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Sec. 18-1. Public nuisances prohibited; authority to abate.

The creation or maintenance of a nuisance is unlawful and is prohibited. The mayor or the mayor's designee is authorized to abate nuisances either by issuance of a municipal infraction punishable as provided in Section 1-9(c)(10) of this Code, or by administrative abatement procedures set forth in this article.

(Ord. No. 2625, § 1, 5-29-07)

Sec. 18-2. Nuisance defined; enumeration of nuisances.

Whatever is injurious to the senses or an obstruction to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property by the public or community shall be deemed a nuisance. Nuisances shall include, but shall not be limited to, the following:

(1)

The erecting, continuing or using of any building or other place for the exercise of any trade, employment or manufacture which, by occasioning noxious exhalations, offensive smells or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.

(2)

The causing, permitting or allowing of any refuse, solid waste, garbage, noxious substances, hazardous wastes, junk or salvage materials to be collected or to remain in any place. The term "noxious substances," shall include, but not be limited to, substances, solid or fluid, which are offensive,

detrimental to health, hurtful or dangerous, including any dead animal or portion thereof, together with human or animal excrement.

(3)

The causing, preventing or allowing any refuse, solid waste, garbage, noxious substances or hazardous wastes, junk, salvage material or other offensive substances to be thrown, left or deposited in or upon any street, avenue, alley, sidewalk, park, public square, lot, whether vacant or occupied, or upon any pond or pool of water.

(4)

The obstructing or impeding, without legal authority, of the passage of any navigable river, harbor or collection of water.

(5)

Creating, maintaining, causing or allowing to exist any stagnant water standing on any property, including any container or material kept in such a condition that water can accumulate and stagnate therein.

(6)

The corrupting or rendering unwholesome or impure of the water of any river, stream or pond, or unlawfully diverting the river, stream or pond from its natural course or state, to the injury or prejudice of others.

(7)

Creating, maintaining, causing or allowing to exist any ditch, drain or water course which is now or hereafter may be constructed so as to prevent or unduly interfere with the surface and overflow water drainage from adjacent lands, or any storm water detention basin not properly maintained, as determined by the city engineer.

(8)

Facilities for the storage or processing of sewage, such as septic tanks, cesspools and drain fields, which have failed or do not function properly, or which are overflowing, leaking or emanating odors; or septic tanks, cisterns and cesspools which are abandoned or no longer in use, unless properly emptied and filled with clean fill; or any cesspool or septic tank which does not comply with the county department of health regulations.

(9)

The obstructing or encumbering, by fences, buildings, structures, signs or otherwise, of the public roads, private ways, streets, alleys, commons, landing places or burying grounds.

(10)

Any gathering of persons or vehicles upon a public street or sidewalk or any use of property abutting a public street or sidewalk which obstructs

pedestrian or vehicular traffic or other lawful use of streets or sidewalks, except as permitted by permit or ordinance.

(11)

Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, or places resorted to by persons using controlled substances, as defined in I.C.A. § 204.101(6), in violation of law, or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

(12)

Unoccupied buildings or unoccupied portions of buildings which are unsecured or abandoned.

(13)

Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof.

(14)

Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees.

(15)

The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles, within the fire limits of the city, unless it is in a building of fireproof construction.

(16)

The depositing or allowing the depositing of any mud, dirt, gravel or other debris on any public street, alley, sidewalk, or other public property.

(17)

The emission of dense smoke, noxious fumes or fly ash in the city. The city may provide the necessary rules for inspection, regulation and control.

(18)

Dense growth of all weeds, vines, brush or other vegetation in the city so as to constitute a health, safety or fire hazard.

(19)

Creating, maintaining, causing or allowing to exist conditions which are conducive to the harborage or breeding of vermin; or allowing to exist infestations of vermin, such as rats, mice, skunks, snakes, bats, starlings, pigeons, wasps, cockroaches or flies.

(20)

Trees infected with Dutch elm or other infectious disease as identified by the city arborist or park division manager; or any dead, diseased or damaged trees or plant materials which may harbor serious insect or disease pests or disease injurious to other trees or plant materials, or any healthy tree in such a state of deterioration that any part of such tree is likely to fall and damage property or cause injury to persons.

(21)

Creating, maintaining, causing or allowing to exist any noxious weeds described as a nuisance in [section] 20-262 of this Code.

