

Chapter 34 - Environment

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Chapter 34 - ENVIRONMENT¹

ARTICLE I. - IN GENERAL

Secs. 34-1—34-30. - Reserved.

ARTICLE II. - SEWERAGE²

DIVISION 1. - GENERALLY

Secs. 34-31—34-50. - Reserved.

DIVISION 2. - ON-SITE DISPOSAL SYSTEMS

Sec. 34-51. - Findings.

The use of on-site sewage facilities in the county is causing or may cause pollution or is injuring or may injure the public health.

(Ord. No. 98-1967, § 2, 10-6-1998)

Sec. 34-52. - Adoption of and compliance with state regulations.

The county commissioners court does hereby adopt and comply with the latest "Regulations For On-Site Sewage Facilities," authorized by the state natural resource conservation commission (TNRCC), 30 TAC 285.1—285.91, V.T.C.A., [Health and Safety Code § 366.001](#) et seq., as required by law for all authorized agents, and authorize the county judge to sign the documents on behalf of the county.

(Ord. No. 98-1967, 10-6-1998)

Sec. 34-53. - Adoption of V.T.C.A., [Health and Safety Code ch. 366](#).

The county clearly understands the technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, and does adopt and will fully enforce V.T.C.A., [Health and Safety Code ch. 366](#).

(Ord. No. 98-1967, § 5, 10-6-1998)

Sec. 34-54. - Compliance with on-site sewage facility rules.

¹ **Federal law references**— Clean Water Act, 33 USC 1250 et seq.; Clean Air Act, 42 USC 1971 et seq.; lead-based paint poisoning prevention, 42 USC 4821 et seq. **State Law reference**— Soil and water conservation, V.T.C.A., [Agriculture Code § 201.001](#) et seq.; common and public nuisances, V.T.C.A., [Civil Practice and Remedies Code § 125.001](#) et seq.; air quality, V.T.C.A., [Health and Safety Code ch. 382](#) et seq.; oil and gas hazardous waste, V.T.C.A., [Natural Resources Code § 91.601](#) et seq.; water quality control, V.T.C.A., [Water Code § 26.001](#) et seq.; waste disposal and control of stormwater, V.T.C.A., [Water Code § 51.331](#) et seq.; nuisances and abatement procedure, V.T.C.A., [Health and Safety Code § 343.001](#) et seq.; on-site sewage facilities, V.T.C.A., [Health and Safety Code § 366.001](#) et seq.

² **State Law reference**— On-site sewage disposal system, V.T.C.A., [Health and Safety Code ch. 366](#) et seq.

Any structure discharging sewage into an on-site sewage facility within the jurisdictional area of the county must comply with the rules adopted in section 34-55.

(Ord. No. 98-1967, § 7, 10-6-1998)

Sec. 34-55. - Adoption of on-site sewage facility rules.

The rules "Design Criteria For On-Site Sewage Facilities" and Administrative Rules 30 TAC 285.1—285.91, made part of this division by reference, promulgated by the state natural resource conservation commission for on-site sewage systems, are hereby adopted, and all officials and employees of the county having duties under such rules are authorized to perform such duties as are required of them under such rules.

(Ord. No. 98-1967, § 8, 10-6-1998)

Sec. 34-56. - Adoption of design criteria and amendments.

The design criteria and all future amendments and revisions thereto are incorporated by reference and are thus made a part of the rules adopted by this division.

(Ord. No. 98-1967, § 9, 10-6-1998)

Sec. 34-57. - Amendments.

The county, wishing to adopt more stringent rules for its on-site sewage facility division, understands that the more stringent conflicting local rule shall take precedence over the corresponding state natural resource conservation commission requirement. Listed as follows are the more stringent rules adopted by the county: The county, to provide greater public health and safety protection, shall require an application and permit for all private disposal septic systems including new construction, repair or alteration of an existing system, for both residential and commercial use, regardless of the acreage involved.

(Ord. No. 98-1967, § 10, 10-6-1998)

Sec. 34-58. - Area of jurisdiction.

- (a) The rules shall apply to all the area lying in the county, except for the area regulated under an existing rule and the areas within incorporated cities.
- (b) The rules of this division shall apply to those incorporated cities or towns that have executed intergovernmental contracts with the county.

