

Property Maintenance And You



**A Guide Assisting Residents of Scottsbluff in Property
Maintenance and Recognizing Nuisance Code Violations**

Updated on July 11, 2006

Introduction

The City of Scottsbluff has developed this information to assist property owners and renters of their responsibility in the maintenance of property as well as identifying problem situations in and around the community.

This information has been taken from the Scottsbluff Municipal Cod and has been simplified to help you understand the meaning and content of the Nuisance Ordinance.

This information is designed to help you identify a nuisance situation and the steps necessary to resolve the problem. It is people like you that take an interest in the areas they live that insure a clean and well-maintained community.

Definitions

This section will help you to understand the terms when identifying a nuisance problem. The definitions that follow are those used in the Municipal Code.

Nuisance: a nuisance exists when a person fails to perform a duty or permits any condition to exist which:

1. injures or endangers the comfort, health or safety of others; or
2. offends decency; or
3. is offensive to the senses; or
4. unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, alley, highway or sidewalk; or
5. in any way renders other persons insecure in life or the use of property; or
6. essentially interferes with the quiet enjoyment of life and property, or tends to depreciate the value of the property of others (12-1-2).

Litter: Litter shall include, but not be limited to:

1. trash, rubbish, solid waste, refuse, garbage, paper, plastic, rags, and ashes;
2. wood, plaster, cement, brick, sheet-rock, or stone building rubble;
3. lawn trimmings, dead leaves, tree and shrubbery trimmings, provided however that these things shall not be considered litter if they are in the process of being composted;
4. dead animals (12-1-1).

Weeds: Weeds shall include, but not be limited to: bindweed, puncture vine, leafy spurge, Canadian thistle, perennial peppergrass, Russian knapweed, Johnson grass, nodding or musk thistle, quack grass, perennial sow thistle, horse nettle, bull thistle, buckthorn, hemp

plant, and ragweed, and other worthless vegetation commonly regarded as weeds (12-1-1).

Junk: The term “junk”, includes: scrap metal, parts for machinery, appliances or vehicles, any machine or vehicle which is not in operating condition or which has lost its identity, character, utility or serviceability as such through deterioration, dismantling or the ravages of time, or which has been cast off, discarded or thrown away or left as waste or wreckage (12-1-1).

Garbage: Garbage means waste accumulations of animal, fruit or vegetable matter that attend the use and preparation of meat, fish, fowl, fruits or vegetables, and containers or packaging materials originally used for foodstuffs which become and remain soiled from such use (19-1-10).

Rubbish: means all refuse except garbage and yard waste. The term includes but is not limited to crockery, bottles, cans, vessels, pasteboard, rags, plastic, paper, wood scraps and similar materials (19-1-15).

Solid waste: means useless or discarded material, except as otherwise provided in this section. The terms includes garbage, rubbish and yard waste, but does not include junk as defined in the Municipal Code, nor does it include liquid or gaseous wastes (19-1-16).

Yard waste: means accumulations of grass or shrubbery cuttings, leaves, and other materials collected as a result of the care of lawns, shrubbery, vines, and gardens (19-1-18).

Abandoned Vehicle: The term “abandoned vehicle” means a motor vehicle, if left unattended:

1. with no number plates affixed thereto, for more than six (6) hours on any public property,
2. for more than twenty-four (24) hours on any public property, except a portion thereof on which parking is legally permitted,
3. for more than forty-eight (48) hours after the parking of such vehicle shall have become illegal, if left on a portion of a public property on which parking is legally permitted, or
4. for more than seven (7) days on private property if left initially without permission of the owner, or after permission of the owner shall be terminated (22-1-2).

What is a Nuisance?

Whenever anyone (owner or occupant) maintains, places, leaves or permits to be on public property such as a park, street, sidewalk, alley or private property any other the following items, conditions or actions is what the City of Scottsbluff sees as being a nuisance (12-1-3). These items shall not be deemed or construed to be conclusive, limiting or restrictive.

