 2; posting advertising matter on property of another, § 13-21.

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Sec. 12-10. Violation of order or regulation.

Any person who violates any legal order or regulation made pursuant to this chapter is guilty of an offense.

(Code 1977, § 14-36)

Sec. 12-11. Condemnation and abatement of dilapidated buildings.

(a) Section 22-112 of Title 11 of the Oklahoma Statutes, and all subsequent amendments thereto, is hereby adopted and incorporated as fully as if set out at length herein, for the purpose of establishing procedures for the condemnation and abatement of nuisances caused by dilapidated buildings within the corporate limits of the city.

(b) Pursuant to Subsection 6 of § 22-112 of Title 11 of the Oklahoma Statutes, the city council may designate, by subsequent ordinance, that the duties of the city council as specified and adopted by this ordinance, be carried out by an administrative officer or administrative body of the city. If an administrative body is to carry out the duties specified herein, said body may be an existing board duly established by the provisions of the Charter or Code of the city, or a new board may be established, by ordinance, to carry out said duties.

(Ord. No. 823, § 1, 12-15-92)

Sec. 12-12. Boarding and securing dilapidated buildings.

(a) Section 22-112.1 of Title 11 of the Oklahoma Statutes, and all subsequent amendments thereto, is hereby adopted and incorporated as fully as if set out at length herein, for the purpose of establishing procedures for the boarding and securing of dilapidated buildings within the corporate limits of the city.

(b) Pursuant to Subsection 8 of § 22-112.1 of Title 11 of the Oklahoma Statutes, the city council may designate, by subsequent ordinance, that the duties of the city council as specified and adopted by this ordinance, be carried out by an administrative officer or administrative body of the city. If an administrative body is to carry out the duties specified herein, said body may be an existing board duly established by the provisions of the Charter or Code of the city, or a new board may be established, by ordinance, to carry out said duties.

(Ord. No. 823, § 1, 12-15-92)

Section 12-13. Garage Sales.

(a) As used in this Section:

Garage Sale shall mean garage sale, yard sale, tag sale, rummage sale, or any public or private sale of household items, clothes, or other goods conducted not as an ongoing business subject to the business licensure, zoning and/or home-occupation ordinances of the city, but on a temporary, periodic or occasional basis at the seller's home or other public or private location.

Owner means the owner of record, as shown by the most current tax rolls of the county treasurer, of real property on which a garage sale is conducted.

Desist Order is an order issued by the zoning administrator, the code enforcement officer, the Beautification Commission, any police officer, or any other authorized official of the city which notifies the owner of property that a garage sale is being conducted on the owner's premises in violation of the provisions hereof.

Sign and *place* shall have the meanings set forth in Section 13-21 of Article I, Chapter 13, of the Code of Ordinances of the City of Pauls Valley, Oklahoma.

(b) Garage sales may be conducted within the corporate limits of the city only as provided herein.

(c) A fee of \$5.00 is hereby imposed for the conduct of garage sales within the corporate limits of the city. A permit may be issued upon application therefor and payment of said fee which shall authorize the conduct of a garage sale on dates specified in the application. Each application form shall have attached a copy of this ordinance, and each application must be signed by the applicant and shall contain an agreement by the applicant to abide by this ordinance and all other city ordinances. All persons shall be required to post the garage sale permit on the premises on which such garage sale is conducted. The code enforcement administrator or any other designated city official may periodically

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inspect the conduct of garage sales for compliance with the provisions hereof. Any person conducting a garage sale without the required permit shall be guilty of an offense and subject to a fine of up to two hundred dollars (\$200.00).

(d) The duration of any garage sale shall be limited to three (3) consecutive days with a minimum of a one-(1-) month interim before another garage sale may be held on the same premises. The duration of a garage shall commence with the placement of goods or merchandise on the premises where the garage sale is to be conducted in a manner so that they are in public view.

(e) Garage sales must be conducted so as to not invite or cause abnormal walk-in or drop-by persons, vehicular traffic or congestion of public streets.

(f) No mechanical or electrical equipment or other device or activity shall be allowed which creates any noise, dust, odor, or electrical disturbance beyond the confines of the premises on which said sale is conducted.

