

ARTICLE II. NUISANCES

*Cross Reference--Violation of building regulations declared nuisance,
[§500.060](#)*

SECTION 220.050: 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. (R.O. 2009 §220.050; CC 1976 §14-19; Ord. No. 1151 §1, 8-1-83)

SECTION 220.060: 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. Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
2. Any condition which provides harborage for rats, mice, snakes or other vermin.
3. All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
4. 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.

5. The carcasses of animals or fowl not disposed of within a reasonable time after death.
6. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial waste or other substances.
7. 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.
8. Any accumulation of stagnant water permitted or maintained on a lot or piece of ground.
9. Dense smoke, noxious fumes, gas, soot or cinders in unreasonable quantities.
10. Dead trees and dead limbs of trees so located that the falling thereof would endanger the safety of persons using any public sidewalks in said City or endanger the safety of any pedestrian or occupant of any motor vehicle traveling upon any public street.
11. Tree limbs and branches which overhang any public sidewalk or public street of such height above sidewalk or street as shall impede and interfere with the use of said sidewalk by any person, or impede and interfere with the use of said street by a pedestrian or the operator of any motor vehicle, or shall endanger the safety of any person using any public sidewalk, or endanger the safety of any pedestrian or occupant of any motor vehicle traveling upon any public street.
12. Debris, cut or fallen trees or shrubs, rubbish and trash, lumber not piled twelve (12) inches off the ground, rocks, bricks, tin, steel, parts of automobiles, derelict automobiles, automobile frames, broken furniture.
13. Waste oils.
14. The keeping or allowing to remain on any premises of any tree, shrub or vegetation infected with fungus or disease that may spread to other non-infected tree, shrub or vegetation.
15. All slop, foul or dirty water, silt, filth, refuse or offal discharged in or upon any street, avenue, sidewalk, alley, park or public place or in any pond or pool public or private.
16. Any abandoned, discarded or openly accessible icebox, refrigerator or other airtight or semi-airtight container of a capacity of one and one-half (1½) cubic feet and an opening of fifty (50) square inches or more which has hinges or a latch or fastening device which may secure the door or lid. Any such object is declared to pose an immediate threat to public health, safety and welfare and shall constitute an emergency.
17. Any vehicle used for garbage or rubbish disposal which is not equipped with a water-tight metal body and provided with a tight metal cover or otherwise constructed to prevent any contents from leaking, spilling, falling or blowing out of such vehicle at any

time, except while being loaded or unloaded, or not covered so as to prevent offensive odors from escaping therefrom.

18. Any and all infestations of flies, fleas, roaches, lice, ticks, rats, mice, insect larvae or maggots, mosquito larvae or hookworm larvae. (R.O. 2009 §220.060; CC 1976 §14-20; Ord. No. 1151 §1, 8-1-83; Ord. No. 2100 §1, 12-6-04)

SECTION 220.070: PROHIBITED

It shall be unlawful for any person, persons, or corporation to cause, permit, maintain, or allow the creation or maintenance of a nuisance, and any person, persons, or corporation violating any provision of this Section shall be deemed guilty of an ordinance violation, and every day the nuisance shall remain after conviction, and before removal, shall constitute a separate offense. (R.O. 2009 §220.070; CC 1976 §14-21; Ord. No. 1151 §1, 8-1-83)

SECTION 220.080: ENFORCEMENT, RIGHT OF ENTRY AND RELIEF OF LIABILITY

A. The provisions of this Chapter shall be enforced by the "Code Enforcement Inspector" or other agents of the City so hired and directed by the City to do so and shall hereinafter be referred to as the "inspector".

B. Whenever the inspector shall ascertain or have knowledge that a violation may exist, the inspector may lawfully enter, during daylight hours, with or without the owner's permission, without being deemed to have committed trespass, into or upon the following private property that is within the City limits:

1. Any structure which is open or unsecured and which would not reasonably be perceived as a place of residence or dwelling, except that such structure may be attached to a place of residence such as an open carport;
2. Any place of dwelling which is open or unsecured and which the inspector reasonably believes to be abandoned, uninhabited, legally uninhabitable or otherwise not lived in; or
3. Any lot;

and shall do so for the purposes of investigating, inspecting, abating or removing any violation pursuant to this Chapter, provided that proper identification shall be displayed on the inspector's outer clothing.

C. The limited right of entry of Subsection (B) shall be extended to any person hired by the City or that person's employees for the purpose of abating or removing a violation of this Chapter or for the purpose of obtaining legal or professional assistance or counsel for the

City. Such person may only do so in such manner and at such time and for such purpose as directed by the City.

