

ORDINANCE NO. 2023-3197

AN ORDINANCE AMENDING A NUISANCE ORDINANCE OF THE CITY OF CONCORDIA; REPEALING CONCORDIA CODE SECTIONS 13-101 & 13-103; AND AMENDING THE CONCORDIA CODE, BY ADDING NEW SECTIONS 13-101 & 13-103.

BE IT ORDAINED by the governing body of the City of Concordia, Kansas:

SECTION 1. Sections 13-101 and 13-103 of the Code of Ordinances of the City of Concordia are hereby repealed as of the effective date set forth below.

SECTION 2. The Code of Ordinances of the City of Concordia is hereby amended, by adding new sections 13-101 and 13-103 which shall read as follows:

Sec.13-101. Prohibited generally; abatement generally.

(a) The following substances, odors, conditions, articles and actions are found to be annoyances to the public and injurious to the health, well-being and welfare to the inhabitants of the city, and are hereby declared to be nuisances:

(1) Rank grass, weeds including, but not limited to, noxious weeds, and other uncontrolled growing vegetation;

(2) Stagnant or mosquito-infested ponds of water;

(3) Rat-infested, vermin-infested, or pest-infested material;

(4) Trash, refuse or debris including, but not limited to, discarded furniture and appliances, cans, barrels, paper, rags, cartons, boxes, glass, pieces of wood or metal;

(5) Other discarded materials of every kind and character including junked or abandoned vehicles, equipment and machinery, construction debris;

(6) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the city;

(7) Foul substances or substances which emit or cause any foul, nauseous, unhealthy or disagreeable odors or effluvia, including discarded grease, oil, fuel whether in containers or on the ground, filth, excrement, carcasses of dead animals or places where animals are kept in an offensive manner.

(8) Buildings or other structures which are dangerous or injurious to the health or safety of the occupants of such buildings or other residents of the municipality or which have an adverse impact on properties in the area. Such conditions may include, but are not limited to, the following: defects increasing the hazards of fire, accident, or other calamities; air pollution; lack of sanitary facilities; dilapidation; disrepair; structural defects; uncleanness; dead and dying trees, limbs or other unsightly natural growth; unsightly appearances that constitute a blight to adjoining property, the neighborhood, or the city; walls, sidings or exteriors of a quality and appearance not commensurate with the character of the properties in the neighborhood; vermin infestation; or inadequate drainage.

(b) It is unlawful for any person or for the owner, occupant or agent of any lot or parcel of land in the city to cause, permit, keep or maintain any nuisance defined in subsection (a) of this section.

(c) Whenever a city employee files with the city clerk a written statement in writing that such a nuisance exists, describing the same and where located and stating that it is a menace and dangerous to the health of the inhabitants of the city, or of any neighborhood, family or resident of the city, the city clerk shall issue an administrative order requiring the owner or agent of the owner of the premises to remove and abate from the premises the thing therein described as a nuisance within a time, not exceeding ten days, to be specified in the order. The order shall state that before the expiration of the waiting period, the recipient thereof may request a hearing before the governing body or designated representative. The order shall be served on the owner or agent

of such property by certified mail, return receipt requested, by posting a written notice in the front yard, or by personal service, or if the same is unoccupied and the owner is a nonresident, then by mailing an order by certified mail, return receipt requested, to the last known address of the owner.

(d) It shall be unlawful for any person to whom an administrative order is issued to fail to comply with the provisions of the order. Failure to comply with the provisions of an administrative order is a misdemeanor and can be referred to the municipal court, punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or imprisonment not to exceed thirty days, or both.

(e) In addition to, or as an alternative to prosecution, the city may proceed to have the things described in the notice removed and abated from the lot or parcel of ground if the owner or agent fails to comply with the requirement of the order for a period longer than that named in the notice. The city shall give notice to the owner or agent by certified mail, return receipt requested, of the total cost of such abatement or removal incurred by the city. Such notice also shall state that payment of such cost is due and payable within 30 days following receipt of such notice. The city also may recover the cost of providing notice, including any postage, required by this section. If the cost of such removal or abatement and notice is not paid within the 30-day period, the cost shall be collected in the manner provided by K.S.A. 12-1115, and amendments thereto, or shall be assessed and charged against the lot or parcel of ground on which the nuisance was located. If the cost is to be assessed, the city clerk, at the time of certifying other city taxes to the county clerk, shall certify such costs, and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1115, and amendments thereto, but only until the full cost and any applicable interest has been paid in full.

(f) Right of entry. The public officer, and the public officer's authorized assistants, employees, contracting agents or other representatives, are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of abatement of materials deemed a nuisance in a manner consistent with this section.

(g) Unlawful interference. It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with abatement of nuisance. Such interference shall constitute misdemeanor.

(h) If the nuisance is a motor vehicle located on property other than public property or property open to use by the public, disposition of such vehicle shall be in compliance with the procedures for impoundment, notice and public auction provided by K.S.A. 8-1102(a)(2).

Sec. 13-103. Weeds.