(Ord. No. 98-1967, § 6, 10-6-1998)

Sec. 34-59. - Duties and powers of county environmental health division.

The county environmental health division is herewith declared the designated representative for the enforcement of the rules of this division within its jurisdictional area. The appointed individual must be approved and certified by the state natural resource conservation commission before assuming the duties and responsibilities as designated representative for the county.

(Ord. No. 98-1967, § 11, 10-6-1998)

Sec. 34-60. - Collection of fees for permits and/or inspections.

All fees collected for permits and/or inspections shall be made payable to the county.

(Ord. No. 98-1967, § 12, 10-6-1998)

Sec. 34-61. - Appeals.

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the commissioners court.

(Ord. No. 98-1967, § 14, 10-6-1998)

Sec. 34-62. - Penalties for violation of division.

This division adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, which includes, but is not limited to, those found in V.T.C.A., Health and Safety Code chs. 341 and 366, V.T.C.A., Water Code ch. 26, and 30 TAC chapter 285.

(Ord. No. 98-1967, § 15, 10-6-1998)

Secs. 34-63—34-90. - Reserved.

ARTICLE III. - NUISANCES³

DIVISION 1. - GENERALLY

Sec. 34-91. - Purpose of article.

It is the purpose of the county's nuisance abatement program, which is authorized under V.T.C.A., Health and Safety Code § 343.001 et seq., to eliminate those nuisances in the county's unincorporated area that threaten the public's health, safety and welfare. To ensure that this program is operated efficiently and that the state law that it enforces is applied fairly and consistently, the policies and procedures of this article have been developed. They shall govern the operation of this program unless otherwise expressly amended or repealed by the county commissioners court.

(Ord. No. 91-1831, § I, 10-15-1991)

Sec. 34-92. - 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:

Abate means to eliminate a nuisance by removal, repair, rehabilitation or demolition.

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

Citation means the legal instrument that charges an individual with a criminal offense specified under V.T.C.A., [Health and Safety Code § 343.012](#). It should not be confused with a notice to abate a public nuisance that is required under section 34-141(f).

³ **State Law reference**— Unsanitary, unsanitary conditions, V.T.C.A., [Health and Safety Code § 343.001](#) et seq.

Director means the county Director of Unincorporated Area Services, or any other regularly salaried full-time county employee acting under the director's control and supervision.

Garbage means decayable waste from public and private establishments and restaurants, including vegetable, animal and fish offal, and animal and fish carcasses, but does not include sewage, body waste or industrial byproduct.

Neighborhood means:

- (1) A platted subdivision; or
- (2) Property contiguous to a platted subdivision and within 300 feet of a platted subdivision.

Person has the meaning assigned to that term by V.T.C.A., [Government Code § 311.005\(2\)](#).

Platted subdivision means a subdivision that has its approved or unapproved plat recorded with the county clerk.

Premises means all privately owned property, including vacant land or a building designed or used for residential, commercial, business, industrial or religious purposes, together with the yard, ground, walk, driveway, fence, porch, steps or other structure appurtenant to the property.

Public street means the entire width between property lines of a road, street, way, thoroughfare or bridge if any part of the road, street, way, thoroughfare or bridge is opened to the public for vehicular or pedestrian traffic.

Receptacle means a container which is composed of durable material and designed in a way that prevents the discharge of its contents and makes its contents inaccessible to animals, vermin or other pests.

Refuse means garbage, rubbish, paper and other decayable and nondecayable waste, including vegetable matter and animal and fish carcasses.

Rubbish means nondecayable waste from a public or private establishment or residence.

Weeds means all rank and uncultivated vegetable growth or matter that:

- (1) Has grown to more than 18 inches in height; or
- (2) Regardless of height, may create an unsanitary condition or become a harborage for rodents, vermin or other disease carrying pests.

(Ord. No. 2017-1387, 10-17-17; Ord. No. 91-1831, § II(A)—(I), (K)—(O), 10-15-1991)

Sec. 34-93. - Enumeration of public nuisances.

