

COMPARED VERSION
NEW ORDINANCE TO CODE BOOKS

ORDINANCE NO. 250637

Amending Chapter 48, Code of Ordinances, entitled “Nuisances,” by repealing Section 48-1, Definitions, and Section 48-30, Rank weeds and noxious plants; amending Chapter 56, Code of Ordinances, entitled “Property Maintenance Code,” by repealing Section 56-433, Noxious weeds and enacting new sections of like number and subject matter, and by enacting a new Section 56-116, Excessive growth of vegetation, invasive and noxious plants and poisonous plants to the touch; amending Chapter 34, Code of Ordinances, entitled “Health and Sanitation,” by repealing Article VII, Weeds and noxious plants; and amending Chapter 62, Code of Ordinances, entitled “Solid Waste,” by repealing Article VIII, Nuisances.

WHEREAS, the City acknowledges that the climate crisis is here, and Kansas City is already experiencing climate change through hotter temperatures, drought, and flooding, and will likely see in the future more frequent and intense heat waves, more severe flooding, increased air pollutants and diseases, and more people displaced from their homes because of these disasters; and

WHEREAS, the City adopted an updated Climate Protection & Resiliency Plan in September 2022 to address the climate crisis with strategies focused on both mitigating and adapting to our changing climate; and

WHEREAS, the Climate Protection & Resiliency Plan contains a section focused on Natural Systems strategies that use nature to cool our city, prevent flood damage, and clean our air and water, including expanding the network of trees and natural areas, promoting regenerative, ecologically healthy soils and landscapes, promoting sustainable water supply and use, and using natural systems to manage stormwater runoff; and

WHEREAS, planting native plants supports the health of ecosystems, enhances biodiversity, and contributes to the sustainability and resilience of landscapes in the face of environmental challenges; and

WHEREAS, amending the current Nuisance and Property Maintenance Codes will allow residents of the City to increasingly grow native plants throughout the City and contribute to the sustainability and climate resiliency of the City; and

WHEREAS, Chapter 34, Article VII of the Code of Ordinances, Weeds and noxious plants, provides a separate, similar violation as the current Section 48-30 with enforcement procedures substantially mirroring those the Neighborhood Services Director already possesses via Chapters 48 and 56, and, thus, can be repealed to limit duplication and confusion in City’s Code; and

WHEREAS, Chapter 62, Article VIII of the Code of Ordinances, Nuisances, also contains substantially similar violations and enforcement procedures that exist in other portions of the

City's Code, including Section 48-30, and, thus, can be repealed to limit duplication and confusion in City's Code; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 48, Code of Ordinances," is hereby amended by repealing Section 48-1, Definitions, and Section 48-30, Rank weeds and noxious plants, and enacting new sections of like number and subject matter to read as follows:

Sec. 48-1. Definitions.

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

Boat means any device used or capable of being used for navigation on water.—

Camper shell means but is not limited to any unit primarily designed as temporary living quarters for recreation, camping or travel use, or an enclosed space ~~which~~that is capable of being occupied and designed to be temporarily attached to the bed or frame of a truck or similar self-powered vehicle.—

City means the City of Kansas City, Missouri.—

Debris means detritus, dirt, mud, gravel, sand, silt, leaves, organic material, litter, rubble, scrap, loose material.—

Detention basin means any facility designed for the purpose of temporarily holding water ~~which~~that is then released at a predetermined rate and controls the flow of stormwater downstream.—

Director of finance means the director of finance or any authorized representative.—

Director of health means the director of health or any authorized representative.—

~~*Director of neighborhoods and housing services*~~ means the director of ~~neighborhoods and housing~~neighborhood services or any authorized representative.—

Director of parks and recreation means the director of parks and recreation or any authorized representative.—

Director of public works means the director of public works or any authorized representative.—

Excessive growth of vegetation means any vegetation that is ten (10) inches or more in height, including, but not limited to, turf grasses or unattended growths of other plants. Excessive

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growth of vegetation shall not mean plants more than ten (10) inches in height that are part of a managed natural landscape as defined in this chapter.

Fence means a structure serving as an enclosure, barrier or boundary, usually made of posts, boards, wires, masonry or rails.-_

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking, serving and nonconsumption of food.-_

Invasive plant means any plant, excluding trees over three (3) inches in diameter and thirteen (13) feet in height, outside its native range whose presence causes or is likely to cause harm to the economy, human health or the environment, including but not limited to harm to native plant communities. Invasive plants include but are not limited to any plant:

- (1) designated as invasive by the State of Missouri's Department of Conservation or Department of Agriculture;
- (2) designated as invasive by any other authority the State of Missouri's Department of Conservation or Department of Agriculture has referenced or acknowledged as an authority on Missouri invasive plants, such as the Missouri Prairie Foundation's Invasive Plant Council; or
- (3) designated as invasive on a list made publicly available by the director.

