

CHAPTER 6

Nuisances and Sanitation

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ARTICLE 1

Nuisances

Division 1

Administration and Abatement Procedures

; Ord. 1110 §1, 2010 6-1-10. Notice to owner to abate.

It shall be the duty of the Health Commissioner to serve a notice in writing upon the owner, occupant, agent or person in possession, charge or control of any lot, building or premises in or upon which any nuisances may be found or who may be the cause or the owner of any such nuisance, requiring them or either of them to abate the same in such a manner as he or she shall prescribe within a reasonable time. It shall not be necessary in any case for the Health Commissioner to specify in the notice the manner in which any nuisances shall be abated unless he or she shall deem it advisable so to do. (Prior code 19-1)

Sec. 6-1-20. Service of notice.

Such notice may be given or served by any officer who may be directed or deputized to give or take the same. If the person so notified neglects or refuses to comply with the requirements of the order, by abating the nuisance within the time specified, such person shall be deemed guilty of a misdemeanor for every such violation. (Prior code 19-2; Ord. 1110 §1, 2010)

Sec. 6-1-30. Abatement by Health Commissioner at expense of owner.

It shall be the duty of the Health Department to proceed at once upon the expiration of the time specified in the notice provided for in the two (2) preceding Sections, to cause such nuisance to be abated. Whenever the owner, occupant, agent or person in possession, charge or control of premises in or upon which any nuisance may be found is unknown, or cannot be found, the Department shall proceed to abate such nuisance without notice, and in either case, the expense of such abatement shall be collected from the person who may have created, continued or suffered such nuisance to exist. (Prior code 19-3)

Sec. 6-1-40. Summary abatement.

Whenever any nuisance shall be found on any premises within the City, the owner of which is unknown or cannot be found, the Health Department is hereby authorized, in its discretion, to cause the same to be summarily abated in such manner as it may direct. (Prior code 19-4; Ord. 1110 §1, 2010)

Sec. 6-1-50. Application of common law or statutes.

In all cases where no provision is made in this Code defining what are nuisances and how the same may be removed, abated or prevented, those offenses which are known to the common law of the land or the statutes of the State as nuisances may, in case the same exist within the City or within one (1) mile thereof, be treated as such and proceeded against as provided in this Article or in accordance with any other provision of law. (Prior code 19-5; Ord. 1110 §1, 2010)

Sec. 6-1-60. Collection of costs of abatement.

(a) In the event the weeds on any lot, block or parcel of ground, or along the sidewalk adjoining the same or the alley behind the same, are cut by order or direction of the City Manager under the provisions of Section 6-1-250 below, the whole cost of cutting such weeds, together with ten percent (10%) for inspection and other incidentals, shall constitute a lien upon the property from the date of the cutting of the weeds until paid, and the amount thereof shall be paid to the City Manager within thirty (30) days after mailing by the City Manager to the owner of such lot, block or parcel of ground, by registered mail or certified mail, notice of the assessment of such cost and requiring payment of the amount of the City.

(b) If any such assessment is not paid within such thirty-day period, the same may be certified by the City Manager to the County Treasurer to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with interest on the total sum thereof at the rate of ten percent (10%) per year from the date initially due until certified to the County Treasurer for collection and with ten percent (10%) penalty to defray the cost of collection. (Prior code 19-11; Ord. 1110 §1, 2010)

*Division 2
Nuisances Enumerated*

Sec. 6-1-210. Importing nuisances.

No person shall bring into the City, or keep therein for sale or otherwise, either for food or for any other purpose, any animals, dead or alive, matter, substance or thing which shall be or which shall occasion a nuisance in the City or which may or shall be dangerous or detrimental to health. (Prior code 19-6; Ord. 1110 §1, 2010)

Sec. 6-1-220. Offensive stable, cattle yard or other structures.

Any livery or other stable, cattle yard or shed, barn, chicken yard or other yard, house, building, store or structure of any kind or any grounds or premises which shall become nauseous or foul or offensive to the neighborhood, or dangerous or prejudicial to the public health, is hereby declared a nuisance. (Prior code 19-7; Ord. 1110 §1, 2010)

Sec. 6-1-230. Offensive cellar vault or drain.

No person shall suffer or permit any cellar, vault, private drain, pool, sewer, sink, grease trap or catchbasin upon any premises belonging to or occupied by him or her or in his or her possession, charge or control to become nauseous, foul or offensive or dangerous to the public health. (Prior code 19-8; Ord. 1110 §1, 2010)

Sec. 6-1-240. Standing water.