(g) No sign connected with a garage sale shall be placed on any property within the city limits other than one non-illuminated sign not more than two (2) square feet in area, placed in the yard or attached to the main or an accessory building on the premises where the garage sale is being conducted. The display of said sign is limited to the duration of the garage sale as defined above, and said sign shall be immediately removed by the applicant at the conclusion of the garage sale. However, nothing in this Code shall be interpreted to restrict the advertising of any garage sale by television, radio, newspaper or similar advertisements.

(h) The provision of this Section may be enforced by the zoning administrator, the code enforcement officer, the beautification Commission as a body, any city police officer, or any authorized city official. Enforcement shall include the issuance, by such authorized person or body, of a desist order to an owner who is found to be in violation of any of the provisions hereof. Each day of noncompliance shall constitute a separate and distinct violation. A fine of up to two hundred dollars (\$200.00) per day may be imposed for each violation. A garage sale which continues in violation of this Section shall also be subject to abatement through injunctive relief from the municipal court.

(Ord. 903, § 16, 3-23-04)

Secs. 12-14-12-25. Reserved.

ARTICLE II. ABATEMENT OF WEEDS AND TRASH²

Sec. 12-26. State statute adopted.

(a) Section 22-111 of Title 11 of the Oklahoma Statutes, and all subsequent amendments thereto, is hereby adopted and incorporated as fully as if set out at length herein, for the purpose of establishing procedures for the abatement of nuisances caused by accumulations of weeds and/or trash within the corporate limits of the city.

(b) Pursuant to Subsection 7 of § 22-111 of Title 11 of the Oklahoma Statutes, the city council may designate, by ordinance, that the duties of the city council as specified and adopted by this section, be carried out by an administrative officer or administrative body of the city. If an administrative body is to carry out the duties specified herein, said body may be an existing board duly established by the provisions of the Charter or Code of the city, or a new board may be established, by ordinance, to carry out said duties.

(Ord. No. 827, § 3, 3-16-92)

(c) Pursuant to Subsection 3 of § 22-111 of Title 11 of the Oklahoma Statutes, a hearing on such weed or trash nuisance shall not be required. The Code Enforcement Officer or other designated City official shall be authorized to post the notice required by said statute on the property in addition to mailing as required by said statute. Upon the giving of the required notice, if such nuisance is not abated within the required time, the City may proceed to abate said nuisance as soon as practicable after the passage of such time for the abatement of such nuisance by the record owner.

(Ord. No. 893, § 1, 7-24-01)

²Editor's note—Ord. No. 827, §§ 2-5, adopted March 16, 1992 repealed former sections 12-26–12-34 in their entirety, enacted a new section 12-26, and renumbered former section 12-35 as 12-27. Repealed provisions of former Art. II pertained to the abatement of weeds and trash and derived from the Code of 1977, §§ 14-11–4-19.

Cross references—Administration, Ch. 2; solid waste, §§ 18-166 *et seq.*

State law reference—Cleaning and mowing of property by city, 11 O.S. § 22-111.

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Sec. 12-27. Littering.

It is declared to be a public or private nuisance, as the case may be, for any person to litter any public or private street, alley, driveway, parking lot or other property not his own, by throwing, dropping, laying or leaving bottles, cans, waste paper, trash or other refuse in or upon such public or private property.

(Code 1977, § 14-27)

Cross references—Littering as general offense, § 13-22; solid waste, §§ 18-166 *et seq.*

State law reference—Similar provisions, 21 O.S. §§ 1753.3 *et seq.*, 47 O.S. § 11-111.

Secs. 12-28–12-35. Reserved.

ARTICLE III. CITY BEAUTIFICATION COMMISSION³

Sec. 12-36. City beautification commission; created; composition; terra; officers.

(a) There is hereby created a city beautification commission, to be composed of five (5) members. The mayor and the code enforcement officer shall serve as *ex officio* members of such commission, without voting powers.

(b) Upon the nomination of members to the commission by the mayor, with the confirmation of a majority of the city council, appointments of members shall be for overlapping three-year terms and until their successors are appointed and qualified.

(c) An effort shall be made to secure the services on the commission of those persons best qualified to consider and serve the best interests of the community with regard to the overseeing of enforcement of the charter and code provisions which the commission is charged with affirmatively overseeing.