Managed natural landscape means any part of a premise, lot, tract, or parcel of land that consists of intentionally and continuously maintained vegetation allowed to grow to its natural height and form for the purpose(s) of benefiting the city's natural environment, improving stormwater retention, increasing water quality, reducing greenhouse gas emissions, using fewer potentially harmful or costly inputs, increasing biodiversity, and/or providing habitats for wildlife such as birds, bees, and butterflies. In addition, a managed natural landscape must meet the following requirements:

- (1) No turf grass ten (10) inches or more in height, noxious plants or invasive plants, all as defined in this chapter, shall be present;

The

Noxious plant means any plant capable of poisoning, including but not limited to poison ivy, at any height or state of maturity.

- (2) defined landscape area, if it includes any plants that are not trees, must maintain clearly defined boundaries through edging or containment;
- (3) No vegetation may encroach onto a neighboring property or right-of-way; and
- (4) At least one unobstructed safety corridor three (3) feet in width and seven and a half (7.5) feet in height must be present to allow emergency medical professionals

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to enter the property quickly and safely should the need arise. Additionally, no vegetation shall overhang the pedestrian sidewalk, excluding trees that allow a clearance of at least seven and a half (7.5) feet above the pedestrian sidewalk.

Native means evolving and naturally occurring in the region without human intervention.

Noxious plant means any plant designated as noxious pursuant to 2 CSR 70-45.005, Missouri Code of State Regulations, or by other rule or regulation promulgated by the State of Missouri's Department of Agriculture.

Occupant means any person who has a legal or equitable interest in a parcel of real property other than a fee interest, including a life tenant, tenant, lessee, tenant at will, tenant at sufferance or adverse possessor, as well as a person in possession or a person who has charge, care or control of the parcel of real property, as the agent or personal representative of the person holding legal title to a fee interest. Possession, charge, care or control may include living, sleeping, cooking or eating in the parcel of real property.-

Owner means any person who, alone or jointly or severally with others:-

- (1) Shall have legal title to any parcel of real property, building or structure, or part thereof, with or without accompanying actual possession thereof; or-
- (2) Shall have charge, care or control of any parcel of real property, building or structure, or part thereof, as agent or personal representative of the person having legal title to the building or structure, or part thereof; or-
- (3) Shall have equitable title to real property by inheritance and has not disclaimed the interest in the property; or-

(4) ~~(4)~~ Shall have possession or right to possession under a contract for deed;-

Parking space means an area on a lot satisfying all of the following requirements:-

- (1) The area must be as wide and as long as the vehicle parked thereon, but shall not be less than seven and one-half feet wide and 15 feet in length if an automobile is parked thereon;-
- (2) The area must be connected to a public street or alley by a driveway not less than seven and one-half feet wide; and-
- (3) The parking space shall be surfaced in accordance with sections 88-420 and 56-112.-

A parking space may be provided in the front yard if the parking space is at least 20 feet from the front property line or if it is authorized by a development plan or variance approved in accordance with the zoning ordinance.-

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Person means and includes any individual, or ~~entities~~entity or other representative thereof.-

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~~*Poisonous plant to the touch* means any plant at any height or state of maturity that is poisonous to the touch, including, but not limited to, poison ivy, poison oak and poison sumac.~~

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Premises means any public or private property, vacant or occupied lot, plot, parcel of land, street, sidewalk, alley, boulevard, highway, right-of-way, park, parkway, public square or viaduct, including the structures or buildings thereon.-

~~*Rank weeds* means thickets or any vegetation which may emit noxious odors or any vegetation which is ten inches or more in height, including but not limited to grasses and unattended growths of other plants, bushes and shrubbery. Rank weeds shall not mean trees in excess of six feet in height, cultivated or attended trees less than six feet in height, or cultivated or attended plants, bushes or shrubbery.~~

Recreational vehicle means any unit primarily designed as a temporary living quarters for recreation, camping or travel use ~~which~~that either:-

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(1) Contains its own motive power, as in the case of but not limited to motor homes, motor coaches, mini-motor homes or recreational vans; or-

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(2) Is permanently mounted on a vehicle such as a truck camper or pickup camper.-

Refuse means unwanted or discarded waste materials in a solid or semisolid state consisting of garbage or rubbish or a combination thereof.-

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Rubbish means solid wastes consisting of combustible and noncombustible waste materials from residential, commercial, industrial and institutional establishments, including yard wastes and items commonly referred to as trash.-

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Sewage disposal system means any arrangement of devices and structures used for receiving, transporting, treating and disposing of sewage, including private and community sewer lines.-

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Spillover Light means light produced by an exterior light on premises that spills over onto another property and exceeds 0.186 foot-candle at the property line of any other property zoned R-10, R-7.5 ~~and~~or R.6.

