

## Chapter 14 NUISANCES

	Page
<b>ARTICLE I. IN GENERAL.....</b>	<b>14-2</b>
Sec. 14-1. Short Title.....	14-2
Sec. 14-2. Definitions .....	14-2
<b>ARTICLE II. ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE MOTOR VEHICLES .....</b>	<b>14-3</b>
Sec. 14-27. Penalty .....	14-3
Sec. 14-28. Prohibited and Exceptions .....	14-3
Sec. 14-29. Notice to Remove .....	14-3
Sec. 14-30. Responsibility for Removal .....	14-4
Sec. 14-31. Notice Procedure.....	14-4
Sec. 14-32. Contents of Notice .....	14-4
Sec. 14-33. Request for Hearing .....	14-4
Sec. 14-34. Procedure for Hearing .....	14-4
Sec. 14-35. Removal of Motor Vehicle from Property .....	14-4
Sec. 14-36. Notice of Removal .....	14-5
Sec. 14-37. Disposition of Vehicles.....	14-5
Sec. 14-38. Contents of Public Sale Notice .....	14-5
Sec. 14-39. Public Sale .....	14-5
Sec. 14-40. Redemption of Impounded Vehicles .....	14-5
Sec. 14-41. Liability of Owner or Occupant.....	14-6
Secs. 14-42 to14-60. Reserved .....	14-6
<b>ARTICLE III. JUNK, TRASH AND REFUSE.....</b>	<b>14-6</b>
Sec. 14-61. Penalty .....	14-6
Sec. 14-62. Declaration of Nuisance; Unlawful .....	14-6
Sec. 14-63. Disposal Restricted Generally.....	14-6
Sec. 14-64. Unsanitary Premises .....	14-6
Sec. 14-65. Hazardous Premises .....	14-6
Sec. 14-66. Accumulation of Solid Waste .....	14-7
Sec. 14-67. Storage on Private Property .....	14-7
Sec. 14-68. Weeds, Responsibility of Owner .....	14-7
Sec. 14-69. Notice of Nuisance .....	14-7
Sec. 14-70. Complaint .....	14-8
Sec. 14-71. Removal of Nuisance .....	14-8
Sec. 14-72. Injunctions .....	14-8

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## Chapter 14 NUISANCES

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### ARTICLE I. IN GENERAL

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#### **Sec. 14-1. Short Title.**

This chapter and all sections within may be cited as the "Nuisance Ordinance."  
(Code 2007, 14-1)

#### **Sec. 14-2. 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:  
(Code 2007, 14-2)

##### **Enforcement officer**

Includes city police officers, code compliance officers, animal control officers.

##### **Junk**

Discarded, dismantled, partially dismantled, wrecked, inoperative, abandoned, unusable or broken machinery or parts, utility trailers, appliances, furniture, furnishings, sporting equipment, used building or construction materials, and all other items commonly known as junk.

##### **Junked motor vehicle**

Any motor vehicle which does not have lawfully affixed thereto an unexpired license plate or plates or the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded.

##### **Litter**

All rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind, and description.

##### **Motor vehicle**

Any vehicle which is designed, when in proper working order, to be self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motor-bikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts and self-propelled campers or motor homes.

##### **Private property**

Any real property within the city which is privately owned and which is not public property as defined in this section.

##### **Public property**

Any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility.

**Weeds**

Include, but not be limited to, the following nuisance weeds known to this area, growing at least in excess of twelve (12) inches: cheatgrass, mustard weeds, sandbur, tumble weeds, kochia puncturvine, pigweed, musk thistle, and field birdweed.

**Secs. 14-3 to 14-26. Reserved.**

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**ARTICLE II. ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE MOTOR VEHICLES**

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**Sec. 14-27. Penalty.**

Violations of this article are punishable as provided in Section 1-8.  
(Code 2007, 14-27)

**Sec. 14-28. Prohibited and Exceptions.**1. Prohibited.

(1) No person shall park, store, leave, or permit the parking, storing or leaving of any motor vehicle of any kind which is in an abandoned, wrecked, dismantled, inoperative, junked or partially dismantled condition, whether attended or not, upon any public or private property within the city for a period of time in excess of seventy-two (72) hours. The presence of an abandoned, wrecked, dismantled, inoperative, junked, or partially dismantled vehicle or parts thereof on private or public property is hereby declared to be a public nuisance which may be abated as such in accordance with the provisions of this article.

(2) No person shall leave any type of trailer unhitched upon any street.

2. Exception. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a business enterprise, lawfully licensed by the city and properly operated in an appropriate business zone, pursuant to the zoning laws of the city, or to any motor vehicle in an operable condition specifically adopted or designed for operation on drag strips or raceways, or any vehicle retained by the owner for antique collection purposes.

(Code 2007, 14-28)

**Sec. 14-29. Notice to Remove.**

Whenever it comes to the attention of the chief of police that any nuisance under this article exists in the city, a notice in writing shall be served upon the occupant of the land where the nuisance exists, or in the case there is no such occupant, upon the owner of the property or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in this article.