(d) Vacancies occurring otherwise than through expiration of a term shall be filled, only for the unexpired terms, by the mayor with the approval of a majority of the council.

(e) Upon the appointment and qualification of the members of the commission, said commission members shall meet and elect one of the voting members of their number as chairman, one as vice-chairman and one as secretary; in addition, the commission may create and fill such other offices as it may deem necessary. The term of all such offices shall be one year, with eligibility for reelection.

(Ord. No. 824, § 1, 2-16-93)

Sec. 12-37. Jurisdiction.

The city beautification commission shall have jurisdiction over all land within the corporate limits of the city and over all land owned by the city.

(Ord. No. 824, § 1, 2-16-93)

Sec. 12-38. Rules and regulations.

(a) The city beautification commission shall prescribe and adopt rules and regulations governing and controlling the transaction of business before it and shall keep a public record of its regulations, transactions and findings.

(b) Regular meetings shall be held at least once each month.

(c) Special meeting may be called at any time by the commission chairman.

(Ord. No. 824, § 1, 2-16-93)

³*Cross reference*—Boards and commissions, §§ 2-21 *et seq.*

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Sec. 12-39. Duties and powers.

The city beautification commission shall have the following duties and powers:

- (1) To affirmatively oversee the enforcement of all provisions of this chapter involving nuisances and any other provision of this Code, the Charter, and any other state or federal law the purpose of which is to maintain and ensure the preservation of the beauty and livability of the city or the comfort, safety, health, morals and peace of the citizens of the city;
- (2) To hear complaints from citizens regarding violations of the provisions of this chapter involving nuisances and any other provision of this Code, the Charter, and any other state or federal law the purpose of which is to maintain and ensure the preservation of the beauty and livability of the city or the comfort, safety, health, morals and peace of the citizens of the city;
- (3) To initiate on its own motion as well as upon complaint from citizens, the enforcement of the provisions of this chapter involving nuisances and any other provision of this Code, the Charter, and any other state or federal law the purpose of which is to maintain and ensure the preservation of the beauty and livability of the city or the comfort, safety, health, morals and peace of the citizens of the city, by instituting or overseeing the institution of enforcement proceedings as may be provided by any such provision, ordinance or statute;
- (4) To make recommendations to the city council concerning the community's growth, improvement and beautification;
- (5) To hear, investigate and report to the city council all proposals of citizens, civic groups or other entities regarding the beautification of the city;
- (6) To investigate and report to the city council on all matters relating to the beauty and livability of the city or the comfort, safety, health, morals and peace of the citizens of the city; and
- (7) To investigate, prepare and recommend to the city council, for adoption, ordinances or amendments to existing ordinances to assist in the furtherance of the beautification of the city or in the furtherance of maintaining or increasing the comfort, safety, health, morals and peace of the citizens of the city.

(Ord. No. 824, § 1, 2-16-93)

Sec. 12-40. Project review and nuisance complaint procedures.

All nuisance complaints and projects for city beautification or other matters that fall within the duties and powers of the commission, as herein specified, that may come before the city council, shall be referred to the city beautification commission for investigation and report before any final action shall be taken thereon. If the city beautification commission fails to make an investigation and report on any such matter or subject referred to it, within sixty (60) days, or other agreed upon time, the council may proceed to act upon such complaint, plan or project. Provided, however, that this section shall not apply in the case of an emergency nuisance which poses an immediate threat to health or safety of the citizens of the city.

(Ord. No. 824, § 1, 2-16-93)

Sec. 12-41. City beautification commission to carry out provisions regarding certain nuisances.

The duties and powers of the city as specified in §§ 22-111, 22-112 and 22-112.1 of Title 11 of the Oklahoma Statutes, which have been adopted by reference in sections 12-26, 12-11, and 12-12, respectively, of this chapter, for the purpose of establishing procedures for the condemnation and/or abatement of certain nuisances within the corporate limits of the city shall be carried out by and are hereby delegated to the city beautification commission.

(Ord. No. 827, § 5, 3-16-92)

Secs. 12-42–12-55. Reserved.

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ARTICLE IV. ABATEMENT OF JUNKED VEHICLES AND IMPLEMENTS

Sec. 12-56. Definitions.