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~~*Thickets* means dense growth of wild shrubbery, regardless of height, having stems or trunks less than four inches in diameter, and briar patches.~~

Trailer means but is not limited to any vehicle designed or utilized for the transportation of a boat, automobile, snowmobile, livestock, cargo or similar items, or as temporary living quarters for recreation, camping or travel use as in the case of a travel, tent, camp, pop-up or fifth

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wheel trailer and the like, which does not have motive power of its own, but is designed to be drawn by another vehicle.-

Turf grass means any grass commonly used in regularly cut lawns or play areas, such as, but not limited to, bluegrass, fescue, and ryegrass blends, intended to be maintained at a height of no more than ten (10) inches.

Vehicle means any self-propelled device, or portion thereof, not operated exclusively upon tracks, and shall include, without limitation, automobiles, trucks, buses, motor homes, tractors and motorcycles.-

Sec. 48-30. Rank weeds, Excessive growth of vegetation, invasive and noxious plants, and poisonous plants to the touch.

Grass ten inches or more in height, rank weeds, Excessive growth of vegetation, invasive plants, noxious plants, and poisonous plants to the touch, all as defined by this ~~article~~chapter, allowed to stand at any season of the year upon any premise, lot, tract or parcel of land, or unpaved alley, or along ~~the~~any sidewalk, street or paved alley adjacent to such ~~premise~~, lot, tract or parcel of land, or along any right-of-way area adjoining such premise, lot, tract or parcel of land are hereby declared to constitute a nuisance. This ~~subsections~~section shall not apply to ~~land zoned or used for agricultural use which is more than 150 feet distant from any occupied residential subdivision, lot, tract or parcel of land either.~~

- (1) land zoned or used for agricultural use which is more than 150 feet distant from any occupied residential subdivision, lot, tract or parcel of land; or
- (1) any vegetation that falls within any portion of land that meets the definition of a managed natural landscape as defined by this chapter.

Section 2. That Chapter 56, Code of Ordinances, is hereby amended by enacting a new Section 56-116, Excessive growth of vegetation, invasive and noxious plants and poisonous plants to the touch, to read as follows:

Sec. —56-116. Excessive growth of vegetation, invasive and noxious plants and poisonous plants to the touch.

All exterior property areas shall be subject to the requirements of section 48-30, excessive growth of vegetation, invasive and noxious plants and poisonous plants to the touch.

Section 3. ~~Section 2.~~ That Chapter 56, Code of Ordinances, is hereby amended by repealing Section 56-433, Noxious weeds, and enacting a new section of like number and subject matter to read as follows:

Sec. 56-433. Excessive growth of vegetation, invasive and noxious plants and poisonous plants to the touch.

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~~Sec. 56-433. Noxious weeds.~~

All exterior property areas shall be subject to the requirements of ~~chapter 34, article VII, pertaining to weeds~~ section 48-30, excessive growth of vegetation, invasive and noxious plants, and poisonous plants to the touch.

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Section ~~34~~. That Chapter 34, Code of Ordinances, Article VII, "Weeds and noxious plants," is hereby amended by repealing all sections therein.

~~Sec. 34-291. Definitions.~~

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

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~~Director of finance means the director of finance or his authorized subordinate representative.~~

~~Director of neighborhood and community services means the director of neighborhood and community services or his authorized subordinate representative.~~

~~Noxious plants means any plant capable of poisoning, including but not limited to poison ivy, at any height or state of maturity.~~

~~Occupant means any person who has a legal or equitable interest in a parcel of real property other than a fee interest, including a life tenant, tenant, lessee, tenant at will, tenant at sufferance or adverse possessor, as well as a person in possession or a person who has charge, care or control of the parcel of real property, as the agent or personal representative of the person holding legal title to a fee interest.~~

~~Owner means any person who alone or jointly or severally with others shall have legal title to a fee interest in the parcel of real property, with or without accompanying actual possession thereof. The land records filed in the office of the recorder of deeds of the county within which the parcel of real property is located, and any other official record of each county or of the city, may be used to determine the identity of such owners, as defined in this subsection, as of the date of the notice of the violation.~~

~~Parcel of real property means all property within the legal description for that lot, tract or parcel of land.~~

