

CHAPTER 14

NUISANCES

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CHAPTER 14

NUISANCES

ARTICLE I

SECTION 14-1. AIRCRAFT; LANDING WITHIN CORPORATE LIMITS PROHIBITED; EXCEPTIONS; PENALTIES.

- (a) Definition: For the purpose of this ordinance, the term "aircraft" shall be deemed to mean a weight-carrying machine, such as an airplane, glider, helicopter or balloon, for navigation of the air.
- (b) Prohibition: It shall be unlawful for any person, firm, corporation or association to land aircraft within the corporate limits of the City of Kemmerer without the express written consent of the city council first had and obtained.
- (c) Exceptions: This ordinance shall not apply to aircraft landing at the Kemmerer South Lincoln County Airport, nor to the aircraft used for the purpose of an air ambulance to and from the South Lincoln County Hospital.

SECTION 14-2. NUISANCE DEFINED; SPECIFIC NUISANCES EXPLAINED BUT NOT ALL INCLUSIVE.

- (a) For the purposes of this Article, the following terms are defined:

"Nuisance" shall mean the doing of, or failure to do, some act or thing, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing works some substantial annoyance, inconvenience or injury to another or the public or such part of the public as necessarily comes into contact with it.

In the alternative, a nuisance means the creation and/or maintenance by any person of any condition or use of real or personal property in such manner as to unreasonably interfere with the use or enjoyment of the property of another, or which is detrimental to the property of another or others, or which creates a health hazard or menace, or which causes substantial diminution in, or tends to degrade, the value of another's property.

"Front yard area" shall mean that area or portion of land where a six (6) foot solid fence enclosure is not erected or constructed or cannot be erected or constructed as per city zoning regulations.

- (b) For the purposes of this article, any one (1) of the following circumstances existing prior to, or at the time notice is delivered pursuant to Section 14-3, shall be considered prima

facie evidence that a motor vehicle upon private property is an abandoned motor vehicle constituting a nuisance.

1. When any of the four (4) main wheels or tires of such motor vehicle has been removed or is deflated, for a period longer than 30 days.
 2. When such motor vehicle is totally or partially suspended above the ground by jacks, blocks or any other lifting devices, for a period longer than 30 days.
 3. When current license plates or valid temporary permits are not displayed on such motor vehicle; provided, that this shall not apply to vehicles in the possession of licensed dealers for the purpose of sale at the place licensed for such sale.
 4. When any part of the mechanism of the motor vehicle has been removed so as to render it inoperable, for a period longer than 30 days.
- (c) By way of example only, and not by way of limitation or restriction, the following are illustrative of certain nuisances:
1. Any condition which, without lawful permit, interferes with, obstructs or tends to obstruct or which renders dangerous for passage any public street, sidewalk, stream, ditch or drainage;
 2. The keeping of flammable or combustible material of every kind in such a manner as to endanger by fire any property or structure within the city, unless guarded and protected, so far as practicable, to prevent fires from originating therein or from spreading when stored near such materials.
 3. The keeping of quantities of straw, hay, paper and paper products, dry grass cuttings, wood and wood products and the storing of oily rags and waste in such a manner as to endanger by fire any property or structure within the city, unless guarded and protected, so far as practicable, to prevent fires from originating thereon or from spreading when started near such materials.
 4. The accumulation, upon any property, or within any structure, of junk, rubbish, trash, waste, discharged material or salvage in such a manner as to cause a nuisance.
 5. Abandoned and unsheltered discarded or unused objects or equipment, such as automobiles, tires, batteries, furniture, stoves, appliances, refrigerators, freezers, cans or containers.
 6. Any foul, putrid, or nauseous liquid or liquor, toxic liquid or substance of any kind, openly stored, or discharged or allowed into or upon any public or private property within the city.

7. Any stale or putrid fat, grease, garbage, meat, vegetable matter, excrement or other foul, stinky or objectionable matter of any kind.
8. The storage, for a period of thirty (30) days or more within the city limits, of any old, unused, stripped, junked or otherwise non-operating vehicles, machinery, implements, equipment and personal property of any kind which is no longer used or safely usable for the purpose for which it was manufactured.
9. The keeping or maintaining of premises in a manner causing substantial diminution in the value of property of others in the vicinity in which such premises are located.
10. Failure to properly and sanitarily dispose of the carcass of an animal or fowl or disposing of such a carcass on public property.
11. To keep or maintain any pen, kennel, yard or enclosure, stable or building for animals in such a filthy or unwholesome condition as to be offensive to neighbors or passers-by, or injurious to the health of the neighborhood.
12. All noises, which by excessive volume, annoy or do not permit another the reasonable enjoyment of his/her property.
13. All disagreeable or obnoxious odors, scents or stenches, as well as the conditions, substances or other cause giving rise thereto.
14. Allowing weeds or vegetation to grow within 25 feet of a structure or 10 feet of a public right of way, to an average height of eight (8) inches or more or any accumulation of dead or live weeds, grass or brush on any occupied or unoccupied lot or land that provides a home for rats, skunks or other vermin.

SECTION 14-3. NUISANCE PROHIBITED.

It shall be unlawful for any person in charge or control of any private property whether as owner, tenant, occupant, lessee, contract purchaser or otherwise, to cause, permit, maintain or allow the creation or maintenance of a nuisance and upon first conviction shall be punishable by a fine of up to \$150.00, and upon second or subsequent conviction by a fine of up to \$250.00, and upon third or subsequent conviction by a fine of up to \$750.

SECTION 14-4. OUTDOOR STORAGE.

