

CHAPTER 8.12NUISANCESSections:

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8.12.010 Section One: Definitions. The words and phrases used in this chapter, unless the context otherwise indicates, shall have the following meanings:

"Abate" means to remedy the condition in question in such a manner and to such an extent as the enforcement officer determines is necessary in the interest of the general health, safety and welfare of the community.

"Enforcement officer" means a uniformed police officer or the mayor's designated appointee.

"Responsible person" means any agent, lessee, renter, owner or other person occupying or having charge or control of any premises.

8.12.020 Section Two: Public Nuisances. A. A public nuisance is a thing, act, omission, occupation, condition or use of property which shall continue for such length of time as to:

1. Substantially interfere with the enjoyment of public or private property, create and constitute fire and other safety and health hazards, and generally create a menace to the health and welfare of the public.

2. Interferes with, obstructs, or renders dangerous for passage any stream, channel, public park, square, street, alley, highway or sidewalk.

B. The following acts, omissions or conditions, in addition to any others in violation of subsection (A) of this section, shall constitute a public nuisance: Conditions which may constitute disorderly, disturbing, unsafe, unsanitary, fly-producing, rat harboring, or disease-causing places, conditions, or objects.

1. The existence of any junk, litter, or refuse within the city that creates a fire, safety, pest harborages, health or sanitary hazard, or interferes with a public right of way.

2. Vegetation left uncut or in an unkempt condition to the extent it creates safety or fire hazards, pest harborages, or interferes with a public right of way.

8.12.030 Section Three: Prohibited Conduct. It shall be unlawful for any responsible person or owner to create, permit, maintain, suffer, carry on or allow, upon their premises, any of the acts or things declared by this chapter to be a public nuisance.

8.12.040 Section Four: Voluntary Correction. A. This section applies whenever the enforcement officer determines that a public nuisance is occurring.

B. The enforcement officer shall pursue a reasonable attempt to secure voluntary correction by contacting the person responsible for the public nuisance and, where responsible for the public nuisance and, where possible, explaining the public nuisance and requesting correction.

C. A voluntary correction agreement may be entered into between the person responsible for the public nuisance and the City, acting through the enforcement officer.

1. The voluntary correction agreement is a contract between the City and the person responsible for the public nuisance under which such person agrees to abate the public nuisance within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:
 - a. The name and address of the person responsible for the public nuisance;
 - b. The street address or a description sufficient for publication of the building, structure, premises or land upon or within which the public nuisance is occurring;
 - c. A description of the public nuisance;
 - d. The necessary corrective action to be taken, and a date or time by which correction must be completed;
 - e. An agreement by the person responsible for the public nuisance that the City may inspect the premises as may be necessary to determine compliance with the voluntary correction;
 - f. An agreement by the person responsible for the public nuisance that the City may abate the public nuisance and recover its costs and expenses and a monetary penalty pursuant to this chapter from the person responsible for the public nuisance if the terms of the voluntary correction agreement are not met; and
 - g. An agreement that by entering into the voluntary correction agreement the person responsible for the nuisance waives the right to an administrative appeal of the public nuisance and/or the required corrective action.
2. Upon entering into a voluntary correction agreement, the person responsible for the public nuisance waives the right to an appeal of the enforcement officer's finding of public nuisance and the required corrective action as provided at Section Nine herein.
3. The City shall have the right to inspect the subject property to determine compliance with the terms of the voluntary correction agreement.
4. An extension of the time limit for correction of a modification of the required corrective action may be granted by the enforcement officer if the person responsible for the public nuisance has shown due diligence and/or substantial progress in abating the public nuisance, but unforeseen circumstances render abatement under the original conditions unattainable within the time limit for correction.
5. The City may abate the public nuisance in accordance with Section Eight if the terms of the voluntary correction agreement are not met or, if applicable, in accordance with Section Ten.
6. If the terms of the voluntary correction agreement are not met, the person responsible for the public nuisance shall be assessed a monetary penalty commencing on the date set for correction and thereafter, in accordance with Section Eleven, plus all costs and expenses of abatement as set forth at Section Ten.

8.12.050 Section Five: Notice. Upon finding that a public nuisance exists, the enforcement officer shall take such action as is reasonably necessary to cause the nuisance to be abated. If the person responsible for the nuisance fails to abate the same within the time determined and as directed by the enforcement officer pursuant to the preceding sections, the enforcement officer shall either personally deliver or mail to the owner and occupant or resident of the premises, by certified mail, return receipt requested, a written notice of the nuisance, directing that the nuisance be abated within such time as the notice shall specify, as determined by the enforcement officer, according to the nature and extent of the nuisance, not to exceed ten (10) days after the notice is given. The notice shall be substantially in the following form:

NOTICE TO ABATE UNSAFE OR UNLAWFUL CONDITION

(Name and address of person notified.)