~~Person means any individual, firm, corporation, association, partnership, cooperative or governmental agency.~~

~~Rank weeds means thickets or any vegetation which may emit noxious odors or any vegetation which is 12 inches or more in height, including but not limited to grasses, and unattended growths of other plants, bushes and shrubbery. The term "rank weeds" shall not mean~~

~~trees in excess of six feet in height, cultivated or attended trees less than six feet in height, or cultivated or attended plants, bushes or shrubbery.~~

~~*Thickets* means dense growth of wild shrubbery, regardless of height, having stems or trunks less than four inches in diameter, and briar patches.~~

~~Sec. 34-292. Declaration of nuisance; exemptions from article.~~

~~Grass 12 inches or more in height, rank weeds and noxious plants, as defined in this article, which are allowed to stand at any season of the year upon any lot, tract or parcel of land or unpaved alley, or along the sidewalk, street or paved alley adjacent to such lot, tract or parcel of land, are hereby declared to constitute a nuisance. This article shall not apply to land zoned or used for agricultural use which is more than 150 feet distant from any occupied residential subdivision, lot, tract or parcel of land.~~

~~Sec. 34-293. Removal required.~~

~~It shall be unlawful for the owner or occupant of any parcel of real property to allow grass 12 inches or more in height, rank weeds or noxious plants, as defined in this article, to grow or stand upon such parcel of real property. It shall be the duty of such owner or occupant to immediately cut, remove or destroy any and all weeds and noxious plants on such parcel of real property. Failure, neglect or refusal of an owner or occupant to so abate shall constitute a violation of this article, punishable by a fine of not more than \$500.00, or by incarceration not to exceed six months, or by both such fine and incarceration.~~

~~Sec. 34-294. Notice of violation.~~

~~Whenever the director of neighborhood and community services shall determine that either rank weeds, noxious plants or grass exists 12 inches or more in height on a parcel of real property, the property owner or occupant shall be notified. This notice shall:~~

- ~~(1) — Be in writing.~~
- ~~(2) — Set forth the alleged violations of this chapter.~~
- ~~(3) — Describe the parcel of real property where the violations are alleged to exist or to have been committed.~~
- ~~(4) — Advise that, if the grass, rank weeds or noxious plants are not cut down and removed within five days from the date of the notice, the property owner or occupant may be prosecuted in municipal court, and that procedures will be initiated to order the grass, rank weeds or noxious plants to be cut down and removed, with the cost thereof being specially assessed against the property.~~
- ~~(5) — Be served upon the owner or agent of the owner or occupant of the premises by either delivery of a copy of the notice to him or her personally or by leaving such a~~

~~copy at his or her usual place of abode with a member of the family over the age of 15 years, or by United States mail, addressed to the owner or occupant or agent of the owner, or by posting the notice on the parcel of real property described in the notice.~~

~~Sec. 34-295. Hearing notice.~~

~~Whenever the director of neighborhood and community services shall determine that either rank weeds, noxious plants or grass exists 12 inches or more in height on a parcel of real property, and that it may be necessary for the city to cut down and remove the weeds, the property owner shall be notified of a hearing to be held for the purpose of making this determination. The notice of hearing shall:~~

- ~~(1) Be in writing;~~
- ~~(2) Describe the parcel of real property where the violations are alleged to exist;~~
- ~~(3) Set the date, time and location of a hearing to be held not less than ten days from the date such notice is mailed, posted or served;~~
- ~~(4) Advise that, if the grass, rank weeds or noxious plants are not cut down and removed within five days of being ordered abated, the director of neighborhood and community services will order the grass, rank weeds or noxious plants to be cut down and removed, with the cost thereof being specially assessed against the property; and~~
- ~~(5) Be served upon the owner or agent of the owner of the premises by either delivery of a copy of the notice to him or her personally or by leaving such a copy at his or her usual place of abode with a member of the family over the age of 15 years, or by United States mail, addressed to the owner or agent of the owner, or by posting the notice on the parcel of real property described in the notice.~~

~~Sec. 34-296. Order to abate; abatement by city authorized.~~

~~Upon such hearing prescribed in section 34-295(3), the director of neighborhood and community services may declare the weeds to be a nuisance, and order such nuisance abated by the owner or occupant within five days to avoid a nuisance abatement action taken by the city and which would result in the issuance of a special tax bill. If the owner fails to cut down and remove such rank or noxious plants as ordered and fails to notify the director of such cutting, the director of neighborhood and community services may proceed to have the rank or noxious plants cut down.~~

~~Sec. 34-297. Right of entry for purpose of abatement.~~

~~The director of neighborhood and community services may enter the premises upon which such nuisance declared under section 34-296 is situate for the purpose of abating the nuisance;~~

~~with or without the consent of the owner thereof, without being deemed to have committed a trespass. This limited right of entry shall extend to any person hired by the director of neighborhood and community services to abate such nuisance.~~

Sec. 34-298. Special assessment for payment of costs of abatement.