(22)

The following items stored in outdoor areas or in partially enclosed sheds, lean-tos or other structures not totally enclosed by structural walls, roof and properly functioning doors: building materials not part of an active building project authorized by a current city building permit, abandoned, inoperable vehicles or junk vehicles (as defined in section 18-36), non-registered or unlicensed vehicles, auto parts, miscellaneous steel, plastic, rubber or metal parts or junk, tires, packing boxes, wooden pallets, tree limbs, brush piles, discarded lumber, not including neatly stacked and cut fire wood, broken or unused furniture and appliances, any upholstered or finished furniture intended for indoor usage such as couches, beds, mattresses, desks, chairs, shelving or wooden tables, other broken or unused household furnishings or equipment including carpeting, appliances and other typical household items intended for indoor usage, plastic tarps, trash bags containing leaves, debris, garbage or other items, trash and garbage not properly contained within a trash disposal container or any other discarded or miscellaneous item or items not normally required in the day to day use of the exterior area of the property, when stored continuously in excess of 48 hours on any portion of any property outside of a totally enclosed structure located on the property.

(23)

Any attractive nuisance dangerous to children in the form of abandoned vehicles, abandoned or broken equipment, including abandoned refrigerators, hazardous pools, ponds, excavations, materials, including building material, debris, or neglected machinery.

(24)

Real property maintained in such condition as it becomes so defective, unsightly, or in such condition of deterioration or disrepair that the same causes substantial depreciation of the property values of the surrounding properties or is materially detrimental to properties and improvements.

(25)

Any violation of the provisions requiring removal of accumulations of ice and snow set forth in [chapter 23](#) of the Code of Ordinances.

(26)

Any wall, fence or hedge in such condition as to constitute a hazard to persons or property or to cause depreciation in the value of any adjacent or nearby property.

(27)

Any discarded or unused material on real property that is not consistent with the condition and visual appearance of surrounding adjacent real properties. Types of unacceptable materials include those items enumerated in subsection (13) and also include dirt and gravel piles, rock piles, incomplete landscaping projects, eroded soil areas, pits, holes and excavations.

(28)

The causing of the accumulation of building debris and/or construction materials, tools, equipment or machinery on any property within the city limits of the city after the expiration of a building permit as outlined in [chapter 7](#) of this Code, the occasioning of which becomes injurious and dangerous to the health, comfort, or property of individuals or the public.

(29)

Creating, maintaining, causing or allowing to exist for a continuous period of more than 30 days, any man-made excavation, hole, or other depression in the ground in or on any lot or parcel of land in the city of a depth of more than three feet below the surrounding grade, other than as part of the active construction of a building or other structure on the lot which will ultimately close in and completely cover such excavation, hole or depression. Upon a finding by the court that the owner of the lot or parcel of land has violated the provisions of this subsection, the lot owner shall be required to fill in any such excavation, hole or depression and grade the same to a topographic elevation equal to or level with the surrounding adjacent grade, and seed the site with grass or similar vegetative ground cover, and take reasonable measures to ensure the proper germination of the planted vegetation.

(30)

On properties being used by an allowable commercial use, any items stored on the property that are not normally utilized in the daily operation of the commercial use must be stored in structures totally enclosed by structural walls, roof and properly functioning doors.

(31)

All structures, both commercial and residential, including detached accessory structures, on any commercial, residential, agricultural or

industrial property shall be free of significant structural defects. The term "free from significant structural defect" means:

a.

The roof and roofing material are of such a nature and condition that they do not permit water, snow or ice to penetrate into the structure. Roofing materials shall be in good condition and made up of consistent materials and consistent coloration throughout the roof area.

b.

Drainage gutters and downspouts are securely attached to the structure and in proper functioning order.

c.

All exterior trim and exterior exposed surfaces, including siding materials, must be sound, in good condition and securely attached to the structure.

d.

Exterior walls must be free of holes and made of a consistent material, such that patches or repairs consisting of dissimilar materials or colors compared to the prevailing surface material of the exterior walls are not present.

e.

The foundation of the structure is sound, capable of supporting the structure and not deteriorated to the point that failure is judged to be inevitable, but not necessarily imminent. The foundation shall be plumb and free from cracks, breaks and holes so as to prevent the entry of animals.

f.

Windows and doors, including outer screen or storm windows and doors, must be intact, containing no holes, squarely hung with properly operating latches or locks so as to be securely closed, and where the windows have intact glass or normal window material that allows the entry of light with no holes in said window surface areas.

g.

