

CHAPTER 92: NUISANCES; HEALTH AND SANITATION

Section

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Cross-reference:

Fire Prevention Code, see §§151.30 et seq.
Sanitation; Garbage and Refuse, see Ch. 52
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GENERAL PROVISIONS

§92.01 ADDITIONAL CODE PROVISIONS APPLY.

The provisions of Ch. 130 of this Code, regarding the Criminal Code on General Offenses for the City, shall apply to this chapter.

GENERAL NUISANCES

§92.15 PUBLIC NUISANCES.

It is unlawful to commit a public nuisance. A **PUBLIC NUISANCE** consists of knowingly creating, performing or maintaining anything affecting any number of citizens without lawful authority, which is either injurious to public health, safety, morals or welfare, or interferes with the exercise and enjoyment of public rights, including the right use public property. (1988 Code, §6-6-1) (Ord. 88-3, passed 4-25-1988; Ord. 2006-08, passed 11-27-2006) Penalty, see 92.99

§92.16 NUISANCES DECLARED.

(A) In the interest of the inhabitants of the City of Ruidoso Downs, it is necessary to prohibit the accumulation of junk, trash and refuse on property within the corporate limits of the City by declaring such an accumulation a nuisance. The following are hereby declared to be public nuisances.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BRUSH. Trees, brush, grass or clippings piled in a manner as to create a potential fire or safety hazard.

FENCES. All wooden, chain link, plastic, steel or metal structures used as enclosures, separations, security or boundary designations on properties within the City.

GARBAGE. Any discarded household items, including but not limited to, foodstuffs, housewares, containers, personal hygiene items, cleaning and medical supplies, or other common household consumer items.

GRAFFITI. Any painting or marking of surfaces with symbols, statements, slang, characters or offensive language. **GRAFFITI** is typically applied with spray paint, household paints or any other marking materials that can be applied to common surfaces.

RUBBISH. Any discarded household items, including but not limited to, furniture, appliances, containers and building materials.

SIGHT-LINE OBSTRUCTIONS. Any manmade or natural obstructions, including but not limited to, fences, structures, shrubs, trees, landscaping or material objects that may cause a potential safety issue if they interfere with the clear sight line of any pedestrian or vehicle traffic on any intersection, alley or street within the City. No obstruction over 30 inches in height, measured from the street centerline grade, shall be permitted to obstruct a sight-line-triangle area. The sight-line triangle shall be bounded by lines measured 30 feet along the front and side street lines of a corner lot, from the intersection of the property lines of such lot and line connecting points 30 feet distance from the intersection of the property lines of such lot. Any existing trees located within the clear-sight triangle may be allowed to remain if all of its branches are trimmed to a height of eight feet.

STORAGE. The storage of any rubbish, garbage, brush or automotive parts on a trailer, in a vehicle or container of any kind within ordinary public view.

WEEDS. All rank, noxious, poisonous, harmful, unhealthful vegetation, or any growth whatsoever or of an offensive nature or deleterious to health, of a height not to exceed eight inches.

(C) The following items address conditions subject to this public nuisance subchapter.

(1) *Unoccupied premises.* It shall be unlawful for any person to sweep, place or throw solid waste or other waste materials in or upon any sidewalk, street, alley or unoccupied premises.

(2) *Unsanitary premises.* It shall be unlawful for any person to permit or cause to remain in or about his or her premises any solid waste, weeds, motor vehicles 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, in the opinion of the Code Enforcement Officer, is unsanitary or injurious to public health. The accumulation of building materials, pipes, lumber or boxes may be maintained on the premises if the accumulation is evenly piled and stacked, for a reasonable length of time to be determined by the Code Enforcement Officer.

(3) *Hazardous premises.* It shall be unlawful for any person to permit, in or about his or her premises, 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.

(4) *Accumulation of solid waste.* It shall be unlawful for any person to allow any solid waste to accumulate upon premises owned, leased, rented or occupied by him or her during intervals between collection thereof, except in the manner herein provided. It shall be unlawful to deposit any solid waste in or upon the streets, alleys, sidewalks, gutters, curbing, storm sewers, parkways, or vacant lots within the Municipality, except in the manner in the receptacles or containers as provided in division (C)(5) of this section.