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

"Weeds" means any of the following:

- (1) Brush and woody vines shall be classified as weeds;
- (2) Weeds and indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (3) Weeds which bear or may bear weeds of a downy or wingy nature;
- (4) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;
- (5) Weeds and indigenous grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height.

(b) Removal required. It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon such premises or any area between the property lines of such premises and the centerline of any adjacent street or alley including, but not specifically limited to, sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds are hereby declared a nuisance and are subject to abatement as provided in this section.

(c) Public officer; notice to remove. The city shall designate a public officer to be charged with the administration and enforcement of this section. The public officer or an authorized assistant shall notify in writing the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this section, by mail, by posting a written notice in the front yard, or by personal service, once per calendar year. Such notice shall include the following:

- (1) The owner, occupant or agent in charge of the property is in violation of the city weed control law.
- (2) The owner, occupant, or agent in charge of the property is ordered to cut the weeds within ten days of the receipt of notice.
- (3) The owner, occupant or agent in charge of the property may request a hearing before the governing body or its designated representative within five days of the receipt of notice.
- (4) If the owner, occupant or agent in charge of the property does not cut the weeds, the city or authorized agent will cut the weeds and assess the cost of the cutting, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property.
- (5) The owner, occupant or agent in charge of the property will be given an opportunity to pay the assessment, and, if it is not paid, it will be added to the property tax as a special assessment.
- (6) No further notice shall be given prior to removal of weeds during the current calendar year.
- (7) The public officer should be contacted if there are any questions regarding the order.
- (8) If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this subsection, the city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this section.

(d) Abatement; assessment of costs.

- (1) Upon the expiration of ten days after receipt of the notice required by subsection (c) of this section, and if the owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements of subsection (a) of this section, the public officer or authorized assistant shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.
- (2) The public officer or authorized assistant shall give notice to the owner, occupant or agent in charge of the premises by restricted mail of the costs of abatement of the nuisance. The notice shall state that payment of the costs is due and payable within 30 days following receipt of the notice.
- (3) If the costs of removal or abatement remain unpaid after 30 days following receipt of notice, a record of the costs of cutting and destruction and/or removal shall be certified to the city clerk who shall cause such costs to be assessed against the particular lot or piece of land on which such weeds were so removed, and against such lots or pieces of land in front of or abutting on such street or alley on which such weeds were so removed. The city clerk shall certify the assessment to the county clerk at the time other special assessments are certified for spreading on the tax rolls of the county. The city may pursue collection both by levying a special assessment

and in the manner provided by K.S.A. 12-1115, and amendments thereto, but only until the full cost and any applicable interest has been paid in full.

(e) Right of entry. The public officer, and the public officer's authorized assistants, employees, contracting agents or other representatives, are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this section.

(f) Unlawful interference. It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a misdemeanor.

(g) Complete alternative. Nothing in this section shall affect or impair the rights of the city under the provisions of section 13-101, regarding nuisance abatement, or any other nuisance abatement, dangerous structure abatement, or similar land use control provision, to which the provisions of this section are a complete alternative. In addition to the enforcement procedures provided for in this section, and as a complete alternative to enforcement hereunder, the city may, in its discretion, seek to remove or prohibit nuisance activities and conditions in any court of competent jurisdiction.

(h) It shall be unlawful for any person to whom an administrative order is issued to fail to comply with the provisions of the order. Failure to comply with the provisions of an administrative order is a misdemeanor and can be referred to the municipal court, punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or imprisonment not to exceed thirty days, or both.

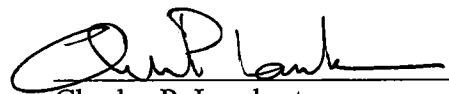
SECTION 3. This ordinance shall be summarized for publication as follows:

On March 1, 2023, the City of Concordia adopted Ordinance No. 2023-3197, amending Concordia Code Section 13-101, by amending the definition of what constitutes a nuisance and the process for cleanup and abatement of each property. A reproduction of this ordinance will be available for not less than one week following the publication of this summary of the ordinance at the website address of the City of Concordia, <http://www.concordiaks.org>. This summary is certified by the city attorney to be legally accurate and sufficient.


SECTION 4. This ordinance shall be in full force and effect from and after its passage and publication of the above ordinance summary in the official city newspaper. The provisions hereof are severable, and in the event of invalidity, for any reason, of any portion of this ordinance, the remaining provisions of the ordinance shall remain in full force and effect, with the invalid provisions deemed excised.

PASSED by the governing body and signed by the mayor this 1st day of March, 2023.

(Seal)



Charles P. Lambertz
Mayor

ATTEST:


Stacey Smith
City Clerk

ORDINANCE CERTIFICATE

I hereby certify that the foregoing is an original ordinance; that said ordinance was passed on the 1st day of March, 2023; that the record of the final vote on its passage is found on page ____ of the minutes journal; that the ordinance summary was published in the Concordia Blade-Empire on the 3rd day of March, 2023.

, City Clerk