

Chapter 11 - NUISANCES

Editor's note— Ord. No. 27-2000, adopted Aug. 22, 2000, effective Sept. 1, 2000, repealed chapter 11 in its entirety. Further, said ordinance set out similar provisions included as §§ 11-1—11-20, 11-26—11-34 and 11-40—11-45 to read as herein set out. See the Code Comparative Table.

Charter reference— Power to abate nuisances, § 3-4(b).

Cross reference— Authority to dispose of cats becoming public nuisances, § 4-111; burglar, fire and police emergency alarm systems regulated, § 9-296 et seq.; posting of handbills on property including trees prohibited, § 12-17; littering prohibited in parks and recreation areas, § 13-66; use of trash receptacles required in public recreation and park areas, § 13-67.

State Law reference— Health, C.R.S. 25-1-101 et seq.; nuisances, C.R.S. 16-13-301 et seq.; noise, C.R.S. 25-12-101 et seq.; extraterritorial jurisdiction, C.R.S. 1-15-401.

ARTICLE I. - IN GENERAL

Sec. 11-1. - Prohibited; responsibilities of owners, agents, occupants.

- (a) No person being the owner, agent or occupant or having under his control or responsibility any building, lot or premises shall maintain or allow any nuisance to be or remain thereon or therein. The requirements and responsibilities placed by this section shall include a prohibition against any owner, agent or occupant of any building, lot or premises maintaining or permitting the maintenance of any nuisance on that property which is not used for a public traveled way but which is owned by the city and which is located between the sidewalk and the property line of any abutting or adjacent property of the owner, lessee or occupant.
- (b) The term "owner" as used in this section shall mean the record owner as shown on the records of the tax assessor of the county and any agent, manager or representative of the record owner and shall also include any occupant or person entitled to possession of any premises.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-2. - Cases where nuisance not defined.

In all cases where no provision is made in this chapter defining certain nuisance and how the same may be removed, abated or prevented, those offenses which are known to the common law of the land and the statutes of the state as nuisances may, in case the same exists within the city limits, be treated as nuisances and the person who permits or creates such nuisances shall be deemed in violation of this chapter.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-3. - City manager to ascertain and abate.

It shall be the duty of the city manager or the person he may direct or the person the city manager may designate in the absence of the city manager to ascertain and cause all nuisances to be abated.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-4. - Inspections, right of entry.

Any person charged or appointed to enforce this chapter may make such inspections as may be necessary so as to enforce this chapter and shall have the authority to enter any premises outside of a building at all reasonable times, in order to make a thorough examination of the premises and to cause all nuisances to be abated or removed as provided for in this chapter, and shall be free from any action or liability on account thereof.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-5. - Violation—Notice to owner.

- (a) If any of the provisions of this chapter are violated by permitting the existence of a nuisance as defined in this chapter on any lot, parcel of land, structure or premises, the city manager may serve, either personally or by mail, a written notice upon the owner, agent, occupant or person in control of such lot, parcel of land, structure or premises to comply with the provisions of this chapter. Service thereof shall be deemed complete upon personal delivery or after five (5) days from the date of mailing if the mailed notice is not returned to the sender undelivered.
- (b) If the address of a person to be notified is unknown or a mailed notice is returned undelivered, the notice may be served by posting the same in a conspicuous place on the property where the violation exists, in which event service of the notice shall be deemed complete as of the date of posting.
- (c) Notification of an offense shall be deemed given to owner on all subsequent violations of the same offense occurring on the same property and within one hundred eighty (180) days of notification of the first offense.
- (d) No such written notice of violation as provided for in this section for assessment shall be required prior to a criminal prosecution for violation of this Code or prior to any other remedy available to the city.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-6. - Emergency abatement.

When, in the opinion of the city manager, police chief or fire chief, a nuisance constitutes an immediate and serious danger to the public health, safety or welfare, or in the case of any nuisance in or upon any street or other public way or public ground in the city, the city manager, police chief, fire chief or any other designated city official shall have authority to abate the nuisance summarily without notice of any kind.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-7. - Same—Failure to correct; abatement by city; lien.

If the person upon whom the notice is served fails, neglects or refuses to correct the violation within ten (10) days of service of the notice, the finance director may cause the necessary work to be performed to eliminate the violation and reasonable efforts made to notify the owner, lessee or occupant of the cost thereof plus the charges authorized in this chapter; provided that in no event shall failure of the owner, lessee or occupant to receive notice of the cost and charges void the lien provided for in this chapter. The actual cost of the work plus fifteen (15) percent for inspection and other costs in connection therewith shall, if payment thereof is not made to the city within thirty (30) days after completion of the work, become a lien against the property as of the date the finance director certifies the cost and charges to the office of the county treasurer for collection in the same manner as general property taxes are collected. The county treasurer shall also collect a ten (10) percent penalty for cost of collection.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-8. - Same—Assessment of costs, charges.