(5) *Solid waste receptacles.* All solid waste receptacles shall be maintained in a clean and sanitary condition by the owner or person using the receptacle, and these receptacles shall be located only in places as shall be readily accessible for removing and emptying the same, but shall not be placed in a place or position as may constitute a nuisance or obstruction to vehicular or pedestrian traffic.

(6) *Vegetation management.* It shall be unlawful for the owner, agent, lessee or occupant of any lot, tract or parcel of land within the City to allow weeds, brush, grass, bushes or deleterious, noxious or unhealthy growths including trees, to lie, grow or become a nuisance upon any such property, or along any street or avenue adjoin the property between the property line and the curb line or street thereof or on or along any alley adjoining the property between the property line and the center of such alley. However, this prohibition shall not apply to lands primarily agricultural in nature, or lands/lots of natural state of vegetation, except that owners of such lands shall be required to keep weeds down if any obstruction to traffic visibility or safety is caused, or if a clear fire hazard from vegetation is caused.

(7) *Graffiti.* It shall be unlawful for the owner, agent, lessee, or occupant of any lot, tract or parcel of land within the City to allow graffiti from vandalism or any other purpose to remain on any surface that is visible from ordinary public view. Graffiti from vandalism or any other purpose must be removed or painted over to match the original surface color.

(8) *Fences.* It shall be unlawful for the owner, agent, lessee or occupant of any lot, tract or parcel of land within the City to allow any fence to become unsightly or in a condition of disrepair, including missing boards, panels, fabric or damaged support members. It is also required that fences remain painted, stained or repaired with the original materials, and that they have a finished appearance. Property owners may remove fences that are in disrepair or need substantial repairs if this, in the opinion of the Code Enforcement Officer, does not cause an additional nuisance violation. Wooden pallets, OSB sheeting, or unfinished plywood are not acceptable as construction materials for finished fences.

(9) *Sight-line obstruction.* It shall be unlawful for the owner, agent, lessee or occupant of any lot, tract or parcel of land within the City to allow or to cause an obstruction of any sight line for pedestrian or vehicular traffic that may create a safety hazard. No obstruction over 30 inches in height, measured from the street centerline grade, shall be permitted to obstruct a sight-line-triangle area. The sight-line triangle shall be bounded by lines measured 30 feet along the front and side street lines of a corner lot, from the intersection of the property lines of such lot and a line connecting points 30 feet distance from the intersection of the property lines of such lot. Any existing trees located within the clear-sight triangle may be allowed to remain fi all

branches are trimmed to height of eight feet. Clear-sight triangles must be maintained according to §155.079(F) of the zoning code.

(10) *Firewood.* It shall be unlawful to store or to accumulate excessive amounts of fire wood, wood building materials or any other items for burning such as pallets that in the opinion of the Code Enforcement Officer constitutes a nuisance or is unsightly to the surrounding property owners or constitutes a potential fire hazard.

(D) *Storage.* It shall be unlawful for the owner, agent, lessee or occupant of any lot, tract or parcel of land within the City to store or accumulate any rubbish, garbage, brush or automotive parts in trailers, vehicles or any other containers in ordinary public view.

(1988 Code, §6-6-2) (Ord. 88-3, passed 4-25-1988; Ord. 2006-08, passed 11-27-2006; Ord. 2008-02, passed 6-8-2009)
Penalty, see §92.99

§92.17 OUTDOOR AUTOMOBILE STORAGE.

(A) *Nuisance declared.* The presence of an inoperative vehicle or motor vehicle, or parts thereof, on any occupied or unoccupied land within the City limits in violation of the terms of this section is a public nuisance.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DISMANTLED OR PARTIALLY DISMANTLED VEHICLE. Any motor vehicle from which part or parts, which are

ordinarily components thereof, have been removed or are missing.

INOPERABLE MOTOR VEHICLE.