(a) Public nuisances are as follows:

- (1) Keeping, storing or accumulating refuse on premises in a neighborhood unless such refuse is entirely contained in a closed receptacle.
- (2) Keeping, storing or accumulating rubbish or any unused, discarded or abandoned object, including newspapers, vehicles, refrigerators, stoves, furniture, tires and cans, on premises in a neighborhood for ten days or more, unless the rubbish or object is completely enclosed within a building or is not visible from a public street.
- (3) Maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin or disease-carrying pests.
- (4) Allowing weeds to grow on premises in a neighborhood if such weeds are located within 300 feet of another residence or commercial establishment.

- (5) Maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment.
 - (6) Maintaining on abandoned and unoccupied property in a neighborhood a swimming pool that is not protected with:
 - a. A fence that is at least four feet high and that has a latched gate that cannot be opened by a child; or
 - b. A cover over the entire swimming pool that cannot be removed by a child.
 - (7) Maintaining a flea market in a manner that constitutes a fire hazard.
 - (8) Discarding refuse or creating a hazardous visual obstruction on:
 - a. County-owned land; or
 - b. Land or easements owned or held by a special district that has the commissioners court of the county as its governing body.
 - (9) Discarding refuse on the smaller of:
 - a. The area that spans 20 feet on each side of a utility line; or
 - b. The actual span of the utility easement.
 - (10) Filling or blocking a drainage easement, failing to maintain a drainage easement, maintaining a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation, or violating an agreement with the county to improve or maintain easement.
 - (11) Discarding refuse on property that is not authorized for that activity.
 - (12) Surface discharge from an on-site sewage disposal system as defined by [Section 366.002, Texas Health and Safety Code](#).
- (b) This section does not apply to agricultural land (defined as land qualifying for tax appraisal under V.T.C.A., [Tax Code § 23.41](#) et seq., or [23.51](#) et seq.), to a site or facility that is permitted and regulated by a state agency, or to a site or facility licensed or permitted under V.T.C.A., [Health and Safety Code § 361.001](#) et seq., the Solid Waste Disposal Act.

(Ord. No. 2017-1387, 10-17-2017; Ord. No. 91-1831, § II(J), 10-15-1991)

Sec. 34-94. - Penalty for violations of article.

- (a) A person may not cause, permit, or allow a public nuisance as described in section 34-93 on premises located within the county's unincorporated area.
- (b) A person commits an offense if the nuisance remains unabated after 30 days after the date on which the person receives notice from a county official, agent or employee to abate the nuisance.
- (c) An offense under this section is a misdemeanor punishable by a fine of not less than \$50.00 and not more than \$200.00. If it is shown on the trial of the defendant that the defendant has been convicted of an offense under this section within one year of the date that the offense being tried occurred, the defendant shall be punished by a fine of not less than \$200.00 nor more than \$1,000.00, by confinement in jail for not more than six months, or by both. Each day a violation occurs is a separate offense. If the defendant is convicted of an offense under this section, the court shall order abatement of the nuisance.

(Ord. No. 91-1831, § III, 10-15-1991)

Secs. 34-95—34-120. - Reserved.

DIVISION 2. - ADMINISTRATION

Sec. 34-121. – County Nuisance Abatement Division under the Director of Unincorporated Area Services to administer to Program.

The county's nuisance abatement program shall be administered by county's Nuisance Abatement Division under the supervision of the county's Director of Unincorporated Area Services who is a regularly salaried, full-time county employee.

(Ord. No. 2017-1387, 10-17-2017; Ord. No. 91-1831, § IV(A), 10-15-1991)

Sec. 34-122. - Nuisance abatement staff; authority; inspections.

- (a) Nuisance abatement staff and other county employees charged with the enforcement of health, environmental, safety, or fire laws shall have the authority to enter premises in the unincorporated area of the county at any reasonable time to inspect, investigate or abate a nuisance or to enforce state law. However, before they enter such premises, they must give reasonable notice and exhibit proper identification to the property's occupant, manager or other appropriate person.
- (b) Nuisance abatement staff shall make frequent inspections of unincorporated area neighborhoods and maintain regular contact with the county's road and bridge districts, its fire marshal, its public works department, its planning and development staff, the sheriff's department, and other health department staff.

(Ord. No. 2017-1387, 10-17-2017; Ord. No. 91-1831, § IV(B), (C), 10-15-1991)

Sec. 34-123. - Reporting.