(Code 2007, 14-29)

**Sec. 14-30. Responsibility for Removal.**

Upon proper notice and opportunity to be heard, the owner of the abandoned, wrecked, dismantled or inoperative vehicle and the owner or occupant of the private property on which the same is located, either or all of them, shall be responsible for its removal. In the event of removal and disposition by the city, the owner or occupant of the private property where same is located shall be liable for the expenses incurred.

(Code 2007, 14-30)

**Sec. 14-31. Notice Procedure.**

The chief of police shall give notice of removal to the owner or occupant of the private property where a nuisance under this article is located, at least thirty (30) days before the time of compliance. It shall constitute sufficient notice when a copy of same is posted in a conspicuous place upon the private property on which the vehicle is located and duplicate copies are sent by registered mail to the owner or occupant of the private property at his last known address.

(Code 2007, 14-31)

**Sec. 14-32. Contents of Notice.**

The notice issued under this article shall contain the request for removal of the nuisance within the time specified in this article, and the notice shall advise that upon failure to comply with the notice to remove, the city or its designee shall undertake such removal with the cost of removal to be levied against the owner or occupant of the property.

(Code 2007, 14-32)

**Sec. 14-33. Request for Hearing.**

The persons to whom the notices are directed, or their duly authorized agents, may file a written request for a hearing before the city commission, or its designee, within the thirty-day period of compliance prescribed in Section 14-31 for the purpose of defending the charges by the city.

(Code 2007, 14-33)

**Sec. 14-34. Procedure for Hearing.**

The hearing provided for in this article shall be held as soon as practicable after the filing of the request and the persons to whom the notices are directed shall be advised of the time and place of such hearing at least seven (7) days in advance thereof. At any such hearing the city and the persons to whom the notices have been directed may introduce such witnesses and evidence as either party deems necessary.

(Code 2007, 14-34)

**Sec. 14-35. Removal of Motor Vehicle from Property.**

If the violation of this article described in the notice has not been remedied within the thirty-day period of compliance, or in the event that a notice requesting a hearing is timely filed, a hearing is had, and the existence of the violation is affirmed by the city commission, or its designee, the chief of police or his designee shall have the right to take possession of the junked motor vehicle and remove it from the premises. It shall be unlawful for any person to interfere with, hinder, or refuse to allow such person or persons to enter upon private property for the purpose

of removing the vehicle under the provisions of this article.  
(Code 2007, 14-35)

#### **Sec. 14-36. Notice of Removal.**

Within forty-eight (48) hours of the removal of any vehicle under this article, the chief of police shall give notice to the registered owner of the vehicle, if known, and also to the owner or occupant of the private property from which the vehicle was removed, that such vehicle has been impounded and stored for violation of this article. The notice shall give the location of where the vehicle and the costs incurred by the city for removal.

(Code 2007, 14-36)

#### **Sec. 14-37. Disposition of Vehicles.**

Upon removing a vehicle under the provisions of section 14-35, the city shall after ten (10) days cause it to be appraised. If the vehicle is appraised at seventy-five dollars (\$75.00) or less, the chief of police shall execute an affidavit so attesting and describing the vehicle, including the license plates, if any, and stating the location and appraised value of the vehicle. The chief of police, after complying with the above, may summarily dispose of the vehicle and execute a certificate of sale. If the vehicle is appraised at over seventy-five dollars (\$75.00), the chief of police shall give notice of public sale not less than seven (7) days before the date of the proposed sale.

(Code 2007, 14-37)

#### **Sec. 14-38. Contents of Public Sale Notice.**

The notice of sale provided for by this article shall state:

1. The sale is of abandoned property in the possession of the city.
2. A description of the vehicle, including make, model, license number and any other information which will identify accurately the vehicle.
3. The terms of the sale.
4. The date, time and place of the sale.

(Code 2007, 14-38)

#### **Sec. 14-39. Public Sale.**

The vehicle shall be sold under this article to the highest and best bidder. At the time of payment of the purchase price, the chief of police shall execute a certificate of sale in duplicate, the original of which to be given to the purchaser, and the copy thereof to be filed with the city clerk. Should the sale for any reason be invalid, the city's liability shall be limited to the return of the purchase price.

(Code 2007, 14-39)

#### **Sec. 14-40. Redemption of Impounded Vehicles.**

The owner of any vehicle seized under the provisions of this article may redeem such vehicle at any time after its removal but prior to the sale or destruction thereof upon proof of ownership

and payment to the chief of police of such sum as he may determine and fix for the actual and reasonable expenses of removal, and any preliminary sale advertising expenses, not to exceed seventy-five dollars (\$75.00) plus five dollars (\$5.00) per day for storage for each vehicle redeemed.

(Code 2007, 14-40)

**Sec. 14-41. Liability of Owner or Occupant.**

Upon the failure of the owner or occupant of the property on which abandoned vehicles have been removed by the city to pay the un-recovered expenses incurred by the city in such removal, a lien shall be placed upon the property for the amount of such expenses.