Any motor vehicle that, by reason of dismantling, disrepair or other cause, is incapable of being propelled under its own power.

MOTOR VEHICLE. Any wheeled vehicle that is self-propelled or intended to be self-propelled.

(C) *Prohibited acts.* It is unlawful for any person to store on, place on, or permit to be stored or placed on, or allow to remain on any occupied or unoccupied land within the City limits, a dismantled, partially dismantled or inoperable motor vehicle, or any parts thereof, except in a storage area as provided in division (D) below.

(D) *Storage area.* An owner may store a dismantled, partially dismantled or inoperable motor vehicle, or the parts thereof, provided the vehicles, parts and outdoor storage areas are maintained in such a manner that they do not constitute a health, safety or fire hazard, and are effectively screened from ordinary public view by means of a solid fence. All storage areas shall be kept free of weeds, trash, refuse, garbage and any other objectionable items.
(1988 Code, §6-6-3) (Ord. 88-3, passed 4-25-1988; Ord 2006-08, passed 11-27-2006)
Penalty, see §92.99

§92.18 ABANDONED WRECKS; NONOPERATING, DISMANTLED OR DISCARDED VEHICLES.

(A) *Definitions.* The following definitions shall apply to the interpretation and enforcement of this section.

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

PROPERTY. Any real property within the City that is not a street or highway.

STREET or **HIGHWAY.** The entire width between the boundary lines of every publicly maintained roadway, when any part thereof is open to the use of the public for purposes of vehicular travel.

VEHICLE. A machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides, and transport persons or property, or pull machinery; including, without limitation, an automobile, truck, trailer, motorcycle, tractor, buggy or wagon.

(B) *Abandonment of vehicles.* No person shall abandon any vehicle within the City; and no person shall leave any vehicle at any place within the City for a period exceeding 72 hours, and under such circumstances so as to cause the vehicle reasonably to appear to have been abandoned.

(C) *Leaving of wrecked, nonoperating vehicle on street.* No person shall leave any partially dismantled, nonoperating, wrecked or junked vehicle on any street or highway within the City for a period exceeding 72 hours.

(D) *Disposition of wrecked or discarded vehicles.* No person in charge or control of any property within the City, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, wrecked junked or discarded

vehicle to remain on that property longer than 30 days; and no person shall leave any such vehicle on any property within the City for a longer time than 30 days, save and except that this section shall not apply to a vehicle in any enclosed building or on property that is enclosed with a fence or wall so that the vehicle is not visible from adjoining or surrounding property, or from the street or highway or public ways. This section shall not apply to a vehicle or vehicles on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of the business enterprise, or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City.

(E) *Failure to display current registration; presumptions.* For purposes of this section, any vehicle not displaying the current year's vehicle registration, 60 days after the legal deadline for that registration each year, shall be presumed to be abandoned or discarded.

(F) *Impounding.* The Police Chief, or his or her uniformed designee, is hereby authorized to remove, or have any vehicle removed, that is left at any place within the City that reasonably appears to be in violation of this section, or lost, stolen or unclaimed. The vehicle shall be impounded until lawfully claimed and disposed of in accordance with the provisions of §§3-46-32 to and including 4-46-36 NMSA 1978, which provide for the disposal of unclaimed personal property by municipalities. (1988 Code, §6-6-4) (Ord. 88-3, passed 4-25-1988; Ord. 2006-08, passed 11-27-2006) Penalty, see §92.99

§92.19 DANGEROUS NUISANCES.

(A) No owner or occupier of land or buildings shall cause or knowingly permit the property to become or remain in a condition constituting a menace to health or safety by the accumulation of filth, sewage, garbage, refuse, trash, standing or stagnant water, litter, rubbish, ruins, weeds, brush or other matter whatsoever.

(B) No person shall allow or cause sewage, garbage, filth, refuse or liquid waste to be discharged or to penetrate or drain from premises occupied by him or her into or upon the premises of another, except through those sewage facilities provided by the Municipality.

