

CHAPTER 12-5. DISEASED OR INFESTED VEGETATION ON PRIVATE PROPERTY*

***Cross references:** Weeds and uncultivated growth; unlawful accumulations of solid waste, § 8-3-116 et seq.; health nuisances, § 8-5-51 et seq.

State law references: Authority to define and prohibit nuisances, V.T.C.A., Local Government Code § 217.042.

Sec. 12-5-1. Definitions.

For the purpose of this chapter the following terms shall be construed to have the following meanings:

Infected With Disease: Any Tree, shrub or plant possessing a disease such as virus, Dutch elm disease, chestnut blight, cotton root rot and other similar organisms to such an extent as to render timely, recognized, standard control measures or treatment ineffective.

Infested With Insects: Any Tree, shrub or plant which has been attacked by insects to such an extent as to render timely, recognized, standard control measures ineffective.

(Code 1960, § 15-16; Ord. No. 5583, § 2, 4-1-86)

Cross references: Definitions to apply throughout Code, § 1-2-1.

Sec. 12-5-2. Diseased vegetation a public nuisance.

Every person owning, leasing, possessing or controlling any private property within the City limits shall preserve any Tree, shrub or plant thereon in such manner as to prevent it from becoming Infested With Insects or Infected With Disease. Any Tree, shrub or plant which is or may become Infested with Insects or Infected With Disease is hereby declared to be a public nuisance.

(Code 1960, § 15-17; Ord. No. 5583, § 2, 4-1-86)

Sec. 12-5-3. Right to enter property; duty to condemn vegetation.

(a) *Inspections on private property.* The Director of Parks and Recreation is hereby authorized to enter upon private property, during reasonable daylight hours, for the purpose of examining and, after examination, either approving, requiring treatment or condemning any Tree, shrub or plant located thereon. However, he shall not enter upon private property unless he has reason to believe that there is upon such private property a Tree, shrub or plant Infested With Insects or Infected With Disease. If the Director of Parks and Recreation is denied the right to inspect such vegetation, he may obtain an administrative Search Warrant.

(b) *Conditions requiring condemnation.* The Director of Parks and Recreation is required and authorized to condemn any Tree, shrub or plant which he may find upon inspection to be either Infested With Insects or Infected With Disease.

(Code 1960, § 15-18; Ord. No. 5583, § 2, 4-1-86)

Sec. 12-5-4. Notice to treat.

If the Director of Parks and Recreation finds some Tree, shrub or plant on private property which is attacked with insects or possessed of disease, or both, but not to an extent that it cannot be cured or controlled by timely, recognized, standard treatment and control measures, the Director of Parks and Recreation shall give written notice to the person owning, leasing or controlling the Tree, shrub or plant so affected. Thereupon, it shall be the duty of the owner, possessor or person in control, either or all, to take timely, curative, standard and recognized control measures as are necessary to control the disease or infestation.

(Code 1960, § 15-19; Ord. No. 5583, § 2, 4-1-86)

Sec. 12-5-5. Notice to destroy; time and method of disposal.

(a) The Director of Parks and Recreation shall give notice in writing to the owner or person in possession, either or both, of private property upon which the Director of Parks and Recreation may have condemned a Tree, shrub or plant, in the form of a notice of condemnation of a particular Tree, shrub or plant. The Director of Parks and Recreation shall specify the Tree, shrub or plant that is condemned in the written notice, together with a statement indicating whether the Tree, shrub or plant was condemned by reason of being Infested With Insects or Infected With Disease.

(b) Upon receipt of notice of condemnation, the owner or possessor of the private property shall, within ten (10) days from the receipt of the notice of condemnation, dig up the condemned Tree, shrub or plant and destroy the Tree, shrub or plant by removing it to the City disposal grounds.

(c) No person shall permit any condemned Tree, shrub or plant to remain on any parkway, Street or Alley abutting the private property which he owns or controls for more than ten (10) days after the date of the receipt of notice of condemnation.

(Code 1960, § 15-20; Ord. No. 5583, § 2, 4-1-86)

Sec. 12-5-6. Appeals.

(a) Any owner having an objection to an order requiring him to destroy Trees or vegetation may appeal from the order to the City Parks and Recreation Commission at any time within ten (10) days from the date of service of notice upon him.

(b) Notice in writing of the appeal must be filed with the City Secretary and the filing thereof shall act as a stay of proceedings until the appeal has been heard and determined by the Parks and Recreation Commission.

(Code 1960, § 15-21; Ord. No. 5583, § 2, 4-1-86)