All points of egress/ingress into and out of the structure must be of a secure and safe design and made of standard building materials and must also provide clear and easy access via properly installed steps, porches, entryway landings and hand rails that are intact, with no protruding or loose boards or

surface materials causing a hazard, and which provide ready access to all points of entry to the structure.

h.

Exterior wall surfaces are properly painted and/or maintained with appropriate exterior wall materials, including wood, vinyl, steel or metal siding materials, stucco or exterior insulation finish system (EIFS) materials, brick or similar masonry materials, that are in all cases intact, not in a condition of deterioration, are of uniform coloration and are not patched with dissimilar materials. Plastic wrap material shall not be considered to be an acceptable siding material. No flaking or chipped paint or outer loose material dominates or detracts from the exterior appearance of the structure.

i.

All fencing, including gates, shall be maintained in good condition, free from damage, breaks, holes or missing structural members. All fencing shall be of consistent materials and coloration.

j.

Detached accessory structures, including garages and storage sheds, must conform to the standards outlined above. In addition, all doors and windows must be of functional design and materials and in proper working order. No plastic wrap material or tarps shall be used to substitute for doorways or windows.

k.

Reconstruction and repair: Materials and practices used in the reconstruction/repair of any building structure, whether of roofing materials, siding materials, foundation, walls, windows, doorways, entryways or detached accessory structures shall be of standard quality and appearance, consistent with currently applicable International Building Code requirements and consistent with the appearance and character of the structure under repair and consistent with other properties in the immediate vicinity of the premises.

l.

Vacant structures: All vacant structures shall comply with the above-cited maintenance provisions with the exception that windows and doors may be secured with boards or other materials intended to provide security and protection to the

structure. All vandalized portions of the structure must be promptly repaired including repainting of areas that are defaced with paint or graffiti.

(32)

All real property defaced by graffiti vandalism which is visible to the public view.

(33)

Any hazardous thing or condition on property which may contribute to injury of any person present on the property, including, but not limited to, open holes, open foundations, open wells, or dangerous trees or limbs.

(34)

Any thing or condition on property creating a fire hazard, as determined by the fire chief, or in violation of [chapter 11](#) of this Code.

(35)

Any thing or condition on property creating an imminent threat to human health or in violation of any health or sanitation law.

(36)

Building construction sites maintained in violation of [chapter 7](#), buildings.

(37)

Any violation of the noise ordinance set forth in article III of this chapter.

(38)

Any violation of junk vehicles set forth in article II of this chapter.

(Ord. No. 2625, § 1, 5-29-07)

Sec. 18-3. Additional conditions subject to chapter.

The requirement of the removal, correction or abatement of nuisances enumerated in this chapter shall not be confined to the things known to the common law or specially declared by law as nuisances, but shall also extend to anything constituting a nuisance in fact, including as well anything designated in this Code and judicially declared as dangerous, offensive, unhealthy or obstructive.

(Ord. No. 2625, § 1, 5-29-07)

Sec. 18-4. Responsibility for abatement; abatement defined.

(a)

The owner, agent, lessee, occupant or other person in charge of any building or premises where any of the things forbidden by this chapter exist, or whence any of such things have originated, or any person responsible for the existence, origin or continuance of any of such things, shall correct, remove or abate such thing without delay.

(b)

Abatement may include, but shall not be limited to, repair, removal, cleaning, extermination, cutting, mowing, grading, draining, securing, repairing a building or structure, boarding unoccupied buildings, barricading or fencing, removing dangerous portions of buildings or structures, and demolition of dangerous structures or abandoned buildings.

(Ord. No. 2625, § 1, 5-29-07)

Sec. 18-5. Abatement by city after notice—Procedure; payment of costs. 

(a)

In case of the failure of any person to correct, remove or abate a nuisance on written notice issued by the mayor or the mayor's designee, served in the manner of an original notice, or by certified mail to the last known address of the owner, agent, lessee, occupant or other person in charge of the building or premises where the nuisance exists, and designating the time allowed for such removal, correction or abatement, the time thus allowed depending on the urgency of the case, then and at once upon such failure the mayor or the mayor's designee shall cause the nuisance to be summarily removed, corrected or abated, and the mayor or the mayor's designee, chief of police and such other officers as may be directed by the city council or mayor or the mayor's designee therefor shall have the power at all times during the daytime to enter into and upon the premises and make thorough examination thereof for the purpose of ascertaining its sanitary conditions or the existence of nuisances therein, and to do whatever may be necessary to remove, correct or abate such nuisances.