~~Upon causing abatement of any nuisance as set out in this article, the director of neighborhood and housing services shall determine the cost of such abatement, including the reasonable costs of administering the provisions of this chapter, with respect to the property affected. Such administrative costs shall not exceed the sum of \$100.00. Upon determining that proper service was made on the owner, the director of neighborhood and housing services shall certify a statement of such service and of such costs, with a description of the real property upon which such abatement was accomplished, to the director of finance as a special assessment upon such real property. The director of finance shall enter such costs as a special assessment against the real property and shall cause a copy of the notice of assessment to be sent to the owner of such property by regular United States mail, with the original thereof to be retained in the office of the city treasurer. Each special assessment shall constitute a lien upon the real property described thereon and shall be payable as provided in section 2-1722 of this Code of Ordinances. Such lien shall remain in effect for a period of two years from the date of certification to the director of finance, at which time it shall automatically terminate unless legal proceedings to enforce such lien have been instituted. The lien may be enforced by any method appropriate for the enforcement of special assessments generally.~~

Sec. 34-299. Assessment of additional costs on conviction of violation.

~~Whenever any owner or occupant shall be found guilty of a violation of the provisions of this article in a proceeding instituted in the municipal division of the Jackson County circuit court, and the court finds that the director of neighborhood and community services has caused the nuisance to be abated, the court shall assess therein as additional costs a sum of \$12.00 to be assessed in addition to service costs, witness fees and jail costs otherwise authorized to be assessed.~~

Sec. 34-300. Penalty for violation of article.

~~(a) Any person convicted of a violation of this article shall be punished for that violation by a fine of not less than \$50.00 but not more than \$500.00, or by imprisonment of not more than 180 days, or by both such fine and imprisonment. All fines imposed shall be in accordance with the minimum fine schedule set out in subsection (e) of this section.~~

~~(b) Every day that a violation continues shall be considered a separate offense, for which the violator may be arrested, tried and convicted without necessity of further notice.~~

~~(c) Whenever the penalty is to be a fine or a fine and imprisonment, the fine shall be no less than the minimum amount set out in the following schedule:~~

- ~~(1) First offenses \$ 50.00~~

~~(2) — Second offense 100.00~~

~~(3) — Third offense 300.00~~

~~(4) — Fourth and subsequent offenses 500.00~~

~~In determining the applicable minimum fine, an offense shall be considered a recurring offense if the defendant has previously pled guilty or been found guilty of permitting or allowing the same violation to exist at the same location or any other location within the city limits within the previous five years.~~

Section 45. That Chapter 62, Code of Ordinances, Article VIII, “Nuisances,” is hereby amended by repealing all sections therein.

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Sec. 62-230. Definitions.

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

~~*Director of environmental management* means the director of environmental management or any authorized representative.~~

~~*Director of parks and recreation* means the director of parks and recreation or any authorized representative.~~

~~*Garbage* means the animal and vegetable waste resulting from the handling, preparation, cooking, serving and nonconsumption of food.~~

~~*Noxious plant* means any living stage (including but not limited to, seeds and reproductive parts) of any parasitic or other plant of a kind, or subdivision of a kind, which is of foreign origin, is new to or not widely prevalent in the United States, and can directly or indirectly injure crops, other useful plants, livestock, or poultry or other interests of agriculture, including irrigation, or navigation or the fish or wildlife resources of the United States or the public health. As used in Revised Statutes of Missouri RSMo 263.450 to RSMo 263.474, the term "noxious weed" includes bindweed (*Convolvulus arvensis*), Johnson grass (*Sorghum halepense*), multiflora rose (*Rosa multiflora*) except when cultivated for or used as understock for cultivated roses, Canada thistle (*Cirsium arvense*), musk thistle (*Carduus nutans* L.), Scotch thistle (*Onoprodum acanthium* L.), purple loosestrife (*Lythrum salicaria*), and any other plant or weed designated as noxious by rules and regulations promulgated by the director of the state department of agriculture.~~

~~*Occupant* means any person who has a legal or equitable interest in a parcel of real property other than a fee interest, including a life tenant, tenant, lessee, tenant at will, tenant at sufferance or adverse possessor, as well as a person in possession or a person who has charge, care or control of the parcel of real property, as the agent or personal representative of the person holding legal title to a fee interest. Possession, charge, care or control may include living, sleeping, cooking or eating in the parcel of real property.~~