(Code 2007, 14-41)

**Secs. 14-42 to 14-60. Reserved.**

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**ARTICLE III. JUNK, TRASH AND REFUSE**

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**Sec. 14-61. Penalty.**

Violations of this article are punishable as provided in Section 1-8.

(Code 2007, 14-61)

**Sec. 14-62. Declaration of Nuisance; Unlawful.**

In the interest of the inhabitants of the city, it is necessary to prohibit the accumulation of junk, trash and refuse on property within the corporate limits of the city by declaring such accumulation a nuisance. Violations of this article are a public nuisance.

(Code 2007, 14-62)

**Sec. 14-63. Disposal Restricted Generally.**

It shall be unlawful for any reason for any person to keep, store, deposit, sweep, place or throw solid waste or other waste materials in or upon any sidewalk, street, alley or unoccupied premises or lots, or upon private property, whether owned by such person or not, within the city, except in the manner and in the receptacles or containers as provided in Section 21-25.

(Code 2007, 14-63)

**Sec. 14-64. Unsanitary Premises.**

It shall be unlawful for any person to permit or cause to remain in or about his premises any solid waste, weeds, automobiles not in operating condition, wastewater or any conglomeration of residue thereof, which emits odors or serves as a feeding or breeding place for flies, insects or rodents, and which is unsanitary or injurious to public health. The accumulation of building materials, pipes, lumber or boxes may be maintained on said premises if such accumulation is evenly piled and stacked for a reasonable length of time.

(Code 2007, 14-64)

**Sec. 14-65. Hazardous Premises.**

It shall be unlawful for any person to permit in or about his premises trees, weeds, briars, brush

or any other solid waste to become, in any way, hazardous or injurious to public health or to obstruct pedestrian and vehicular traffic.

(Code 2007, 14-65)

#### **Sec. 14-66. Accumulation of Solid Waste.**

No person shall allow any solid waste to accumulate upon premises owned, leased, rented or occupied by him, except in the manner herein provided.

(Code 2007, 14-66)

#### **Sec. 14-67. Storage on Private Property.**

The storing of junk, trash or refuse on private property within the city is hereby declared to be a nuisance, subject to the following exceptions:

1. Upon application in writing to the commission for an exemption in areas specifically designated by the commission in writing for a period not to exceed one (1) year, renewable from year to year at the discretion of a majority of the commission. Any exemption so granted shall be non-transferable except upon written application to the commission and approved by a majority of the commission in writing upon terms and conditions as the commission may decide.
2. When the junk is totally enclosed within a building, or is blocked from public or private view by a suitable fence or other enclosure, or is kept within an appropriate receptacle with a tight fitting lid.

(Code 2007, 14-67)

#### **Sec. 14-68. Weeds, Responsibility of Owner.**

It shall be unlawful for any private owner, agent, lessee, or occupant of any lots, tracts or parcels of land within the city to allow weeds to lie, grow or be located upon any such property or long any street or avenue adjoining the same between the property line and the curb line thereof, or on or along any alley adjoining the same between the property line and the center of such alley.

(Code 2007, 14-68)

#### **Sec. 14-69. Notice of Nuisance.**

Any enforcement officer or city employee designated by the city manager, upon observing any violation of this article, shall issue a notice directed to the owner of record of the property on which the nuisance occurs, or to the occupant or tenant of the property, or both. The notice shall describe the violation and shall establish a reasonable time limit for abatement thereof by the owner, occupant or tenants, which limit shall be not less than two (2) days or more than thirty (30) days after service of the notice. The notice may be served either personally or by registered mail at the owner's or occupant's last known address upon deposit in the postal registry. If such owner cannot be served, a copy of the ordinance from which this article derives shall be posted on the property and notice shall be published one (1) time in a paper of local circulation.

(Code 2007, 14-69)

**Sec. 14-70. Complaint.**

In the event the private owner or occupant of the property where the nuisance violation of this article exists has failed, within the prescribed time, to abate the nuisance, then an enforcement officer shall file a complaint charging violation of this article with the municipal court, demanding that the owner of the property, or the occupant thereof, or both, be held to answer to the court for the violation of this article.

(Code 2007, 14-70)

**Sec. 14-71. Removal of Nuisance.**

In the event that a person, owner, or occupant in charge of property fails to remove the nuisance, the city may enforce this article in any manner consistent with law including but not limited to removal of the nuisance and collection of reasonable costs of labor, equipment and material. Failure to pay these costs shall result in a lien against the subject property for these costs, which may be enforced as provided in NMSA 1978 § 3-36-1 et seq.

(Code 2007, 14-71)

**Sec. 14-72. Injunctions.**

The city police, code compliance officer, or any other citizen of the city, when a nuisance exists as set forth in this article, may maintain a complaint in the name of the city, perpetually, to enjoin all persons from maintaining or permitting the nuisance and to abate the same.

(Code 2007, 14-72)