Any cellar, vault, drain sewer, pond of water or other place upon or within any private premises or grounds in this City that shall be nauseous or offensive to others or injurious to public health through an accumulation or deposition of nauseous, offensive or foul water or other substance shall be deemed a nuisance. (Prior code 19-9; Ord. 1110 §1, 2010)

Sec. 6-1-250. Weeds; growth and accumulation.

(a) It shall be unlawful and an offense for any owner of any lot, block or parcel of land within the City or any tenant or agent in charge thereof to permit weeds to grow or remain when grown upon such lot, block or parcel of land, or on or along any sidewalk or the alley adjoining the same, but such weeds shall be cut close to the ground and kept so cut. Any person violating the provisions of this Section shall be punishable as provided in Section 1-4-10 of this Code.

(b) Further, in addition to liability for punishment pursuant to the preceding paragraph, if any owner, tenant or agent in charge shall fail to cut weeds, as required by this Section within five (5) days after being notified to do so by the Police Department or the City Manager, which may be served personally or by registered or certified mail, the City Manager, at any time thereafter, may direct that the weeds be cut by the most expedient means available, using either such employees of the City or private persons or contractors as the City Manager shall determine. (Prior code 19-10; Ord. 1110 §1, 2010)

ARTICLE 2

Food Regulations

Division 1

General Provisions

Sec. 6-2-10. Unwholesome food generally.

Every person being the owner, lessee or occupant of any room or place other than a private dwelling, where any meat, fish, poultry, game, vegetables, fruit or other perishable articles adapted or designed to be used for human food, shall be stored or kept, temporarily or otherwise, and every person having charge of, or being interested in or engaged in, the care of or in respect to the custody or sale of any such article of food supply, shall put, preserve and keep such article in a clean and wholesome condition and shall not allow the same or any part thereof to become putrid, decayed, poisoned, infected or in any manner rendered or made unsafe or unwholesome for human food. It shall be the duty of the Health Department and its authorized employees to enter any and all such premises above specified at any time and of any day and forthwith to condemn, seize and destroy any such putrid, decayed, poisoned or infected food which may be found in or upon such premises. Any person who refuses or obstructs the entry into any building, premises or place, or any officer of the Health Department in the performance of his or her duties or who interferes with the confiscation or destruction of any infected, decayed or unwholesome articles of food, shall be guilty of a misdemeanor. (Prior code 12-1; Ord. 1110 §1, 2010)

Division 2

Meats and Poultry

Sec. 6-2-110. Inspection, when required.

All meat brought into the City for sale or delivery, which has not been marked or branded by the State Board of Health or United States Department of Agriculture, shall be inspected and branded or otherwise

marked for identification by the Food and Meat Inspector, or his or her assistants, as designated by the City Council. (Prior code 12-2; Ord. 1110 §1, 2010)

Sec. 6-2-120. Marking prior to sale.

No person shall sell or offer for sale, or deliver within the City, any meat which does not bear the meat inspection brand or other mark of the State Board of Health or of the United States Department of Agriculture. All inspections of meat shall be made under the rules and regulations of the Food and Meat Inspector, State Department of Public Health and of the United States Department of Agriculture. (Prior code 12-3; Ord. 1110 §1, 2010)

Sec. 6-2-130. Food and Meat Inspector; power to make regulations.

The Food and Meat Inspector of the City shall have the power and authority to make reasonable requirements and regulations to facilitate the administration of his or her inspection as provided for in Section 6-2-110 above. (Prior code 12-4; Ord. 1110 §1, 2010)

Sec. 6-2-140. Power to condemn.

The Food and Meat Inspector shall condemn and destroy as provided in the regulations of the United States Department of Agriculture or ordinances of the City, all carcasses or parts of carcasses found to be unfit for human consumption. (Prior code 12-5; Ord. 1110 §1, 2010)

Sec. 6-2-150. Display of carcass.

All carcasses must have their head and all the viscera except the stomach, bladder and intestines, held together by natural attachments and all such carcasses shall be displayed at such times, manner and places as shall from time to time be designated by the Food and Meat Inspector or his or her assistants. (Prior code 12-6; Ord. 1110 §1, 2010)

Sec. 6-2-160. Inspection fees; monthly report.