Outdoor storage is prohibited in the front yard area of any residence, business, or on any undeveloped lot as per city zoning regulations other than to provide for parking of operative and licensed vehicles and trailers in private driveway areas of a home residence or business. Outdoor storage of items that are not otherwise considered a nuisance is allowed if they are

stored in an area on the side or to the rear of any residence or commercial structure with a minimum six (6) foot solid fence enclosing it as per city zoning regulations in order to block any view of the stored items.

SECTION 14-5.NOTICE TO ABATE.

Whenever a nuisance is found to exist within the City, or upon property owned by the City or otherwise within its jurisdiction, the City shall give written notice to abate to the owner or occupant of the property upon or in which the nuisance exists and/or upon the person causing or maintaining the nuisance. The notice may be given by the city administrator or chief of police or such other person(s) as may be designated by either of them or the governing body.

SECTION 14-6.CONTESTS.

The notice to abate nuisance shall contain the following:

- (a) The location of the nuisance, if stationary.
- (b) A description of what constitutes the nuisance.
- (c) An order to abate the nuisance within a reasonable time, not to exceed seven (7) days, or request a hearing within three (3) days of service of the notice. In the event of nuisance, which is causing a serious risk of immediate harm unless abated, for example, the failure to properly dispose of dead animals or human excrement, the City shall demand the immediate abatement of such nuisance. If the nuisance is not abated within a reasonable time given the circumstances or in the event of refusal to abate, the City may immediately abate the nuisance without a prior hearing, provided, however, the person responsible for the nuisance may request a hearing to contest the necessity for the abatement, the imposition of costs and the amount thereof. A request for such hearing must be made within seven (7) days of the date of the abatement notice, and must be in accordance with Section 14-6.
- (d) A statement that if the nuisance is not abated and a hearing is not requested, within the time provided, the city shall proceed with criminal prosecution, and the city may abate the nuisance and assess the cost thereof against such person and lien against the property.
- (e) A statement that each day the nuisance is allowed to exist is a separate violation of City Ordinance and may be charged separately.
- (f) A statement of acts necessary to abate the nuisance.
- (g) A statement that a request for hearing must be made, if desired, by filing such request with the city administrator at City Hall within the time allowed.

SECTION 14-7. SAME - SERVICE.

The notice of abatement shall be served either personally or by certified mail, return receipt requested. In the event personal service cannot be effected as provided above, service may be effected by publication of the notice to abate, for two (2) consecutive weeks in the City's official newspaper. Service by publication shall be considered complete, and the time for abatement shall begin to run from the day following the second publication.

SECTION 14-8. HEARING.

In the event the notice of abatement is contested, a request for hearing must be filed with the city administrator within the time provided for such request. The form of request and the hearing procedure shall be as set forth at Section 2-81, et seq., of the City Code (Ord. No. 93-689).

SECTION 14-9. CITY MAY ABATE.

Upon the failure of the person upon whom notice to abate has been served to timely abate a nuisance, the City may, in its sole discretion, proceed to abate such nuisance, or contract with a private contractor to abate such nuisance. Such abatement shall be performed under the direction of the city administrator or his/her designee.

SECTION 14-10. PAYMENT OF COSTS; PERSONAL LIABILITY; LIEN.

- (a) Upon the completion of the abatement of any nuisance by the City, or its contractor, the city administrator shall compile all costs, fees and expenses for all work, labor, equipment and materials necessary for the abatement of the nuisance. Such compilation shall be presented to the city clerk who shall prepare a statement and billing and mail the same to the owner of the affected property, setting forth that the bill is payable in full no more than thirty (30) days from the date of mailing.
- (b) The amount of the bill shall be a personal obligation of the person responsible for the nuisance.
- (c) If the bill is not paid in full, within thirty (30) days, or such longer time as the governing body may allow by resolution, it shall become a lien upon the property and the city clerk shall file an appropriate notice of lien with the Lincoln County Clerk. Such unpaid bills shall bear interest at the rate of 18% per annum until paid.

SECTION 14-11. REMEDIES NOT EXCLUSIVE.

- (a) A violation of this ordinance shall constitute a misdemeanor. The procedures set forth in this article and ordinance shall be in addition to any other remedies that may now or hereafter exist under the law for the abatement and prosecution of nuisances.

- (b) The City may, at its sole discretion, pursue both criminal and civil remedies as provided hereunder, and may do so concurrently or consecutively.
- (c) It shall not be necessary to provide the notice to abate (Section 14-4) prior to the filing of a criminal complaint under this article.

SECTION 14-12. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance.

SECTION 14-13. REDEMPTION; FEES.

Any person, upon satisfactory proof of ownership or right to possession, may redeem an impounded vehicle by paying the charges of towing, storage, notice and all other costs of impoundment, and any penalties imposed in accordance with impoundment, and any penalties imposed in accordance with Section 14-9. Impound fees charged for vehicles impounded within City storage facilities shall be in amount to be set by resolution of the City Council, as the same may from time to time be amended.

SECTION 14-14. AUTOMOBILE EXEMPTION; PERMIT.

The city may grant an exemption for no more than one vehicle for a period not to exceed one year to any applicant for the purpose of repairing or restoring a vehicle that would normally meet the definition of an abandoned/nuisance vehicle.

The application shall be made in writing to the city administrator. The city administrator or his/her designee will then meet with the applicant at the place where the vehicle is to be stored during the time of the permit and determine the criteria for the exemption. The exemption may be extended on a yearly basis if progress is being shown or due cause for non-compliance is proven.