~~*Owner* means any person who, alone or jointly or severally with others:~~

- ~~(1) Shall have legal title to any parcel of real property, building or structure, or part thereof, with or without accompanying actual possession thereof; or~~
- ~~(2) Shall have charge, care or control of any parcel of real property, building or structure, or part thereof, as agent or personal representative of the person having legal title to the building or structure, or part thereof; or~~
- ~~(3) Shall have possession or right to possession under a contract for deed.~~

~~*Person* means and includes any individual, firm, estate, corporation, association, partnership, cooperative or governmental agency.~~

~~*Premises* means any public or private property, vacant or occupied lot, plot, parcel of land, street, sidewalk, alley, boulevard, highway, right of way, park, parkway, public square or viaduct, including the structures or buildings thereon.~~

~~*Rank weeds* means thickets or any vegetation which may emit noxious odors or any vegetation which is ten inches or more in height, including but not limited to grasses and unattended growths of other plants, bushes and shrubbery. Rank weeds shall not mean trees in excess of six (6) feet in height, cultivated or attended trees less than six (6) feet in height, or cultivated or attended plants, bushes or shrubbery.~~

~~*Refuse* means unwanted or discarded waste materials in a solid or semisolid state consisting of garbage or rubbish or a combination thereof.~~

~~*Rubbish* means solid wastes consisting of combustible and noncombustible waste materials from residential, commercial, industrial and institutional establishments, including yard wastes and items commonly referred to as trash.~~

~~*Thickets* means dense growth of wild shrubbery, regardless of height, having stems or trunks less than four inches in diameter, and briar patches.~~

~~Sec. 62-231. Applicability of chapter to corporations.~~

~~When the owner or occupant of the premises on which a nuisance has been determined to exist is a corporation, any officer of such corporation or the person in charge of the local office of such corporation who shall have been notified as provided for in section 62-254 or section 62-257 shall be guilty of violating the provisions of this chapter upon the failure, neglect or refusal of such corporation to comply with such notice.~~

~~Sec. 62-232. Authority to prescribe additional rules and regulations.~~

~~The director of environmental management and the director of parks and recreation are authorized to make and promulgate reasonable and necessary rules and regulations to carry out the provisions of this article. A copy of all such rules and regulations shall be filed in the office of the director of records.~~

~~Sec. 62-233. Conflicting provisions.~~

~~Whenever conflicting provisions or requirements occur between this article and any other municipal codes or laws, the most restrictive shall govern.~~

~~Sec. 62-250. Right of entry for purpose of abatement.~~

~~The director of environmental management or the director of parks and recreation may enter the premises upon which a nuisance is situated for the purpose of abating the nuisance, with or without the consent of the owner thereof, without being guilty of trespass.~~

~~Sec. 62-251. Right of entry to inspect and carry out duties of this article.~~

~~Whenever necessary to make an inspection or to enforce any of the provisions of this article, the director of environmental management or the director of parks and recreation may enter any premises upon which a nuisance as enumerated in this article is situated, during normal working hours to inspect the same or to perform any duty imposed upon them.~~

~~Sec. 62-252. Rank weeds and noxious plants.~~

~~Grass ten inches or more in height, rank weeds and noxious plants, as defined by this article, allowed to stand at any season of the year upon any premise, lot, tract or parcel of land, or unpaved alley, or along the sidewalk, street or paved alley adjacent to such lot, tract or parcel of land, or along any right of way area adjoining such premise, lot, tract or parcel of land are hereby declared to constitute a nuisance. This subsection shall not apply to land zoned or used for agricultural use which is more than 150 feet distant from any occupied residential subdivision, lot, tract or parcel of land.~~

~~Sec. 62-253. Same—Removal required.~~

~~It shall be unlawful for the owner or occupant of any parcel of real property to allow grass ten inches or more in height, rank weeds or noxious plants, as defined in this article, to grow or stand upon such parcel of real property. It shall be the duty of such owner or occupant to immediately cut, remove or destroy any and all weeds and noxious plants on such parcel of real property.~~

~~Sec. 62-254. Same—Notice of violation.~~

~~Whenever the director of parks and recreation shall have determined that a nuisance enumerated in section 62-252 exists on any premises within the city's corporate limits, he shall serve written notice of violation upon the owner or occupant having control thereof, or their agent, to abate such nuisance. This notice of violation shall:~~