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

- (1) *Junked vehicle* means any motor vehicle as defined in Section 1-134 of Title 47 of the Oklahoma Statutes, which:
 - a. Is inoperative and which does not have lawfully affixed thereto both an unexpired license plate or plates and a valid motor vehicle safety inspection certification and which is wrecked, dismantled, partially dismantled, discarded, or abandoned, or
 - b. Remains inoperable for a continuous period of more than one hundred twenty (120) days.
- (2) *Junked implement of husbandry* means any implement of husbandry as defined in Section 1-125 of Title 47 of the Oklahoma Statutes which is wrecked, dismantled, partially dismantled, discarded, or abandoned, or remains inoperable for a continuous period of more than one hundred twenty (120) days.
- (3) *Junked vehicle or implement part* means any part of a vehicle or implement of husbandry which otherwise does not fall under the definition of a "junked vehicle" or "junked implement of husbandry" as defined herein, including, but not limited to engines, parts of a vehicle or implement chassis or body, tires, wheels, seats, or any other vehicle part which:
 - a. Is not in use for its expected or intended purpose or for the purpose for which said item was manufactured and which has been dismantled; partially dismantled; discarded; or abandoned; or
 - b. Remains unused for its expected or intended purpose or for the purpose for which said item was manufactured for a continuous period of more than one hundred twenty (120) days.
- (4) *Household junk* means any consumer good, item of furniture, appliance or other household item which:
 - a. is not in use for its expected or intended purpose or for the purpose for which said item was manufactured, and which has been dismantled, partially dismantled, discarded, or abandoned, or
 - b. Remains unused for its expected or intended purpose or for the purpose for which said item was manufactured for a continuous period of more than one hundred twenty (120) days.
- (5) *Owner* means the owner of record, as shown by the most current tax rolls of the county treasurer, of real property containing a nuisance described herein.
- (6) *Cleaning or clearing* means the removal of one or more junked vehicles, junked implements of husbandry, junked vehicle or implement parts, or items of household junk from property.

(Ord. No. 833, § 1, 9-7-93)

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Sec. 12-57. Location or presence of junked vehicles, junked implements of husbandry, or junked vehicle or implement parts within city deemed public nuisance; exceptions.

The location or presence of any junked vehicle, junked implement of husbandry, or junked vehicle or implement part, on any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the City of Pauls Valley shall be deemed a public nuisance and it shall be unlawful for any person or persons to cause or maintain such public nuisance by wrecking, dismantling, rendering inoperable, abandoning or discarding his or their vehicle, implement, or vehicle or implement part on the property of another or to suffer, permit or allow the same to be placed, located, maintained or to exist upon his or their own real property; provided that this section shall not apply to a vehicle, an implement of husbandry, or a vehicle or implement part which (1) is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; (2) 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 (3) stored on private property provided that such vehicle or implement or part thereof and 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.

(Ord. No 833, § 1, 9-7-93)

Sec. 12-58. Location or presence of household junk within city deemed public nuisance; exceptions.

The location or presence of any household junk on any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the City of Pauls Valley shall be deemed a public nuisance and it shall be unlawful for any person or persons to cause or maintain such public nuisance by wrecking, dismantling, rendering inoperable, abandoning or discarding such items on the property of another or to suffer, permit or allow the same to be placed, located, maintained or to exist upon his or their own real property; provided that this section shall not apply to (1) household items or parts thereof which are completely enclosed within a building or structure in a lawful manner where such items are not visible from the street or other public or private property; (2) household items or parts thereof which are stored in a lawful manner on private property in connection with a duly licensed or permitted business; or (3) household items or parts thereof stored on private property in outdoor storage areas provided that the household items and 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.

(Ord. No. 833, § 1, 9-7-93)

Sec. 12-59. Abatement of junked vehicles, etc.; procedure and cost of abatement.

(a) The city may cause property within its corporate limits to be cleaned or cleared of such junked, junked implements of husbandry, junked vehicle or implement part or household junk or such junked vehicles, junked implements of husbandry, junked vehicle or implement part or household junk to be removed in the same manner and according to the same procedure as that set out for the abatement of trash, weeds and grass as provided in Subsections A 1-6 of § 22-111 of Title 11 of the Oklahoma Statutes

(b) The Pauls Valley city beautification commission is hereby designated to carry out the duties of the governing body with regard to said procedure as set out in Subsection (a) of this Section (i.e., the duties set out in Subsections A1-6 of § 22-111 of Title 11 of the Oklahoma Statutes). A property owner shall have a right of appeal to the city council of the City of Pauls Valley from any order, finding or determination of said commission. Such appeal shall be taken by filing written notice of appeal with the city clerk within ten (10) days after the administrative order is rendered.