- (a) Duty of owner, lessee, occupant. It shall be the duty of the owner, lessee or occupant of the premises to pay the costs and charges provided for in section 11-7 or object thereto as provided in subsection (b) of this section.
- (b) Objections. If any owner, lessee or occupant desires to object to the assessment made, he shall, within thirty (30) days after completion of the work on the subject property file a written objection thereto with the city clerk who shall thereupon set a meeting with the city manager as the date when the objector may appear before the city manager and have his objections heard.
- (c) Payment. The costs and charges assessed in this chapter may be paid to the city clerk at any time prior to certification of the same by the finance director to the office of the county treasurer; thereafter, payment shall be made only to the office of the county treasurer.
- (d) Collection. Upon receipt of the assessment roll, the county treasurer shall proceed to collect the amounts so assessed and certified against the property affected thereby in the same manner as the collection of general property taxes and the redemption thereof.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-9. - Prohibited conditions.

No building, vehicle, structure or receptacle, yard, lot, premises or part thereof shall be made, used, kept, maintained or operated in the city if such use, keeping, maintaining or operation shall be dangerous, harmful or detrimental to the life, health, property or welfare of the inhabitants of the city and every act or thing, done or made, permitted or allowed, or continued on any property, public or private, by any person or his agents, servants or employees, which is harmful, dangerous or detrimental to the life, health, property or welfare of any of the inhabitants of the city shall be deemed a nuisance and in violation of this chapter.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-10. - Abandoned appliances.

It shall be unlawful to abandon or store or allow the abandonment or storage of an icebox, refrigerator or other compartment or appliance capable of being airtight when the doors thereof are closed and which is accessible to children or the general public.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-11. - Deposit of offensive substances.

The filling, placing, depositing or location of any dung, carrion, dead animal, offal, garbage or any putrid or offensive substance or the contents of any privy, vault or cesspool on any street or alley or on or under any public or private ground or in any body of water shall be deemed a nuisance.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-12. - Rubbish, debris, junk, stale or uncovered garbage and junked, unlicensed or inoperable motor vehicles.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Completely enclosed building or garage shall not include a carport.

Junked or inoperable motor vehicle shall mean any motor vehicle not capable of travel under its own power in its existing condition or is dismantled, partially dismantled or damaged to the extent that it would be unlawful to use or operate on public streets or highways in the State of Colorado.

Rubbish, debris and junk shall include, but not be limited to, scrap lumber, scrap metals and materials, discarded furniture, discarded fixtures, discarded appliances, worn motor vehicle parts and tires not in current use, and all wrecked, abandoned, demolished, dismantled, partially dismantled, and junked or inoperable motor vehicles, machinery, trailers and other goods that are so worn or deteriorated as to make them unusable in their existing condition. Rubbish shall also consist of nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials.

Stale or uncovered garbage shall mean any garbage which is stored otherwise than in covered cans or sealed containers or which creates odor or stench or is accessible to animals or otherwise creates a health hazard.

Travel under its own power shall mean the motor vehicle must be able to be started, stopped, driven forward and backward and all tires inflated.

Unlicensed motor vehicle shall mean the motor vehicle which is not currently and validly registered pursuant to the laws of the State of Colorado or any other governmental authority having lawful authority to license motor vehicles.

(b) Prohibited. It shall be deemed a nuisance and unlawful to deposit, accumulate, store, keep, abandon or to allow the deposit, accumulation, storage, keeping or abandonment of rubbish, debris, junk and junked, unlicensed or inoperable motor vehicles on private or public property within the city other than in areas zoned for the deposit, accumulation,

storage, keeping or abandonment of rubbish, debris, junk and junked, unlicensed or inoperable motor vehicles other than as authorized in this section.

(c) Exceptions:

- (1) This section shall not apply to a motor vehicle collector's item as defined and regulated by C.R.S. 42-3-138, so long as the keeping and storing of such motor vehicle is in compliance with said statute.
- (2) With the prior approval of the city manager, or his designee, the department of finance may issue a 180-day permit for junked, unlicensed or inoperable motor vehicles, which are being kept for the purpose of repair or restoration, but there shall be no extensions of the permit granted, and only one (1) permit may be granted per property per year. If, at the end of the 180-day permit period, the vehicle is still junked, unlicensed or inoperable, such motor vehicle shall be deemed a nuisance.
- (3) The prohibition contained in this section shall not apply to junked, unlicensed or inoperable motor vehicles defined in subsection (a) of this section if said motor vehicles are stored or kept within a completely enclosed building.