D. Whenever the inspector shall ascertain or have knowledge that a violation may exist, the inspector may lawfully enter into or upon private property within the City limits, that is known to be a structure of residence or dwelling or otherwise lawfully occupied, by presenting the owner or the occupant with proper identification and requesting permission to enter. If the inspector is denied consent to enter a lawfully occupied structure or if an unoccupied structure cannot be entered by reasonable means, the inspector shall apply to the judge of the Municipal Court for a search warrant. The judge, upon finding of reasonable cause that this Chapter is being violated, shall issue such warrant as provided in this Code. (R.O. 2009 §220.080; CC 1976 §14-22; Ord. No. 1151 §1, 8-1-83; Ord. No. 2180 §6, 5-1-06)

SECTION 220.090: NOTICE TO ABATE -- CONTENTS

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

1. An order to abate the nuisance within a stated time which shall be reasonable under the circumstances.
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. (R.O. 2009 §220.100; CC 1976 §14-24; Ord. No. 1151 §1, 8-1-83; Ord. No. 2100 §2, 12-6-04; Ord. No. 2180 §2, 5-1-06)

SECTION 220.100: NOTICE TO ABATE

A. Whenever a duly authorized City Official shall ascertain or have knowledge that a nuisance exists in or upon any house, building, lot or premises within the City or within one-half (½) mile of the City limits, they shall, in writing, notify the owner or person occupying or having possession and control of such house, building, lot or premises to abate or remove such nuisance within a time to be specified in such notice which time shall not exceed seven (7) days and shall be at least five (5) days.

B. Should the City intend to enter the property and cause the nuisance to be abated in a non-emergency situation, an additional notice of this intent shall be served to the owner or owners of the property as required in Subsection (C) of the City's intent to cause the nuisance to be

abated. Such notice shall be delivered as set forth herein at least seven (7) days before the City causes the nuisance to be abated.

C. Any notice required in this Chapter shall be served personally or by U.S. mail to the owner or owners or his/her or their agents or by posting such notice upon the premises or property in question. Written notice required hereunder shall be deemed received when mailed if not personally served or served by posting.

D. Any person receiving a notice or owning or occupying property posted with notice under Subsection (B) may, within five (5) days after receipt thereof or posting, whichever occurs first, request a hearing before the Mayor or his/her designee to contest the decision of the City Official that a nuisance exists on their property. Any such person shall have a right to appear at such hearing to be represented by counsel and to present evidence and cross-examine witnesses. Such hearing shall be held within thirty (30) days of receipt of the request. In the event the City does not seek to abate the nuisance itself, no such hearing shall be given and the owner may dispute the existence of the nuisance in a trial before the Municipal Court for violation of this Chapter.

E. In cases where the City Officials find that a nuisance exists in violation of this Chapter which constitutes an immediate threat to public health, safety or welfare such that serious physical injury, sickness or loss of life is possible, they shall cause the same to be abated immediately.

1. If any property must be removed to abate the nuisance, the same shall be stored at the owner's expense for ten (10) days.

2. If, after ten (10) days of sending the notice required in [Section 220.140](#), the owner of the property does not appeal the decision or reclaim the property removed, it shall be deemed abandoned and may be disposed of or sold by the City. (R.O. 2009 §220.110; CC 1976 §14-25; Ord. No. 1151 §1, 8-1-83; Ord. No. 2180 §3, 5-1-06)

SECTION 220.110: NON-EMERGENCY ABATEMENT BY CITY

If the owner or person occupying or having possession and control of any premises upon which a nuisance is determined to exist in violation of this Chapter does not abate the same within the time stated in the notice to abate such nuisance or any order entered after hearing, the City Officials or their representatives may enter upon such premises and abate such nuisance. All entry upon private property shall be in accordance with [Section 220.080](#). (R.O. 2009 §220.130; CC 1976 §14-27; Ord. No. 1151 §1, 8-1-83; Ord. No. 2180 §4, 5-1-06)

SECTION 220.120: RECOUPMENT OF COSTS

Any costs incurred by the City in abating or removing any nuisance under this Chapter may be recovered by any one (1) of the following:

1. By any suit at law or in equity as allowed by law; or
2. Requiring payment of the same may be made a part of any judgment of conviction in the Municipal Court for violation of [Section 220.070](#) in addition to any fine imposed; or
3. The official or other person causing the abatement or removal of the nuisance shall certify the costs of the same to the City Clerk who shall cause a special tax bill to be prepared and filed of record with the County Collector, which lien shall be a first (1st) lien on the property until paid and a personal debt of the owner. Such bills shall be prepared and delivered by June first (1st) of each year and shall bear interest of eight percent (8%) per annum until paid. Prior to submission of the prior year's tax bills hereunder, the list shall be submitted to the City Council for review and approval by resolution.
4. In the case of an emergency abatement under [Section 220.100\(E\)](#), the City shall within forty-eight (48) hours of abating the nuisance notify the owner in accordance with the procedures in [Section 220.100\(C\)](#) of the property of the nature of the emergency requiring abatement, the actions taken, including storage of property, and the cost of the same. The owner may within ten (10) days of sending of the notice request a hearing from the Mayor or their designee on the reasonableness of the costs of abatement.
 - a. If, after hearing, the hearing officer shall determine the costs of abatement should be waived, the same may be waived.
 - b. If no appeal is sought or if after hearing costs are not waived, all costs of abatement, including any storage fees, shall be charged against the owner and the property as set forth herein.
5. Costs recoverable hereunder shall include, but not necessarily be limited to:
 - a. Bills submitted by contractors performing abatement.
 - b. Costs of certified mail, film, materials, notification and documentation.
 - c. Time or wages paid to City employees in connection with the matter.
 - d. Legal fees incurred by the City for the matter. (R.O. 2009 §220.140; CC 1976 §14-28; Ord. No. 1151 §1, 8-1-83; Ord. No. 2180 §5, 5-1-06)