(C) No person shall allow or cause the pollution of water used for domestic purposes, or the discharge into any moving water of sewage, refuse, filth, or other hazardous or poisonous matter.

(D) No person shall cause or permit the escape of noxious fumes, gas, smoke or odor from premises, including all animal feces, owned or occupied by him or her to premises owned or occupied by another, or to any place where the same shall be offensive or constitute a danger to the general public.

(E) Whenever any building or structure is ruined, damaged or dilapidated, or any premises covered with ruins, rubbish, wreckage or debris, the Governing Body may, by resolution, find that the ruined, damaged or dilapidated building, structure or premises is a menace to the public comfort, health, peace or safety, and required that removal from the City of any building, structure, ruins, rubbish, wreckage or debris by proceeding in compliance with §3-18-5 NMSA 1978. (1988 Code, §6-6-5) (Ord. 2006-08, passed 11-27-2006) Penalty, see §92.99

§92.20 NOTICE OF NUISANCE.

The Code Enforcement Officer and/or any Police Officer, upon observing any violations of this subchapter, 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 establish a reasonable time limit for abatement thereof by the owner, occupant or tenants, which limit shall not be less than two days or more than 30 days after service of the notice. The notice may be served either personally or by certified mail, return receipt requested, at the owners or occupants last known address. (1988 Coe, §6-6-6) Ord. 88-3, passed 4-25-1988; Ord. 2006-08, passed 11-27-2006) Penalty, see 92.99

§92.21 COMPLAINT

In the event the owner or occupant of the property where the nuisance violation of this subchapter exists has failed to abate the nuisance within the prescribed item, then any Police Officer or Code Enforcement Officer shall file a complaint with the Municipal Court, charging violation of this

subchapter, and demanding that the owner of the property, or the occupant thereof, or both, be held to answer to the Municipal Court for the violation of this subchapter. (1988 Code, §6-6-7) (Ord. 88-3, passed 4-25-1988; Ord. 2006-08, passed 11-27-2006) Penalty, see 92.99

§92.22 RESERVED

§ 92.23 INJUNCTIONS.

The Chief of Police or Planning Services Director, when a nuisance exists as set forth in this subchapter, 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.

(1988 Code, §6-6-9) (Ord. 88-3, passed 4-25-1988; Ord. 2006-08, passed 11-27-2006)

§92.99 PENALTY

(A) It is the goal of the City to try to effect voluntary compliance through cooperation with those persons and businesses not in compliance with the provisions of §92.15 *et seq.* To this end, the Code Enforcement Officer has at his or her discretion the ability to make aggressive compliance schedules for abovementioned persons and businesses. In the event that these measures do not effect significant and timely voluntary compliance, the person or business owner may be issued a citation for violation of this chapter.

(B) Any person or business pleading “no contest” to, or found guilty of, violating, disobeying, omitting, failing to obtain necessary permit, neglecting or refusing to comply with, or resisting or opposing the enforcement of any provision of §92.15 *et*

seq., except when otherwise specifically provided therein, shall be fined not less than Fifty Dollars (\$50.00) and not more than Two Hundred (\$200.00), and shall complete two (2) hours of community service. For a conviction for the second offense, the fine shall be not less than One Hundred Dollars (\$100) and not more than Three Hundred Dollars (\$300.00), and there shall be four (4) hours of community service completed. The third offense shall be fined not less than Two Hundred Fifty Dollars (\$250.00) and not more than Five Hundred Dollars (\$500.00) and shall complete eight (8) hours of community service.

(C) In the event that a person is convicted of violation as stated in Paragraph (B) of this section, and still refuses to remove the junk, trash, or refuse, the Municipality may enforce this section and remove the nuisance in any manner consistent with the law. Should the person or business refuse or fail to pay the assessment, the Municipality shall collect as provided by law.

(1988 Code, §6-6-4, 6-6-5) (Ord. 88-3, passed 4-25-1988; Ord. 2006-08, passed 11-27-2006; Ord. 2008-02, passed 6-8-2009 2016-01, passed 6-13-2016)