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(c) If the city causes property within the corporate limits to be cleaned or cleared of junked vehicles, junked implements of husbandry, junked vehicle or implement part or household junk in accordance with the procedures provided for herein, any subsequent junked vehicle, junked implement of husbandry, junked vehicle or implement part or household junk kept, maintained, located or stored on the same such property in violation of the provisions of this article occurring within a six-month period may be declared to be a nuisance and may be summarily abated without further prior notice to the property owner. At the time of each such summary abatement, the city shall notify the property owner of the abatement and the costs thereof. The notice shall state that the property owner may request a hearing within ten (10) days after the date of mailing the notice. The notice and hearing shall be as provided for in subsection (a) of this section. Unless otherwise determined at the hearing the cost of such abatement shall be determined and collected as provided for in paragraphs 5 and 6 of Subsection A of § 22-111 of Title 11 of the Oklahoma Statutes. Provided, however, that this subsection shall not apply if the records of the county clerk show that the property was transferred after notice was given pursuant to subsection (a) of this section.

(Ord. No. 833, § 1, 9-7-93)

Sec. 12-60. Application.

Nothing in this article shall affect ordinances that permit immediate removal of a vehicle or other obstruction left on public property which constitutes an obstruction to traffic.

(Ord. No. 833, § 1, 9-7-93)

Sec. 12-61. Penalty.

Upon conviction for violation of any provisions of this article relating to the maintaining of a public nuisance as described herein or in permitting or allowing such public nuisance to exist, such violator shall be punished by a fine up to the maximum amount allowed for such violation or offense pursuant to TIT. 11 OKLAHOMA STATUTES, §14-111, as the same is currently enacted, or as the same may be hereafter amended. Each day upon which any such nuisance shall continue shall constitute a separate offense and a separate fine may be imposed therefor.

(Ord. No. 833, § 1, 9-7-93; Ord. No. 880, § 4, 6-27-00; Ord. No. 925, § 4, 3-11-08)

ARTICLE V. NOISE VIOLATIONS

Section 12-70. Findings of Fact.

It is found and declared that:

1. The making and creation of excessive, unnecessary noise within the City is a condition which has existed for some time and the extent and volume of such noise is increasing;
2. The making, creation or maintenance of such excessive unnecessary, unnatural or unusual noise, prolonged in time, place and use, affects and is a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the City; and
3. A substantial body of scientific and technological knowledge and expertise exists by which noise is recognized as sound which is excessive and thereby unwanted and rejectable, and may be substantially abated; and
4. The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted, is declared as a matter of legislative determination and public policy in pursuance of and for the purpose of securing and promoting the peace and quiet for the greater assurance of public health, comfort, convenience, safety, welfare and prosperity of the City and its inhabitants.

(Ord. 868, § 1, 6-8-99)

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Section 12 -71. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings subscribed to them in this section:

Construction means any site preparation, assembly, erection, substantial repair, alteration, or similar, action excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.

Continuous sound means any sound, essentially without interruption, which exists for a period of six (6) minutes or more.

Demolition means any dismantling, intentional destruction, or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

Device means any mechanical object or piece intended to produce, or which produces the resultant effect objectively sought when operated or used.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency vehicle means vehicles of the Fire, Police and Highway Patrol Departments and legally authorized ambulances and emergency vehicles of State departments.

Emergency work means any work performed for the purpose of preventing or alleviating physical traumas or property damage threatened or caused by an emergency.

Excessive sound means that sound level which elicits complaints usually independent of each other in the estimate at the sound's being acceptable or unacceptable.

Gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

Impulsive sound means sound pulses of short duration, usually less than one second, with an abrupt onset and rapid decay.

Motor vehicle means every vehicle self-propelled on land and every vehicle propelled by electric power obtained from overhead trolley wires, but not operated upon rails; provided, however, the definition of motor vehicle shall not include implements of husbandry.