(d) Restrictions on areas authorized for keeping junked, unlicensed or inoperable motor vehicles. Any area zoned and used for storage, keeping or abandoning of any junked, unlicensed or inoperable motor vehicles shall be kept free of weeds and any junk, rubbish and debris other than the authorized junked, unlicensed or inoperable motor vehicle(s).

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-13. - Privies.

It is hereby declared a nuisance to erect or maintain or allow the erection or maintenance of an outdoor privy; provided, however, that privies which have chemical elimination systems and which are not permanent are not prohibited under the provisions of this section. For purposes of this section, "not permanent" shall be defined as those chemical elimination systems utilized at construction sites and special events open to the public and the duration of which do not exceed two (2) weeks.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-14. - Wells that overflow.

Any well maintained or operated so that it overflows or waste is discharged therefrom into or over any street or other public way or place or upon or over private property so as to form ice, create a health or safety hazard, or in any other manner inconvenience or endanger persons or property shall be deemed a nuisance.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-15. - Wells, gravel pits, other excavations not in use.

- (a) Declared nuisance. All wells, gravel pits and other excavations that are not in operation or use or have been abandoned are thereby declared to be a nuisance and any person or persons who permit or create such nuisance shall be deemed in violation of this chapter.

- (b) To be filled, covered, enclosed. At the time of the cessation of use and operation thereof or abandonment thereof, all wells, gravel pits and other excavations shall be filled with earth to the level of the surrounding and adjacent area or shall be covered with a concrete cap or lid, not less than four (4) inches in thickness or shall be surrounded and enclosed by a walled structure or fence which shall be of woven wire construction and not less than six (6) feet in height.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-16. - Unclean or defective drain, ditch, garbage box, etc.

Any unclean, foul, unsafe, unhealthy, dangerous, defective or filthy drain, ditch, tank or gutter, or any leaking or broken slop, garbage or manure box or receptacle of like character shall be deemed a nuisance.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-17. - Unclean stable or stall.

Any stable, stall, shed, yard or appurtenance thereto in which refuse collects and accumulates to an extent offensive or unhealthy to others, or which is not kept protected from flies and other insects and rodents and in a clean or wholesome condition, shall be deemed a nuisance.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-18. - Unsafe pond or pool.

Any pond, pool, stream, ditch or deposit of water or other liquid or viscous body which is unsafe, dangerous or detrimental to the public health or safety or unwholesome or offensive in odor shall be deemed a nuisance.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-19. - Dense smoke, noxious fumes, gas, soot or cinders.

The creation of dense smoke, noxious fumes, gas, soot or cinders in such quantities as to render such substance objectionable to the public or harmful to people or property shall be deemed a nuisance.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00)

Sec. 11-20. - Weeds and brush.

Any unauthorized accumulation of weeds or brush on any premises is declared to be a nuisance and a health hazard and is prohibited.

Dandelions in a population of ten (10) or more per square yard are declared to be a nuisance and a health hazard and is prohibited.

The following words, terms and phrases, when used in this section, shall have the following meanings ascribed to them, except where the context clearly indicates a different meaning:

Brush means volunteer growth of bushes, shrubs and trees such as are growing wild and without care and shall include all cuttings from trees, shrubs and bushes and high and rank shrubbery growth which may conceal filthy deposits.

Dandelions means the weed *Taraxacum officinale* weber.

Weeds means weeds, grass, brush or other vegetation which is in excess of twelve (12) inches in height. Bindweed, Canada thistle, perennial sowthistle, Russian knapweed, common ragweed, milkweed, common sunflower, Russian thistle, fireweed, mustards, sandburs and hairy stickweed shall constitute weeds, whether or not they are twelve (12) inches in height. This enumeration is not intended to be exclusive, but rather is intended to be indicative of those types of plants which are considered a detriment to the public health and safety, regardless of the height of said weeds. The term "weeds" shall not include flower gardens, plots of shrubbery, vegetable gardens, and small grain plots (wheat, barley, oats and rye).

Any landowner in areas zoned as LI (Light Industrial) or HI (Heavy Industrial) may apply for a temporary exemption to this section by applying for a permit from the public works director for a period not to exceed ninety (90) days. The public works director may, for good cause, issue such a permit. The issuance or denial of a temporary exemption permit is subject to the approval of the city manager.

The public works director may designate any city-owned land exempt from this section, subject to the approval of the city manager. A copy of said list shall be available for public inspection in the office of the public works department.

(Ord. No. 27-2000, 8-22-00, eff. 9-1-00; Ord. No. 30-2008, 12-23-08, eff. 1-2-09)