

AN ACT

1
2 relating to the abatement of mosquitoes in stagnant water located
3 on certain uninhabited residential property.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter B, Chapter 341, Health and Safety
6 Code, is amended by adding Section 341.019 to read as follows:

7 Sec. 341.019. MOSQUITO CONTROL ON UNINHABITED RESIDENTIAL
8 PROPERTY. (a) Notwithstanding any other law, a municipality,
9 county, or other local health authority may abate, without notice,
10 a public health nuisance under Section 341.011(7) that:

11 (1) is located on residential property that is
12 reasonably presumed to be abandoned or that is uninhabited due to
13 foreclosure; and

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

16 (b) A public official, agent, or employee charged with the
17 enforcement of health, environmental, or safety laws may enter the
18 premises described by Subsection (a) at a reasonable time to
19 inspect, investigate, or abate the nuisance.

20 (c) In this section, abatement is limited to the treatment
21 with a mosquito larvicide of stagnant water in which mosquitoes are
22 breeding.

23 (d) The public official, agent, or employee shall post on
24 the front door of the residence a notice stating:

- 1 (1) the identity of the treating authority;
2 (2) the purpose and date of the treatment;
3 (3) a description of the areas of the property treated
4 with larvicide;
5 (4) the type of larvicide used; and
6 (5) any known risks of the larvicide to humans or
7 animals.

8 SECTION 2. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2013.

S.B. No. 186

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 186 passed the Senate on March 12, 2013, by the following vote: Yeas 28, Nays 3.

Secretary of the Senate

I hereby certify that S.B. No. 186 passed the House on May 4, 2013, by the following vote: Yeas 136, Nays 1, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor

El Paso, Texas, Code of Ordinances >> Title 9 - HEALTH AND SAFETY >> Chapter 9.24 MOSQUITO CONTROL >>

Chapter 9.24 MOSQUITO CONTROL

Sections:

9.24.010 Unlawful collections of water—Declared nuisances.

9.24.020 Unlawful collections of water—Examples.

9.24.030 Unlawful collections of water—Treatment methods.

9.24.040 Enforcement.

9.24.050 Violation—Penalty.

9.24.010 Unlawful collections of water—Declared nuisances.

It is unlawful for the occupant or owner of any premises in the city or within five thousand feet of the corporate limits thereof, or the agent of the owner, if the owner is a nonresident or absent from the city, to cause, suffer or permit any collection of standing or flowing water in which mosquitoes breed or are likely to breed on such premises, unless such collection of water is treated in the manner prescribed by the director of the department of environmental services or his duly authorized representative, so as to prevent the breeding of mosquitoes, and any such collection of water so unlawfully maintained is declared to be a nuisance.

(Ord. 16812 § 19 (part), 2007; prior code § 12-44)

9.24.020 Unlawful collections of water—Examples.

The collections of water included within the terms of this chapter are those which are contained in ditches, ponds, pools, excavations, holes, depressions, cesspools, privy vaults, fountains, basements, cisterns, tanks, shallow wells, barrels, troughs (except horse troughs in frequent use), urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, tanks or flush closets or other similar places where water accumulates.

(Prior code § 12-43)

9.24.030 Unlawful collections of water—Treatment methods.

The methods of treatment of any unlawful collections of water for the purpose of preventing the breeding of mosquitoes shall be approved by the director of the department of environmental services or his duly authorized representative and may be one or more of the following:

- A. Screening with wire netting of at least sixteen meshes to the inch each way or any other material which will effectually prevent the ingress or egress of mosquitoes;
- B. Complete emptying every four days of unscreened containers together with their thorough drying or cleaning;
- C. Using an approved larvacide;
- D.

- Covering completely the surface water with kerosene, petroleum or paraffin oil every four days;
- E. Cleaning and keeping sufficiently free of vegetable growth and other obstructions and stocking with mosquito destroying fish; absence of half-grown mosquito larvae to be evidence of compliance with this measure;
 - F. Filling or draining to the satisfaction of the director of the department of environmental services or his duly authorized representative;
 - G. Proper disposal of tin cans, tin boxes, broken or empty bottles and similar articles likely to hold water;
 - H. Proper irrigation management of tracts of land and farm land so water does not stand in sufficient depth for a period of time that would result in hatch out of adult mosquitoes.

(Ord. 16812 § 19 (part), 2007; prior code § 12-45)

9.24.040 Enforcement.

Whenever necessary to make an inspection to enforce any of the provisions of this chapter, the director of the department of environmental services or his authorized representative may enter any building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the director of the department of environmental services by this chapter; provided, that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the director of the department of environmental services or his authorized representative shall have recourse to every remedy provided by law to secure entry.

When the director of the department of environmental services or his authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the director of the department of environmental services or his authorized representative for the purpose of inspection and examination pursuant to this chapter.

(Ord. 16812 § 19 (part), 2007; prior code § 12-42)

9.24.050 Violation—Penalty.

If any person responsible under the terms of this chapter for the existence of any condition which gives rise to the breeding of mosquitoes, refuses to take all necessary measures directed by the director of the department of environmental services of the city or his duly authorized representative to prevent the same in accordance with the terms hereof within three days after notice from the director of the department of environmental services or his duly authorized representative to do so, he shall be guilty of a misdemeanor and subject to a fine not to exceed two thousand dollars, and each day's failure or refusal to remedy such conditions after the expiration of such time shall constitute a separate and distinct offense.

(Ord. 16812 § 19 (part), 2007; Ord. 9431 § 6, 1988; prior code § 12-46)

SUBCHAPTER B. NUISANCES AND GENERAL SANITATION

Sec. 341.011. NUISANCE. Each of the following is a public health nuisance:

- (1) a condition or place that is a breeding place for flies and that is in a populous area;
- (2) spoiled or diseased meats intended for human consumption;
- (3) a restaurant, food market, bakery, other place of business, or vehicle in which food is prepared, packed, stored, transported, sold, or served to the public and that is not constantly maintained in a sanitary condition;
- (4) a place, condition, or building controlled or operated by a state or local government agency that is not maintained in a sanitary condition;
- (5) sewage, human excreta, wastewater, garbage, or other organic wastes deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in disease transmission to a person or between persons;
- (6) a vehicle or container that is used to transport garbage, human excreta, or other organic material and that is defective and allows leakage or spilling of contents;
- (7) a collection of water in which mosquitoes are breeding in the limits of a municipality or a collection of water that is a breeding area for *Culex quinquefasciatus* mosquitoes that can transmit diseases regardless of the collection's location other than a location or property where activities meeting the definition of Section 11.002(12)(A), Water Code, occur;
- (8) a condition that may be proven to injuriously affect the public health and that may directly or indirectly result from the operations of a bone boiling or fat rendering plant, tallow or soap works, or other similar establishment;
- (9) a place or condition harboring rats in a populous area;
- (10) the presence of ectoparasites, including bedbugs, lice, and mites, suspected to be disease carriers in a place in which sleeping accommodations are offered to the public;

(11) the maintenance of an open surface privy or an overflowing septic tank so that the contents may be accessible to flies; and

(12) an object, place, or condition that is a possible and probable medium of disease transmission to or between humans.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 130, Sec. 1, eff. May 27, 2003.