Muffler means a device for abating the sound of escaping gases of any internal combustion engine.

Noise means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

a. *Noise disturbance* means any plainly audible sound which:

- (1) injures or endangers the safety or health of a human; or
- (2) annoys or disturbs a reasonable person of normal sensitivities; or
- (3) endangers or injures personal or real property.

b. *Plainly audible* means where the listener clearly can hear the content of the sound produced by the noise source. Sounds which may be clearly audible include, but are not limited to, musical rhythms, spoken words, vocal sounds, and engine noises.

Person means any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of the State or any political subdivision of the State.

Powered model vehicle means any self-propelled airborne, waterborne, or landborne plan, vessel, or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car, or rocket.

(Ord. 868, § 1, 6-8-99)

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Section 12-72. Prohibited Generally.

It shall be unlawful for any person to make, continue, or cause to be made or continue any excessive, unnecessary or unusual noise disturbance or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety or others, within the limits of the City.

(Ord. 868, § 1, 6-8-99)

Section 12-73. Specific Prohibitions.

The following acts, among others and not to exclude other such acts, are declared to be excessive or unusual noises in violation of this ordinance, except and unless in the urgent interest of public health, welfare, and safety, a permit has been issued by the city manager for continuance or performance over such time periods as may be so stated, namely:

Animals and Birds. Owning, maintaining, harboring, or maintaining for hire any animal or animals, bird or birds, which, by frequent or prolonged noisemaking, cause, or tend to cause excessive sound levels, whether originating from public or private facilities, except publicly-owned and/or publicly-operated zoos. Police dogs may be exempted from the prohibitions of this section under such terms and conditions as City Manager or Council may establish.

Structural or roadway construction, demolition and/or repair. Performance of construction, demolition, and/or repair work at or on any structural or roadway project or undertaking whether by manual or mechanical means, such as to produce a noise disturbance.

Exhausts. Discharge into the open air of the sound-laden exhaust from, or escape of excessive sound from working parts of the transmission or conveyance of fluids or solids through piping, conduit, or by way of other mechanical transport, stationary, portable or mobile engine or engines or motorized vehicle or vehicles, such as to produce a noise disturbance.

Horns, whistles, sirens, firearms, explosives or fireworks. Sounding of horns, whistles, sirens, firearms or other such alarm or announcement device, whether manual or power-operated, or the detonation of fireworks or explosives except as required as warning of fire, natural disaster or other impending or incidental danger, or which may be required as a part of law enforcement, by emergency, or as excepted by § 12-74.

Radios, television, equipment, electronic audio equipment, musical instruments and similar devices. Operating or permitting the use or operation of any device designed for sound production, amplification, or reproduction, including but not limited to any radio, musical instrument, phonograph, television set, tape recorder, loud speaker, or other similar device.

Between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to be plainly audible within any dwelling unit which is not the source of the sound; or

On public property or on a public right-of-way so as to be plainly audible fifty feet or more from such device, except as authorized by permit.

Boisterous, belligerent, or clamorous noisemaking. Shouting, carousing, singing or other prolonged noisemaking such as to cause or tend to cause excessive sound pressure levels.

Watercraft. Operation of any motorized surface boat or underwater vehicle, whether on land, water impoundment, lake, stream, diversion channel, or astride a conveyance, such as to produce a noise disturbance.

Powered models or toys. Operation of powered models or toys such as to produce a noise disturbance.

Airport and aircraft operations. It shall be unlawful to run, test or otherwise operate aircraft engines on the ground or operate an airport facility in such a manner as to cause or tend to cause noise disturbance. Nothing in this section shall be construed to prohibit, restrict, penalize, or enjoin or in any manner regulate the movement of aircraft which are, in all respects, conducted in accordance with, or pursuant to applicable federal laws or regulations, or air traffic control instructions.

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Place of public entertainment. Operating, or permitting to be operated in any place of public entertainment during any hour of operation when patrons or customers may be expected, any loudspeaker or sound amplifier which produces, reproduces or amplifies sound, at a point normally to be occupied by a patron or customer which produces a noise disturbance, unless a conspicuous, legible sign, readable by a person with 20/20 vision at a distance within ten (10) feet of it, is posted at or within five (5) feet of each public entrance and not more than five (5) feet above the level of the ground, floor, or other entrance threshold, which sign shall state:

“WARNING SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT”

This provision shall not be construed to allow the operation of such loudspeaker or sound amplifier in such manner as to violate Paragraph (11) below.