Any person having meat inspected under the provisions of this Article shall pay a fee of one dollar (\$1.00) for such inspection to the Food and Meat Inspector at the time of inspection for each carcass or part thereof inspected. The Inspector shall deliver to such person his or her official receipt for the amount paid and shall, on the last day of each month, report collections of all such fees so received by him or her and remit the same to the City Council. (Prior code 12-7; Ord. 1110 §1, 2010)

Sec. 6-2-170. Slaughter in City unlawful; exceptions.

It shall be unlawful for any person to kill or slaughter any animal within the City, either for market or for private consumption as a meat animal, except in that portion of the City zoned for industrial use lying within the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section 5, Township 3 North, Range 57 West, south of the right-of-way of the Burlington Northern Railroad. The provisions of this Section shall not apply to the killing or slaughter of domestic fowl for any such purpose. (Prior code 12-8; Ord. 1110 §1, 2010)

ARTICLE 3

Trees and Shrubs

Sec. 6-3-10. Applicability.

This Chapter provides full power and authority over all trees located within street or alley rights-of-way, parks and public places of the City and to trees located on private property that constitute a hazard or threat as described herein. (Prior code 25B-1; Ord. 1110 §1, 2010)

Sec. 6-3-20. Definitions.

For the purposes of this Chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number.

City tree means any tree planted upon the streets of the City or upon municipally owned lands within the territorial limits of the City.

Parks Superintendent means City Manager, who is responsible for directing the day-to-day work and activities of the Municipal Parks Department and its individual employees.

Person means any person, firm, partnership, association, corporation, company or organization of any kind.

Private tree means any tree located on private property in the City.

Public place shall include the public streets, public parks and any and all other municipally owned lands within the territorial limits of the City.

Public street includes all areas within the dedicated length and breadth of the public streets, roadways and alleys or easements or rights-of-way therefor, including the sidewalks, pedestrian ways, parkways and all other lands dedicated or used for any such purposes.

Street tree means any tree or shrub planted upon the public streets of the City. (Prior code 25B-2; Ord. 1110 §1, 2010)

Sec. 6-3-30. City Forester appointed.

There is established in the Parks Department of the City the office or position of City Forester. At such time as someone is appointed as City Forester, he or she shall report directly to and be under the jurisdiction of the City Manager. Until the City Council shall make such appointment, the City Manager shall exercise the authority of and perform the duties of the City Forester. (Prior code 25B-3; Ord. 1110 §1, 2010)

Sec. 6-3-40. Duties and authority of City Forester.

The City Forester shall have jurisdiction and supervision over all trees in public places within the territorial limits of the City, and such other authority and duties as are given and assigned by the provisions of this Chapter and the City Manager.

(1) The City Forester shall have the authority and it shall be his or her duty to plant, trim, spray, preserve and remove trees in or from public places.

(2) The City Forester shall have the authority and it shall be his or her duty to trim, remove or destroy or order the trimming, removal or destruction of trees or plants upon private property when the City Forester shall find such action necessary to public safety or to prevent the spread of disease or insects to public trees and places. (Prior code 25B-4; Ord. 1110 §1, 2010)

Sec. 6-3-50. Limitations on planting and removal of trees in public places.

Unless the City Forester shall otherwise authorize, all trees planted in public places shall be planted or removed in accordance with the following requirements:

(1) No person shall plant or set out any tree in a public place without first receiving written authorization from the City Forester. The City Forester shall inspect and approve the planting site and tree species. All tree plantings in a public place shall be made in accordance with this Chapter.

(2) No person shall remove any tree from a public place or from the public street without first obtaining written authorization from the City Forester.

(3) Street trees shall be deciduous trees. Evergreens shall not be planted as street trees.

(4) All trees must be a minimum of one (1) inch in diameter of trunk one (1) foot above the ground.

(5) No tree or other planting shall be placed or remain so as, in the opinion of the City Manager, to cause a traffic hazard. Any such hazardous condition caused by such tree or planting shall be immediately removed by order of the City Manager. The City shall be responsible for the cost of the removal of any street tree that has been determined to be or create a traffic hazard on public streets. The removal of all other plantings in public places shall be the financial responsibility of the adjacent landowner, renter, operator or occupant.

(6) No tree shall be planted on any public street or public place, except of the variety approved by the City Forester for that public street or public place.

(7) Felled trees must be entirely removed and the root stump cut and removed to a depth of twelve (12) inches below ground level, or, if required by the City Forester, entirely grubbed out and removed.