(b)

Whenever the owner, occupant or agent of any premises upon which any nuisance is found is unknown or cannot be found, then the nuisance may be abated without notice.

(c)

Emergency abatement procedure. When the mayor or the mayor's designee determines that a nuisance exists on a property and constitutes an imminent and compelling danger to health, safety, or welfare of persons or property, the mayor or the mayor's designee is authorized to abate or have abated the nuisance without prior notice and opportunity of hearing. The cost of any such emergency abatement procedure may be assessed against the property for collection in the same manner as property taxes as set forth in subsection (d) of this section. However, prior to such assessment, the city shall first provide the property owner or other responsible person an opportunity to appear and be heard as provided in [section 18-6](#)

(d)

Whenever any nuisance is found on any premises and is abated under the provisions of this chapter or any other ordinance, the city officers shall report to the council a detailed statement of the costs thereof, which shall be paid in the first instance by the city, together with a description of the premises in or upon which the nuisance was found and the name of the owner or occupant of such premises, if known. The city shall either institute an action in the name of the city against the owner, tenant or other occupant of the premises for the recovery of the expenses incurred in abating such nuisance, or, if the city council so directs, the expense of abatement shall be assessed upon the premises chargeable therewith and become a lien thereon, or the city may both institute such an action and assess a lien against the property. The city clerk shall thereupon certify for taxation purposes and for purposes of the establishment of a property lien to the county treasurer all such abatement costs, together with an administrative expense of \$5.00, to be collected in the same manner as a property tax.

(e)

Costs of abatement. Abatement costs shall include, but shall not be limited to, the cost of removing or eliminating the nuisance, the cost of investigation, such as title searches, inspection and testing, the costs of notification, filing costs and other related administrative costs and any other costs or expenses incurred by the city in the abatement of the nuisance.

(Ord. No. 2625, § 1, 5-29-07)

Sec. 18-6. Abatement hearing—Decision; appeal.

Any person ordered to abate a nuisance as provided in [section 18-5](#) may have a hearing before the administration committee of the city council, or such other person or committee as the administration committee may designate, as to whether a nuisance exists, and what steps must be taken to abate the nuisance. A request for a hearing must be made in writing and delivered to the city clerk on or before the date stated in the notice of abatement issued by the city, or it shall be conclusively presumed that a nuisance exists and that it must be abated as ordered. Within 14 days after the conclusion of the hearing, the administration committee or its designee shall render a written decision as to whether a nuisance exists, and shall notify the city and the appealing party of its decision by ordinary mail. If the administration committee or its designee finds that a nuisance exists, it shall include in the notification and order what steps must be taken to abate the nuisance and the time within which such steps must be taken.

(Ord. No. 2625, § 1, 5-29-07)

Sec. 18-7. Resisting, obstructing or interfering with city officer.

Any person who resists, obstructs, or otherwise interferes with any city officer who has been designated by the mayor or the mayor's designee to enter upon and inspect any

premises, or to correct or abate any nuisance on such premises, shall be guilty of a municipal infraction and shall be punished as provided in [section 1-9](#) of this Code.

(Ord. No. 2625, § 1, 5-29-07)

Secs. 18-8—18-35. Reserved. 

FOOTNOTE(S):

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Editor's note— Ord. No. 2625, § 1, adopted May 29, 2007, repealed the former Art. I, §§ 18-1—18-8, and enacted a new Art. I, §§ 18-1—18-7, as set out herein. The former Art. I pertained to similar subject matter and derived from Code 1971, §§ 22-1—22-8; Ord. No. 2056, § 1, adopted May 23, 1994; Ord. No. 2064, § 1, adopted August 8, 1994; Ord. No. 2109, § 2, adopted June 26, 1995; Ord. No. 2486, § 1, adopted August 23, 2004; Ord. No. 2604, adopted Oct. 30, 2006. ([Back](#))

Sec. 20-262. Noxious weeds prohibited; exceptions. 