- (a) The director shall keep an ongoing record of the number of nuisances identified, the number of nuisances abated by the county, the number of nuisances abated by the owner, the number of pending nuisances, the number of citations issued, the number of repeat violators, the amount of fines received and assessments recovered, the amount of county funds expended for direct abatement and the locations where most of the nuisances occur.
- (b) This information shall be summarized and presented to the commissioners court on a quarterly basis.

(Ord. No. 91-1831, § IX, 10-15-1991)

Secs. 34-124—34-140. - Reserved.

DIVISION 3. - ABATEMENT PROCEDURE⁴

Sec. 34-141. - Complaint investigation.

- (a) Complaints and violations shall be investigated if they have been detected during field inspections by nuisance abatement staff or if they have been reported verbally or in writing from citizens or other county staff.
- (b) Possible violations shall be investigated within seven days of detection or notification.
- (c) Once a possible violation has been reported or identified, the director shall maintain a file on this complaint, investigate the complaint, and make a determination as to whether a public nuisance exists.
- (d) In investigating a complaint, staff shall inspect and photograph the area containing the alleged nuisance, record the date and location of this inspection, document its findings and observations

⁴ **State Law reference—** Abatement procedure, V.T.C.A., [Health and Safety Code § 343.022](#).

(including a detailed description of the nuisance if it does appear to exist) and place all of this material in the complaint's file.

- (e) If the director determines that a public nuisance does not exist, then the director shall close the matter and take no further action thereon.
- (f) If the director determines that a public nuisance does exist, the director shall serve notice to abate the public nuisance on the owner, lessee, occupant, agent or person in charge of the premises upon which the public nuisance exists and to the person responsible for causing the nuisance when that person is not the owner, lessee, occupant, agent, or person in charge of the premises and that person can be identified. This notice to abate the public nuisance shall comply with, and be served as provided in, section 34-142. If, however, the director also determines that the nuisance constitutes a severe threat to the community that will only become more serious unless it is immediately removed or the practices responsible for its existence cease, then the director may also consult with the district attorney about seeking injunctive relief before or in addition to taking any of the other actions authorized under this article.

(Ord. No. 2017-1387, 10-17-2017; Ord. No. 91-1831, § V, 10-15-1991)

Sec. 34-142. - Notification.

- (a) Each notice to abate a public nuisance must contain the following information:
 - (1) The specific condition that constitutes a public nuisance.
 - (2) The street address or other general description of the property on which the public nuisance exists.
 - (3) The person receiving the notice must abate the public nuisance not later than the 30th day after the date on which the notice is served.
 - (4) Failure to abate the public nuisance shall result in fines and/or in abatement by the county, assessment of costs, and the attachment of a lien to the property on which the public nuisance exists, if the person responsible for causing the nuisance has an interest in the property.
 - (5) The county may prohibit or control access to the premises to prevent a continued or future nuisance described by [V.T.C.A., Health and Safety Code § 343.011\(c\)\(1\), \(6\), \(9\), or \(10\)](#).
 - (6) [V.T.C.A., Health and Safety Code ch. 343](#) provides that a person commits a misdemeanor (punishable by a fine of not less than \$50.00 or more than \$200.00 for the first offense) if the public nuisance remains unabated after 30 days after the date on which the person receives notice from a county official, agent or employee to abate the nuisance.
 - (7) The person receiving notice is entitled to submit, not later than 31 days after the date on which the notice is served, a written request for an appeals hearing which should contain the name and address of the person to be notified of the date, time and place of the hearing.
 - (8) The person receiving notice is entitled to appear at the scheduled appeals hearing and is entitled to present evidence, examine witnesses and argue on the owner's behalf.
- (b) The notice to abate a public nuisance shall be served in the following manner:
 - (1) In person or by registered or certified mail, return receipt requested; or
 - (2) If personnel service cannot be obtained or the address of the person to be notified is unknown, by posting a copy on the premises on which the public nuisance exists and by publishing the notice in a newspaper with general circulation in the county, two times within ten consecutive days.

(Ord. No. 2017-1387, 10-17-2017; Ord. No. 91-1831, § VI, 10-15-1991)

Sec. 34-143. - Abatement/enforcement.