SECTION 220.130: PROSECUTION

A. Abatement by the City of any violation of this Chapter shall not limit the City's right to criminally prosecute any person, nor shall prosecution limit the right of the City to initiate, continue or finish abatement of the violation, nor shall prosecution limit the City's right to pursue assessment or collection of abatement costs incurred by the City.

B. Each day that any violation of this Chapter shall continue shall constitute a distinct and separate offense. (R.O. 2009 §220.145; Ord. No. 2180 §7, 5-1-06)

SECTION 220.140: WEEDS AND TALL GRASS

A. *Exclusions.* The provisions of this Section shall not apply to tracts of land located within the City which are larger than four (4) acres, if such tract is used for legitimate agricultural purposes, to the extent that this Chapter prohibits the growth of grass to a height of greater than twelve (12) inches on average and prohibits the growth of live brush. This Section does not exclude from the provisions of this Section any property located within the City which contains accumulations of dead weeds, brush, or grass (other than harvested hay), or poison ivy, ragweed, poisonous plants, or plants detrimental to human health, or property located within the City which contains the growth of weeds greater than twelve (12) inches in height on average which constitutes more than twenty percent (20%) of the foliage existing on such property.

B. *Cutting And Removal Of Grass, Weeds, Etc.* It shall be unlawful for any owner of any land within the City to permit or maintain on such land, or between such land and the street, any growth of weeds or grass to a height greater than twelve (12) inches on the average, or any accumulations of dead weeds, grass, or brush. It shall also be unlawful for any owner to cause, suffer, or allow poison ivy, ragweed, or other poisonous plants, or plants detrimental to health to grow on such land. The growth of weeds or grass to a height of more than twelve (12) inches; the growth of poison ivy, ragweed, poisonous plants, or plants detrimental to human health; and the accumulation of dead weeds, grass, or brush is hereby declared to be a nuisance.

C. *Duty Of Owner.* It shall be the duty of any owner of any land within the City to cut and remove, or cause to be cut and removed, all weeds, grass, and poisonous or harmful vegetation as often as may be necessary to comply with the provisions of Subsection (B). It shall be the further duty of the owner of any land within the City to remove, or cause to be removed, any accumulation of dead weeds, grass, or brush so as to comply with the provisions of this Section.

D. *When City To Do Work.* If the provisions of this Section are not complied with, and the City wishes to provide for the abatement of the violation, the Chief of Police or other official designated by the Mayor or the City Administrator, shall hold a public hearing after ten (10) days notice thereof has been given to the land owner who is in violation of this Section. Notice shall be given personally, by United States mail, or by posting such notice on the premises. Following the hearing, the Police Chief or other designated official may declare the situation to be a nuisance and order the same to be abated within five (5) days. In the event that the nuisance is not abated within five (5) days, the Police Chief or other designated official shall abate the nuisance and shall certify the cost of the same to the City Clerk. The City Clerk shall cause a special tax bill to be prepared and issued against the property. The tax bill, from the date of its issuance, shall be a first (1st) lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity and no mere clerical

error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. Such bills, if not paid when due, shall bear interest at the rate of eight percent (8%) per annum. No notice or hearing shall be required as a prerequisite to the municipal prosecution of any offense under this Chapter.

E. *Penalty.* Each person who shall neglect to comply with the provisions of this Section or who shall fail, neglect or refuse to comply with the provisions of any notice provided pursuant to this Section, or who shall resist or obstruct the City Marshall or other representatives of the City in the performance of his/her duties or activities provided for in the Chapter, shall upon conviction thereof, be guilty of an ordinance violation. The preparation of a tax bill, as authorized by Subsection (D) shall not relieve any person of liability under this Section. Each day on which the violation of this Section continues shall constitute a separate offense.

F. Any Police Officer, Health Officer, or other designated officer may enter onto any property or premises to inspect for the existence of any violation of this Section. (R.O. 2009 §220.150; CC 1976 §14-29; Ord. No. 1151 §1, 8-1-83; Ord. No. 1687 §§1--3, 6-17-96)