(a)

It shall be unlawful for the owner or person in possession or control of any land within the city to maintain, cause or permit a nuisance as defined in this section to exist upon such land. For purposes of this section, a nuisance is defined as noxious weeds, which shall include the following:

- (1) Quack grass (*Agropyron repens*);
- (2) Perennial sow thistle (*Sonchus arvensis*);
- (3) European morning glory and field bindweed (*Convolvulus arvensis*);
- (4) Horse nettle (*Solanum carolinense*);
- (5) Leafy spurge (*Euphorbia esula*);
- (6) Perennial peppergrass (*Lepidium draba*);
- (7) Russian knapweed (*Centaurea repens*);
- (8)

Buckthorn (*Rhamnus*, not to include *Rhamnus frangula*), and all other species of thistles belonging in genera of *Cirsium* and *Carduus*;

(9)

Butterprint (*Abutilon theophrasti*), annual;

(10)

Cocklebur (*Xanthium commune*), annual;

(11)

Wild mustard (*Brassica arvensis*), annual;

(12)

Wild carrot (*Daucus carota*), biennial;

(13)

Buckhorn (*Plantago lanceolata*), perennial;

(14)

Sheep sorrel (*Rumex acetosella*), perennial;

(15)

Sour dock (*Rumex crispus*), perennial;

(16)

Smooth dock (*Rumex altissimus*), perennial;

(17)

Poison hemlock (*Conium maculatum*);

(18)

Wild sunflower (wild strain of *Helianthus annus L.*), annual;

(19)

Puncture vine (*Trimbulus terrestris*), annual;

(20)

Teasel (*Dipsacus*), biennial;

(21)

Grass exceeding 12 inches in height; and

(22)

Wild vines or wild bushes.

(b)

The following areas located on private property are hereby declared not to be a nuisance as defined in subsection (a), of this section:

(1)

Prairie grass areas, wildflower planting areas, natural reserve and preserve areas, urban woodlots, wildlife refuge and conservation areas, wetlands and natural waterways, all as recognized and identified by a governmental agency, provided that setbacks shall be required for all prairie or similar random planting areas as follows:

a.

If the planting occurs within the public right-of-way, the planting area shall be a minimum of 18 inches from any adjacent street curb, public sidewalk, alleyway or other similar throughway; and will be defined with a turf grass mow strip that will be maintained in accordance with this Code section.

b.

As allowed by the director of human and leisure services or his/her designee.

(2)

Land zoned agricultural under the zoning ordinance of the city exceeding five acres in size.

(3)

Other conservation or natural areas deemed appropriate by the city council after consultation with the director of human and leisure services or his/her designee.

(Code 1971, § 18¼-239; Ord. No. 2653, § 1, 4-28-08)

Sec. 20-263. Failure to destroy noxious weeds; right to hearing; destruction by city.

(a)

If the owner or person in the possession or control of any land within the city fails or refuses to cut or otherwise destroy the grass, vines, bushes or weeds declared a nuisance as provided in [section 20-262](#) within seven days after notice in writing has been given to such owner and person in possession or control of land within the city, the owner or the person in possession or control of such land shall be deemed guilty of a violation of this article and punished accordingly. Such written notice to cut or otherwise destroy the vegetation declared a nuisance in this article shall be sent by certified mail to the owner of record and the person in possession or control of the land in question. Such seven-day notice to cut or otherwise destroy shall be deemed to commence on the date of mailing of the written notice.

(b)

Each owner and each person in possession or control of any land within the city may request a hearing with the department of human and leisure services of the city to consider any objections and protests to the proposed cutting or otherwise destroying of the vegetation declared in this article to be a nuisance. The parks services division manager, acting under the direction of the director of human and leisure services, shall have full power and authority to enter upon any land within the city for the purpose of destroying a nuisance. The parks services division manager shall coordinate the removal of the nuisance with the public works department if

necessary. Such entry may be made without the consent of the landowner or person in possession or control of the land, but actual work of destruction shall not be commenced until five days after the service of a notice in writing on the landowner and on the person in possession or control of the land. Such notice shall state the facts as to failure of compliance with the notice provided for in subsection (a) of this section, and shall be mailed by certified mail. In computing the time under this section, it shall be from the date of mailing, as evidenced by the certified mail receipt.

(c)

The actual cost and expense of cutting or otherwise destroying the vegetation, together with the cost of serving of notice, the costs of special meetings or proceedings, if any, and the costs of supervision and administration, shall be recovered by an assessment against the tract of land on which the vegetation was growing.

(Code 1971, §§ 18¾-240—18¾-242; Ord. No. 2652 § 1, 4-28-08)

State law reference— *Authority of city to destroy weeds, brush, etc., I.C.A. § 364.12(3)(g), (h).*