

## CHAPTER 18

### NUISANCES\*

#### ARTICLE I. IN GENERAL

##### **Sec. 18-1. Defined.**

- (a) For the purpose of this Chapter, the term "nuisance" is defined to mean a thing, condition or use of some continuity as distinguished from a solitary act, which through offensive odors, noises, substances, disturbances, emanations, sights, or the like, works hurt, annoyance, inconvenience or damage to the public or to another, with respect to his or her comfort, health, repose or safety or with respect to the free use and comfortable enjoyment of his or her property, whether it does so by reason of its nature or by reason of conditions and circumstances, where the cause of these effects has no legal sanction, or where, if the cause is sanctioned, the effects, nevertheless, are unreasonably harmful or annoying to persons of normal sensibility, and constitute a legal wrong. (Ord. No. 772, § 1, 1-16-78; Ord. No. 1282, §1, 2-24-97 )
- (b) By way of illustration and not limitation, the following shall be considered within the definition of nuisance:
1. Improper exterior maintenance of commercial, industrial and non-residential buildings, including peeling paint, broken windows, broken doors, deteriorated roofing or siding.
  2. Graffiti.
  3. Deteriorated private streets and commercial driveways, walkways and parking areas.
  4. Absence of grass or suitable ground cover in non-paved areas. (Ord. No. 1282, §1, 2-24-97)

##### **Sec. 18-2. Prohibited.**

No person owning, leasing, occupying or having charge of any premises, shall permit, maintain or keep any nuisance thereon. (Ord. No. 772, § 2, 1-16-78)

##### **Sec. 18-3. Abatement.**

Whenever it comes to the knowledge of the code enforcement officer or any peace officer of the city, that a nuisance exists on private property, said officer shall cause a written notice to be directed to said owner, lessee, or occupant of said premises to abate said nuisance within seven (7) days from date of notice; said notice may be personally delivered or sent by registered mail, postage prepaid. In the event that said nuisance is not abated after notice is given then in that event, the complaining officer shall sign a written complaint for prosecution in the municipal court as provided by law. (Ord. No. 772, § 3, 4, 1-16-78)

**Secs. 18-4-18-15. Reserved.**

\***State law reference**--Nuisance abatement ordinances, K.S.A. 12-1617e et seq.

**ARTICLE II. WEEDS AND UNCONTROLLED VEGETATION**

**Sec. 18-16. Authority.**

The city, under the authority of Kansas Statutes Annotated, 12-1617(f) and Kansas Statutes Annotated 2-1314, is hereby authorized to provide for and require the cutting or destruction of all noxious weeds, weeds and other uncontrolled vegetation on lots or pieces of land within the city. (Ord. No. 937, § 1, 1-3-83)

**Sec. 18-17. Penalty for violation of article.**

Any person who shall violate any provision of this article shall be deemed guilty of a misdemeanor, and shall be subject to a fine not to exceed one hundred dollars (\$100.00) or by imprisonment not to exceed ninety (90) days or by both such fine and imprisonment. (Ord. No. 937, § 7, 1-3-83)

**Sec. 18-18. Definition.**

- (a) Weeds. The term "weeds" shall mean any of the following:
- (i) Brush and woody vines;
  - (ii) Indigenous grasses that may attain such large growth as to become, when dry, a fire hazard to adjacent property;
  - (iii) Plants that bear or may bear seeds of a downy or wingy nature;
  - (iv) Plants that are located in an area that harbors rodents, insects, animals, reptiles or any other creature that may or does constitute a menace to health, public safety or welfare; and
  - (v) Plants and indigenous grasses that, because of height, have a blighting influence upon the area. For purposes hereof, such plants and grasses shall be presumed blighting if they exceed ten (10) inches in height.
- (b) Noxious weeds. The term "noxious weeds" shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*),

- leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans* L.), and Johnson grass (*Sorghum halepense*). (Ord. No. 937, § 2(b), 1-3-83; Ord No. 1286, §1, 2-24-97)
- (c) Uncontrolled Vegetation. The term “uncontrolled vegetation” shall mean vegetation that is allowed to grow unattended or which contains a mixture of weeds and other plant materials. Such term shall not include trees and shrubs.( Ord No. 1286, §1, 2-24-97)