- ~~(1) Be in writing.~~
- ~~(2) State the nature of such nuisance and that such condition constitutes a nuisance.~~
- ~~(3) Describe the premises where the nuisance is alleged to exist or to have been committed.~~
- ~~(4) Specify a period of 15 days for the abatement of the nuisance and advise the owner or occupant of his right to request a hearing.~~
- ~~(5) State that, unless such nuisance is abated without unnecessary delay, it may be abated by the city and the costs of such abatement may be specially assessed and shall be deemed a personal debt against the owner and constitute a lien against the property from which abated.~~
- ~~(6) State that failure, neglect or refusal to abate such nuisance within the 15 days specified renders the owner or occupant prosecutable in municipal court, and, upon a finding of guilty, punishable by a fine of not more than \$500.00 or imprisonment of not more than 180 days, or by both such fine and imprisonment.~~
- ~~(7) Be served upon the owner or occupant of the premises or owner of the vehicle by delivery to him personally or by leaving such notice at his usual place of abode with a member of the family over the age of 15 years, or by mail addressed to the owner, occupant or agent. If a person to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such person by posting the notice in or about the premises described in the notice, or by causing such notice to be published in a newspaper of general circulation. If the owner or occupant is a corporation, notice shall be served upon an officer, a person in charge of any local business office, or its registered agent or any other agent authorized by appointment or required by law to receive service of process.~~

~~Sec. 62-255. Refuse, rubbish and garbage—Vacant properties.~~

~~Refuse, rubbish and garbage allowed to stand at any season of the year upon any vacant lot, tract or parcel of land, or unpaved alley, or along the sidewalk, street or paved alley adjacent to such vacant lot, tract or parcel of land are hereby declared to constitute a nuisance.~~

~~Sec. 62-256. Same—Removal required.~~

~~It shall be the duty of every owner, lessee, agent or other person having control, charge, authority or management over vacant property to keep the property free and clear of any and all refuse, rubbish and garbage of every kind and description.~~

~~Sec. 62-257. Same—Notice of violation.~~

~~Whenever the director of environmental management shall have determined that a nuisance enumerated in section 62-255 exists on any premises within the city's corporate limits, he shall serve written notice of violation upon the owner or occupant having control thereof, or their agent, to abate such nuisance. This notice of violation shall:~~

- ~~(1) Be in writing.~~
- ~~(2) State the nature of such nuisance and that such condition constitutes a nuisance.~~
- ~~(3) Describe the premises where the nuisance is alleged to exist or to have been committed.~~
- ~~(4) Specify a period of five days for the abatement of the nuisance and advise the owner or occupant of his right to request a hearing.~~
- ~~(5) State that, unless such nuisance is abated without unnecessary delay, it may be abated by the city and the costs of such abatement may be specially assessed and shall be deemed a personal debt against the owner and constitute a lien against the property from which abated.~~
- ~~(6) State that failure, neglect or refusal to abate such nuisance within the five days specified renders the owner or occupant prosecutable in municipal court, and, upon a finding of guilty, punishable by a fine of not more than \$500.00 or imprisonment of not more than 180 days, or by both such fine and imprisonment.~~
- ~~(7) Be served upon the owner or occupant of the premises or owner of the vehicle by delivery to him personally or by leaving such notice at his usual place of abode with a member of the family over the age of 15 years, or by mail addressed to the owner, occupant or agent. If a person to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such person by posting the notice in or about the premises described in the notice, or by causing such notice to be published in a newspaper of general circulation. If the owner or occupant is a corporation, notice shall be served upon an officer, a person in charge of any local business office, or its registered agent or any other agent authorized by appointment or required by law to receive service of process.~~

Sec. 62-258. Emergencies.

~~(a) Whenever a nuisance as enumerated in this article creates an emergency requiring immediate action to protect the public health, safety or welfare, the director of environmental management or the director of parks and recreation may issue an immediate order directing the owner, occupant or other person in charge of the premises to take such action as is necessary to correct or abate the emergency.~~

~~(b) If circumstances warrant, the director of environmental management or the director of parks and recreation may act to correct or abate the emergency. An emergency order shall be in lieu of the notice of violation.~~

~~(c) The director of environmental management or the director of parks and recreation are authorized to make a final determination of whether or not something constitutes an emergency.~~

Sec. 62-259. Appeals.