- (a) When a nuisance has been identified and determined, the director shall seek to encourage the voluntary abatement of this nuisance. In so doing, the director shall, if applicable, provide the person who has received the notice to abate the public nuisance with information pertaining to any public, private or community program that could assist him in the nuisance's removal.
- (b) Should the person who has received the notice to abate the public nuisance request an appeals hearing to contest the finding of a public nuisance, then such a hearing shall be held in accordance with section 34-144.
- (c) After either the expiration of 31 days from the date on which the county's notice to abate the public nuisance is served if no appeals hearing is requested or seven days after a finding of public nuisance has been upheld by the County Administrator or the County Administrator's designee if an appeals hearing has been requested, the director shall inspect the premises described in the complaint.
 - (1) If the director determines that the public nuisance has been abated, the director shall make a record of his findings and take no further action thereon.
 - (2) If the director determines that the public nuisance still exists, he shall, unless there has been substantial progress in removing a very large, complicated and/or expensive nuisance, or there have been mitigating and unforeseen circumstances such as inclement weather, immediately issue a citation. He shall then periodically inspect the premises in question at least once a week thereafter and issue successive citations if the nuisance continues to be present at any of these inspections.
- (d) If the person who receives these citations wishes to contest them in court, then the director shall work closely with the district attorney in preparing testimony for this court appearance.
- (e) Rather than issuing one or repeated citations as prescribed in this section, the director may either seek injunctive relief or have the county itself abate the nuisance if the nuisance, by virtue of its size and/or nature, represents a significant and immediate threat to the community.
 - (1) In determining whether an injunction should be sought, the director shall consult with the district attorney and any other needed health officials.
 - (2) Nuisances may be abated by the county when the costs of such abatement, along with a \$100.00 administrative fee, are assessed against the property in question, and when either funds for this purpose have been previously budgeted or when the commissioners court authorizes such a specific expenditure. When such conditions are met, then the director shall arrange for and monitor the abatement of the nuisance and the filing of the assessment.
- (f) When a nuisance has been finally abated, whether it be through county action or action taken by the person receiving the notice to abate a public nuisance, the director shall record this finding and the date that it occurs in the case's file.

(Ord. No. 2017-1387, 10-17-2017; Ord. No. 91-1831, § VIII, 10-15-1991)

Sec. 34-144. - Appeals hearing.

- (a) A person that receives a notice to abate a public nuisance that disagrees with the director's finding that a public nuisance exists may appeal this finding within 31 days of the receipt of the notice to the County Administrator. After receiving a notice of appeal, the County Administrator may designate another full-time salaried employee of Dallas County to hear the appeal who does not work for the director. For purposes of this Appeals hearing section, the County Administrator or a designee of the County Administrator shall be collectively referred to as the "County Administrator".
- (b) The County Administrator shall take action within 15 days of a request for an appeals hearing.
- (c) Hearings before the board shall be conducted in the following manner:

- (1) A person receiving a notice to abate a public nuisance shall be entitled to present testimony and other evidence and examine witnesses and argue on the owner's behalf.
- (2) The director and/or his representative shall have the right to attend the hearing and/or testify.
- (3) Any interested person may appear and present testimony and other evidence.
- (4) All persons testifying at the hearing shall be under oath.
- (5) The County Administrator shall be allowed to question any persons testifying.
- (6) The County Administrator shall assess the testimony fairly and impartially and in accordance with the law.
- (7) The County Administrator's charge shall be to solely determine whether a public nuisance exists and whether state law and county policies and procedures have been followed in investigating and determining the existence of a nuisance and in notifying the appropriate person that this nuisance exists and must be removed.
- (8) The County Administrator shall make a written determination as to whether a public nuisance exists and sign such written determination. Copies of the written determination shall immediately be given to the director and to the person (or his representative) that has requested the appeal at the completion of the hearing. If the County Administrator upholds the director's finding of a public nuisance, then the director will immediately proceed with the abatement of the nuisance in accordance with the county's procedures. If the County Administrator overturns the director's finding of a public nuisance, efforts to remediate the original complaint will cease.

(Ord. No. 2017-1387, 10-17-2017; Ord. No. 91-1831, § VII, 10-15-1991)