(8) Unless the City Forester, for good reason, shall otherwise permit, street trees shall be planted a minimum of forty (40) feet apart, and no tree shall be planted where the clear space between the curb and the sidewalk is less than eight (8) feet, and no tree shall be planted nearer than three (3) feet from any sidewalk or curb, and no tree shall be planted closer than thirty-five (35) feet from the curb face of the nearest intersection. (Prior code 2B-5; Ord. 1110 §1, 2010)

Sec. 6-3-60. Plantings near lines and easements.

Unless the City Forester shall otherwise authorize:

(1) No tree with a mature height of twenty (20) feet or more shall be planted closer than ten (10) feet measured horizontally to the closest point directly beneath the nearest overhead wire or line or conduit of any electric, telephone, communications or other utility or within five (5) feet from any underground service line or utility.

(2) No tree or shrub, regardless of size or height, shall be planted within the boundaries of any surface easement dedicated to or reserved for lines of public utilities. (Prior code 25B-6; Ord. 1110 §1, 2010)

Sec. 6-3-70. Duties of private owners.

It is the duty of any person growing a tree upon private property:

(1) To trim trees so as not to cause a traffic hazard or other hazard to any street, alley or other public place or interfere with the proper lighting of public streets, sidewalks and alleys by the streetlights and so that a clearance of any portion thereof overhanging the public street or walkway shall be a minimum of fourteen (14) feet;

(2) To treat and remove any tree or plant so diseased or insect ridden as to constitute a hazard to public places or public streets or trees and plants thereon;

(3) To observe the planting specifications and limitations set forth in this Chapter and to refrain from planting any "cotton" bearing species of cottonwood or willow tree. (Prior code 25B-7; Ord. 1110 §1, 2010)

Sec. 6-3-80. Procedure upon order to trim or remove; appeal.

(a) When the City Forester shall find it necessary to order the trimming or removal of trees upon private property as authorized by the provisions of this Chapter, a written order to do the work or correct the condition shall be served upon the owner, operator, occupant or other person responsible for the premises. The order shall be served in one (1) of the following ways:

(1) By making personal service of the order upon the person responsible; such service may be made by the Police Department;

(2) By leaving the order with an adult member of the family of the person responsible; such service may be made by the Police Department;

(3) By securely affixing the order to the door at the entrance of the premises;

(4) By mailing a copy of the order to the last known address of the owner of the premises; or

(5) By publishing a copy of the order in the local newspaper three (3) times, once a week for three (3) successive weeks.

(b) The order shall set forth a time limit for compliance determined and specified by the City Forester based upon his or her assessment of the immediacy and the extent of the hazard and danger to public places, public streets, City trees or street trees created by the condition. In case of extreme danger to such property, the City Forester shall have the authority to require compliance immediately upon service of the order.

(c) A person to whom an order hereunder is directed shall have the right, within ten (10) working days of the service of such order, to appeal to the City Manager, who shall review such order within ten (10) days and make a decision on the issue of the appeal. Unless the order is revoked or modified, it shall remain in full force and be obeyed by the person to whom directed. No person to whom an order is directed shall fail to comply with such order within ten (10) days after an appeal shall have been determined. (Prior code 25B-8; Ord. 1110 §1, 2010)

Sec. 6-3-90. Failure to comply; assessment of cost for compliance.

(a) When a person to whom an order is directed shall fail to comply within the specified time, the City Forester shall remedy the condition or contract with others for such purpose and charge the cost thereof to the person to whom the order is directed. The person remedying a condition under a contract made hereunder shall be authorized to enter premises for that purpose.

(b) If the cost of remedying a condition is not paid within ten (10) days or such other additional time as may be allowed by the City Manager, the City Manager shall cause a notice of such assessment to be mailed, by first class mail, to the owner. In addition, said notice shall be published once each week for two (2) successive weeks in a newspaper of general circulation in the City, the last publication to be not less than one (1) week prior to the date of the hearing. Said notice of assessment shall advise the property owner of the amount assessed against the property and shall designate a time and place when the City Council will hear any objections as to the correctness of the amount so assessed.

(c) If the assessment which is finally determined by the City Council to be due and payable is not paid within ten (10) days after the Council session at which it was considered, the City Manager shall certify the final assessment to the County Treasurer to be placed on the tax list for the current year, to be collected in the same manner as other taxes are collected, with an added ten percent (10%) to defray the cost of collection. (Prior code 25B-9; Ord. 1110 §1, 2010)