**Sec. 18-19. Certain weeds and uncontrolled vegetation declared a nuisance; duty of property owner or occupant to cut.**

It shall be unlawful for any property owner, representative, tenant, or other such person with control, occupancy, or possession of real property to raise, permit or allow on such real property noxious weeds; any plant that is poisonous to the touch (including but not limited to poison ivy, poison oak and poison sumac); or weeds or uncontrolled vegetation in excess of ten (10) inches in height. The foregoing shall include any areas between the property line of said real property and the curb or street pavement line of any adjacent street or alley (whether improved or unimproved), including sidewalks, easements and right-of-way. (Ord. No. 1089, § 1, 10-16-89; Ord. No. 1286, §1, 2-24-97)

**Sec. 18-20. Written notice to cut by mail.**

Owners of property shall be given five (5) days written notice by United States mail prior to the entry by City agents upon their property for the purpose of abating the nuisance. (Ord. No. 937, § 4, 1-3-83, Ord. No. 1307, §1, 8-25-97)

**Sec. 18-21. Same-When owner not subject to notice.**

In the event the owner or person in control of property described in section 18-19 is a nonresident or, for other reasons, cannot be subjected to notice, the code enforcement officer or his authorized representative may enter upon the land and abate the nuisance by cutting the noxious weeds, weeds, and other uncontrolled vegetation described in section 18-19, with the cost of the work secured in accordance with section 18-22 hereof. (Ord. No. 937, § 6, 1-3-83)

**Sec. 18-22. Abatement by city upon failure by owner or occupant to cut after receiving notice; assessment and collection of costs as lien on property.**

If the owners, lessees or agents of property described in section 18-19 fail to cut or remove the noxious weeds, weeds or other uncontrolled vegetation after the lapse of five (5) days from the date of mailing the notification to the property owner under the provisions of section 18-20 hereof, the code enforcement officer or his authorized representative may enter upon the lots of land and cut and remove such noxious weeds, weeds and other uncontrolled vegetation, and charge the cost thereof to the owner or lessee in control of the lot, plus administrative costs amounting to twenty-five dollars (\$25.00) for the cost of cutting and removing such noxious weeds, weeds and other uncontrolled vegetation from the lot.

The cost of cutting and removing such noxious weeds, weeds, and other uncontrolled vegetation and the abatement of the nuisance caused thereby, plus administrative costs, may be assessed and collected as a lien on the property affected thereby, if any, for the processing of such lien. As soon as the cost of the cutting and removal of the noxious weeds, weeds and other uncontrolled vegetation and the abatement of the nuisance caused thereby shall be determined by the code enforcement officer, he shall notify the owners, lessees or agents of the cost and, if after thirty (30) days the costs of cutting or removing noxious weeds, weeds and other uncontrolled vegetation and the abatement of the nuisance caused thereby is not paid, the code enforcement officer shall certify the assessments and apportionment covering the cost to the chief financial officer/city clerk.

Such apportionment shall contain the names of the owners, lessees, or occupants of the lots of land affected and charged therewith who were such upon the day when the cutting or removal of such noxious weeds, weeds, and other uncontrolled vegetation and the abatement of nuisance resulting therefrom was performed. The chief financial officer/city clerk shall, immediately upon the receipt of such apportionment, enter the assessment therein contained in appropriate books to be kept for that purpose, showing the property assessed and shall certify the same to the county clerk to be collected along with other general taxes as provided for by law. (Ord. No. 937, § 3, 1-3-83)

**Sec. 18-23. Cutting by code enforcement officer upon request by owner or occupant.**

Upon the written request and agreement to pay for the service by the owner or person in control of property described in section 18-19 hereof, the code enforcement officer or his authorized representative may enter upon the premises and cut and remove such noxious weeds, weeds and other uncontrolled vegetation; and collect from such person the cost of such service and an administrative fee of twenty-five dollars (\$25.00). Said charges shall be paid to the chief financial officer/city clerk. Upon failure to pay said costs within thirty (30) days after notification, said costs shall be entered as a lien against the property as provided in section 18-22. (Ord. No. 937, § 5, 1-3-83)