Noise sensitive zone. Creation of a noise disturbance within five hundred (500) feet of any school, or other such institution of learning, church, hospital, convalescent hospital or mass-care home, or court of law.

Property owner as violator. No property owner, lessor or lessee shall knowingly allow any automobile, motorcycle, minibike or other vehicle which creates a noise disturbance to be driven across his property. Nothing in this section shall be construed as to prohibit the arrest of the operators of said vehicles as may be provided by this code.

(Ord. 868, § 1, 6-8-99)

Section 12-74. Exemptions.

The following sources of potentially excessive sound shall be exempt from noise control regulation:

1. Safety signals and alarm devices, storm warning sirens or horns and the authorized testing of such equipment, emergency vehicle sirens or horns used when responding to an emergency and emergency pressure relief valves.
2. Noise created or to be created as the result of provisions of Section 12-73 such that a permit shall be issued beforehand by the City Manager, and such event shall be conducted in accord with provisions of such permit.
3. Disaster or other emergency, or, as result of such disaster, demanding the immediate undertaking by operators and/or mechanical devices for relief of stress thus created.
4. Organized sporting events.
5. Non-commercial public speaking and public assembly activities conducted on any public space or public right-of-way.
6. Interstate railway locomotives and trains en route, and not engaged in switching operations within residential land use classifications between 10:00 p.m. and 7:00 a.m.

(Ord. 868, § 1, 6-8-99)

Section 12-75. Permit.

- A. Application for a permit for relief from noise restrictions designated in this chapter, on the basis of undue hardship, may be made to the city Manager or his authorized representative. Any such application shall set out clearly the conditions describing the undue hardship so alleged.
- B. A permit may be granted only upon sufficient and reliable showing in said application that such conditions indicate one or more of the following to be true:
 1. Additional time is necessary for the applicant to alter or modify his activity or operation to comply with this chapter; or,
 2. The activity, operation, or noise source will be of temporary duration, and cannot be performed in a manner that would comply with other sections of this chapter; and,
 3. No other reasonable alternative is available to the applicant.

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- C. A permit may be granted only for an effective time period of three (3) days or less, except in the case of construction and/or demolition, the effective time period of such permit shall not exceed forty-five (45) days continuous time lapse. A permit may be renewed while the urgent necessity continues for three (3) days or less, except in the case of construction and/or demolition, said renewal shall not exceed forty-five (45) days. Any such permit thus granted shall state all conditions upon which it may be granted including, but not limited to, effective date, time of day location, limitations of and/or equipment involved, and any other conditions or requirements the City Manager may deem necessary to minimize the adverse effects upon the community or surrounding neighborhood.

(Ord. 868, § 1, 6-8-99)

Section 12-76. Duties and responsibilities of Municipal Departments.

(a) All departments and agencies of the city shall, to the fullest extent consistent with other ordinances, carry out their programs in such a manner as to further the policy of this chapter and in cooperation with the enforcement of it.

(b) All departments whose duty it is to review and approve new projects or changes to existing projects, that result, or may result, in the production of excessive sound levels shall consult with the agent of enforcement prior to any such approval.

(Ord. 868, § 1, 6-8-99)

Section 12-77. Penalty.

1. Any person who violates any provision of this chapter shall, upon conviction thereof, be guilty of an offense against the City.
2. Each day of violation of any provision of this chapter shall constitute a single offense if the disturbance is continuous. If the disturbance is not continuous, each violation of any provision of this chapter shall constitute a separate offense, although committed on the same day.

(Ord. 868, § 1, 6-8-99)

Section 12-78. Injunctive Relief.

As an additional remedy, any activity, conduct, or the operation or maintenance of any device, instrument, vehicle or machinery which is continuing in nature and in violation of any ordinance provision hereof, and which causes discomfort or annoyance, or which endangers the comfort, repose, health or peace of residents in the area, or which produces a noise disturbance shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. Further, an injunction or restraining order may be issued pursuant to the statutes of the state of Oklahoma.

(Ord. 868, § 1, 6-8-99)