As the owner, agent, lessee or other person occupying or having charge or control of the building, lot or premises at _____

_____ you are hereby notified that the undersigned, pursuant to Ordinance No. 1720 of the City of Kettle Falls has determined that there exists upon or adjoining said premises the following condition contrary to the provisions of subsection _____ of said ordinance.

You are hereby notified to abate the condition to the satisfaction of the undersigned within ten (10) days of the date of this notice. If you do not abate such condition within ten (10) days the city will abate the condition at your expense. You have the right to a ten (10) day extension.

Abatement is to be accomplished in the following manner:

Dated: _____ By: _____
(Name of Enforcement Officer)

YOU HAVE THE RIGHT TO APPEAL THE FINDING THAT A NUISANCE EXISTS AND/OR THE METHOD OF ABATEMENT ORDERED BY MAILING OR DELIVERING TO THE CITY CLERK WITHIN SEVEN (7) DAYS OF THE DATE ON THE APPEAL FORM ATTACHED HERETO.

8.12.060 Section Six: Abatement-Owner Action. If and when an owner or other responsible person shall undertake to abate any condition described in this ordinance, whether by order of the enforcement officer or otherwise, all needful and legal conditions pertinent to the abatement may be imposed by the enforcement officer. Nothing in this ordinance shall relieve any owner or other responsible person from the obligation of obtaining any required permit to do any work incidental to the abatement.

8.12.070 Section Seven: Abatement-City Action. In all cases where the enforcement officer has determined to proceed with abatement and no appeal has been taken, the city shall acquire jurisdiction to abate the condition at the owner's expense ten (10) days after the date the notice to abate is mailed or delivered as herein provided. Upon the abatement of the condition or any portion thereof by the city, all the expenses thereof shall constitute a civil debt owing to the city jointly and severally by such of the persons who have been given notice as herein provided. The debt shall be collectible in the same manner as any other civil debt owing to the city.

8.12.080 Section Eight: Abatement-Right of Appeal. Any person notified of the existence of a condition specified in this chapter as a nuisance shall have the right to appeal to the council of the city. Such appeal shall be taken by mailing or personally delivering to the city clerk, within seven (7) calendar days after notice has been given or mailed as provided in Section Five, a written statement setting forth fully the grounds for appeal. The council shall hear the appeal at its next scheduled meeting or as soon thereafter as the Mayor may direct, but in no event more than thirty (30) days from the date notice of appeal is given. Notice of the scheduled appeal hearing shall be mailed, postage prepaid, to the appellant(s) at their last known address at least five (5) days prior to the date of the hearing. Further action of the abatement as specified in the original notice shall be stayed pending the decision of the council, as will any monetary penalties as set forth at Section Ten. The ruling on the appeal shall be final and conclusive.

8.12.090 Section Nine: Summary Abatement. Whenever any condition on or use of property causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health or safety of the public or a significant portion thereof, the enforcement officer shall have the authority to summarily and without notice abate the same without having attempted to secure voluntary correction. The expenses of such abatement shall become a civil debt against the owner or other responsible party and be collected as provided in Section Seven. The phrases "costs and expenses" or "the expenses of abatement" or the word "expenses" as used herein includes, but is not limited to:

1. Personnel costs, both direct and indirect, including attorneys' fees and costs;
2. Costs incurred in documenting the violation;
3. Hauling, storage and disposal expenses;
4. Actual expenses and costs of the City in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; and
5. The costs of any required printing and mailing.

8.12.100 Section Ten: Civil Penalty. The monetary penalty for each day or part thereof the public nuisance is permitted to continue after the date set for abatement by the enforcement officer shall be as follows:

1. First day: \$100.00
2. Second day: \$200.00
3. Third day: \$300.00
4. Fourth day: \$400.00
5. Each additional day beyond four days: \$500.00 per day.

Payment of the monetary penalty pursuant to this chapter does not relieve the person to whom the notice of abatement was issued of the duty to correct the public nuisance. The monetary penalty constitutes a personal obligation of the person to whom the notice of abatement is issued. Any monetary penalty assessed must be paid to the City within ten (10) calendar days from the date set by the enforcement officer for abatement of the nuisance. The City attorney or his/her designee is authorized to take the appropriate action to collect the monetary penalty, plus reasonable attorney's fees and costs of suit incurred in collecting the monetary penalty.

8.12.110 Section Eleven: Obstruction-Criminal Penalty. Any person who knowingly obstructs, impedes or interferes with the City or its agents, or with the person responsible for the abatement in the performance of this section, is guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00), or by imprisonment in jail not to exceed ninety (90) days, or by both fine and imprisonment.

8.12.120 Section Twelve: Remedies Not Exclusive. The remedies prescribed in this ordinance are in addition to all other remedies provided or authorized by law.

8.12.130 Section Thirteen: Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held illegal, invalid or unconstitutional by the decision of any court, such decision shall not affect the validity of the remaining portions thereof. The city council hereby declares that it would have approved this ordinance and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared illegal, invalid or unconstitutional. (Ord. 1720, 2013)