~~(a) Any person entitled to be served with a notice of violation shall have the right to appeal from any notice of violation or other action taken to enforce this article to the property maintenance appeals board. The property maintenance appeals board, as established by chapter 56, shall hear each duly filed appeal and decide whether to affirm, amend or reverse the notice of violation or other action appealed. In doing so, the property maintenance appeals board may interpret the provisions of this article. The property maintenance appeals board shall have all other powers granted it by chapter 56.~~

~~(b) An appeal shall be in writing and shall be in such form and provide such information as the property maintenance appeals board may by regulation require. An appeal must be delivered to the office of the director of environmental management or the director of parks and recreation within ten days from the date of service of the notice of violation or the date of the action, whichever is the subject of the appeal. Only those matters or issues specifically raised by the appellant in the written appeal shall be considered in the appeal hearing.~~

~~(c) The timely filing of an appeal to the property maintenance appeals board shall stay enforcement of the notice of violation or action appealed, including abatement, until the appeal is finally determined. Failure of a person entitled to appeal under this chapter either to make appeal or to timely file his appeal shall constitute a waiver of his right to an administrative hearing and adjudication of his complaint, and such person shall be estopped to deny the validity of any order or action which could have been timely appealed.~~

~~(d) The method of judicial review of any decision of the property maintenance appeals board upon a notice of violation or other action taken pursuant to this chapter shall be by a duly verified petition for writ of certiorari presented to the circuit court of the county where the property affected by such decision is located. Such petition shall be filed with the court within 30 days after the filing of the board's decision in the office of the director of environmental management or the director of parks and recreation. Such petition shall set forth with particularity the grounds for such review. Any person or persons jointly or severally aggrieved by any decision of the property~~

~~maintenance appeals board shall be entitled to petition for such review. Upon presentation of the petition, the court may allow a writ of certiorari directed to the board to review such decision of the board and prescribe therein the time within which a return must be made and served upon the relator's attorney, which shall be not less than ten days and may be extended by the court. The allowance of the writ shall not stay the effect of the decision appealed from, but the court may, upon timely application and due notice to the board, for due cause shown, grant a restraining order. The court may reverse or affirm, wholly or in part, the decision brought up for review.~~

Sec. 62-260. Failure to comply.

~~When a notice of violation is required to be served under this article, at the end of the period of time allowed in the notice of violation or in a decision of the property maintenance appeals board to abate a cited nuisance, the director of director of environmental management or the director of parks and recreation shall reinspect the premises. If, upon reinspection, the cited nuisance is found not to have been abated, the director of director of environmental management or the director of parks and recreation may cause a complaint to be filed for prosecution in municipal court, or may cause the cited nuisance to be abated by an appropriate means, or both.~~

Sec. 62-261. Special assessment of abatement costs.

~~(a) *Costs to be assessed.* If the director of environmental management or the director of parks and recreation causes a nuisance to be abated, the costs of such abatement shall be determined, including the reasonable costs of administering the provisions of this article with respect to the property affected. Such administrative costs shall not exceed the sum of \$100.00. The director of environmental management or the director of parks and recreation shall send a bill for such costs to the owner, with payment due in 60 days. If any appeal shall have been filed from the order from the director of environmental management or the director of parks and recreation within the period allowed by law, such costs of abatement shall not be so certified to the director of finance unless and until final judgment shall have been rendered on such appeal confirming such order.~~

~~(b) *Certification of costs; issuance of tax bill.* The director of environmental management or the director of parks and recreation shall certify the balance of bills unpaid after 60 days to the director of finance. Upon receipt of such certification, the director of finance shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill for the property, at the director's option. The director of finance shall cause a copy of the notice of assessment to be sent to the owners of such property by regular U.S. mail, and shall appropriately file retain the original in the office of the city treasurer. The certified cost shall be collected in the same manner and procedure for collecting real estate taxes. The tax bill shall be paid as provided in section 2-1722 of this Code of Ordinances. If the certified cost is not paid, and is considered delinquent pursuant to Section 2-1722 of this Code of Ordinances, its collection shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of the notice of assessment shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.~~

~~(c) *Costs in municipal court action.* In any case where the costs of abatement shall have been assessed as additional costs in a municipal court action as provided in this article, and such cost judgment shall have been satisfied, the special assessment pertaining thereto shall be reduced or canceled accordingly, and the record in the office of the city treasurer shall be changed to reflect such reduction or cancellation.~~

~~**Sec. 62-262. Assessment of additional costs on conviction in municipal court.**~~

~~Whenever any owner or occupant shall be found guilty of a violation of the provisions of this article in a proceeding instituted in the municipal court on complaint of the director of environmental management or the director of parks and recreation, as provided in this article, the court shall assess therein as additional costs a sum of \$12.00 for costs incurred in abatement and administering the provisions of this article, in addition to service costs, witness fees and jail costs otherwise authorized to be assessed.~~

Approved as to form:

Bret Kassen
Associate City Attorney