

## ARTICLE II. - NUISANCES<sup>21</sup>

Footnotes:

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**Cross reference**— Health and sanitation, Ch. 15.

Sec. 21-16. - Definition.

For the purposes of this article, the word "nuisance" is hereby defined as any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others; or
- (2) Offends decency; or
- (3) Is offensive to the senses; or
- (4) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; or
- (5) In any way renders other persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

**Cross reference**— Rules of construction and definitions generally, § 1-2.

Sec. 21-17. - Illustrative enumeration.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (1) Noxious weeds and other rank vegetation.
- (2) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
- (3) Any condition which provides harborage for rats, mice, snakes and other vermin.
- (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
- (5) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
- (6) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (7) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- (8) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.

- (9) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- (10) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
- (11) Graffiti being defined as the placing, scratching, scribbling, writing, drawing, inscribing, throwing, dabbing or otherwise applying any line, drawing, figure, logo, symbol, initial, inscription, name character or any other mark of the type which is commonly known as "graffiti" by use of any pen, marker, stick, brush, paint, spray paint or other liquid solution in aerosol containers or any other form capable of being used in the marking or defacing of property within the city.

(Ord. No. 91-31, § 1, 2-4-91; Ord. No. 98-078, § 1, 3-16-98)

Sec. 21-18. - Prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance.

Sec. 21-19. - Notice to abate.

Whenever a nuisance is found to exist within the city or within the city's extraterritorial jurisdiction, the health officer, fire chief, or some other duly designated officer of the city shall give ten (10) days' written notice to abate the nuisance to the owner or occupant of the property upon which such nuisance exists or upon the person causing or maintaining such nuisance.

(Ord. No. 85-215, § 1, 12-2-85)

Sec. 21-20. - Contents of notice to abate.

The notice to abate a nuisance issued under the provisions of this article shall contain:

- (1) An order to abate the nuisance within ten (10) days or to request a hearing before the officer issuing the notice within five (5) days of receipt of the notice to abate.
- (2) The location of the nuisance, if the same is stationary.
- (3) A description of what constitutes the nuisance.
- (4) A statement of acts necessary to abate the nuisance.
- (5) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the city will abate such nuisance and assess the cost thereof against such person.

(Ord. No. 85-215, § 1, 12-2-85)

Sec. 21-20.1. - Appeal procedure.

If the recipient of a notice to abate pursuant to section 21-19 and section 21-20 wishes to appeal the finding of the officer issuing the notice, he must request a hearing before that officer within five (5) days of his receipt of the notice to abate. If following the decision of issuing officer after the requested hearing the recipient of the notice to abate is dissatisfied with the decision, he may appeal the decision of the issuing officer to the city manager within five (5) days of his receipt of the decision of the issuing officer. The decision of the city manager shall be final.

(Ord. No. 85-215, § 1, 12-2-85)

Sec. 21-21. - Service of notice.

The notice to abate a nuisance shall be served as any other legal process may be served pursuant to law.

Sec. 21-22. - Abatement by city.

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this article to abate the same, the health officer, fire chief, or other duly designated officer of the city shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof.

(Ord. No. 85-215, § 1, 12-2-85)

Sec. 21-23. - City's costs declared lien.

Any and all costs incurred by the city in the abatement of a nuisance under the provisions of this article shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed, proven and collected as provided for by law. Such lien shall be notice to all persons from the time of its recording, and shall bear interest at the legal rate thereafter until satisfied.

Secs. 21-24—21-35. - Reserved.