1. Any condition which promotes harborage for rats, mice, snakes and other vermin.
2. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a fire hazard in the vicinity where it is located.
3. All disagreeable or obnoxious gases, odors and/or fumes, as well as the conditions, substances or other causes which give rise to the emission or generation of such gases, odors and/or fumes.
4. The dressed or undressed carcasses of fish, animals or fowl, wild game or domestic, not disposed of, processed, or removed from the general public view.
5. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
6. Any building, structure or location wherein or upon which any activity which is in violation of local, state or federal law is conducted, performed or maintained.
7. Any accumulation of stagnant water permitted or maintained on any lot or property.
8. Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
9. Any method of human excreta disposal which does not conform to the provisions of this chapter, state law or city ordinances, rule or regulation.
10. Leaking or defective water pipes, sewer pipes, hydrants, cisterns, wells, gutters, drains, rain spouts or seepage in or about any structure used for human occupancy or the surrounding earth.
11. Any abandoned or open wells, cisterns or cellar
12. The discharge of any filthy or offensive water, swill, liquid or waste from any commercial establishment into or on any street, alley, sidewalk, gutter, vacant lot, stream or river.
13. The keeping or maintaining of any hives or boxes used or occupied or for the purpose of housing or occupation by bees within the city limits, except as herein after provided. The keeping of bees shall not be prohibited in agricultural zones, provided no box or hive containing bees permitted to fly at large shall be kept within one hundred (100) feet of any dwelling except the dwelling of the owner of such bees, or within fifty (50) feet of any exterior boundary within which the box or hive is kept.
14. The parking or storage of any vehicle or machine or parts thereof in violation of any municipal code state statute or federal law.
15. Any building or structure including the ground on which it sits that is used for the unlawful manufacture, cultivation, growth, production, processing, sale, possession, or storage of any controlled substance as defined in R.R.S., chapter 28, article 4.
16. Any excavation exposed so as to catch and hold water, filth or any refuse matter.
17. Leaving any refrigerator, or any cabinet enclosing apparatus for the cooling or freezing of perishable articles or substances outside of a building unless the doors of every compartment of such refrigerator or cabinet are removed. Provided, however, that such doors need not be removed if each door is secured by a hasp and lock.
18. Permitting, allowing, or maintaining any growth of twelve (12) inches or more in height of weeds or grasses on any lot or tract of land within the City, or permitting such lot or tract of land or the adjoining streets and alleys to become covered or overgrown with weeds, or littering or causing litter to be deposited or remain thereon except in proper receptacles.
19. Placing or accumulating junk. It shall not be unlawful to:
 - (1) keep or store junk inside a building;
 - (2) keep or store junk in a junkyard as defined in section Chapter 25, Article 22, which junkyard is in a location permitted under Chapter 25;
 - (3) accumulate or permit junk to remain on a lot or other tract of land owned or occupied by the person accumulating the junk or permitting it to remain, for a period not to exceed ten (10) days, for the sole purpose of preparation for removal from the premises;
 - (4) hold not more than two (2) damaged or inoperable automobiles for purposes of restoration if such automobiles are concealed by an automobile cover and situated in a rear or side yard (except a side yard abutting a street) of a lot or tract on which is situated a residence.
20. Every other act or thing done, made, permitted, allowed or continued on any property, whether public or private, detrimental to the health or likely to injure any of the inhabitants of the city (Ord. 3884, 2005).

Trees, Hedges & Shrubbery in the Right-of-Way

The City conducts an ongoing tree program that ensures public safety along its right-of-ways and parks. The program is designed to identify and have removed any dead, dying, and/or diseased trees in these areas.

You may ask, “What is meant by the right-of-way?” This is the area between the street and the sidewalk and from a property line to the center of the alley or street.

Planting and removal of trees or bushes in these areas require the issuance of a permit. Permits are of no cost to the owner or planter, they are only to ensure that trees and bushes do not become an obstruction or hazard for motorists and pedestrians traveling in and around these areas.

Although these trees or bushes are within the public right-of-way, their maintenance is the responsibility of the property owner. The City has no jurisdiction over trees and bushes that are on private property. If trees in these areas are causing a problem to your property it is your responsibility to contact the owner asking them to remedy the situation.

Report any dead tree or branch, overhanging or broken bough in these areas, which might be dangerous to life, limb or property.

Branches or limbs may be no less than 10-feet above the surface of the sidewalk and no less than 12-feet above the surface of an alley or street.

Shrubs, bushes and hedges may not obstruct the sidewalk, street, alley or the vision of motorists.

Weeds or Grass

Weeds or grass need to be maintained so they are not over twelve (12) inches or more in height on any lot or tract of land within the City (12-1-3).

Sidewalk Maintenance

A property owner is responsible to keep the sidewalk in front of their lot in good and proper repair and in a condition reasonably safe for travel for all travelers. It is unlawful for an

owner to allow a sidewalk to be placed or remain in a dangerous condition (20-3-10).

A property owner needs to also keep the snow, ice, mud or any other substance to accumulate on the sidewalk. A sidewalk needs to be cleaned off within five (5) hours after a storm and if the storm comes during the night-time the sidewalk needs to be cleaned by 8:30 am on the following day. If not it the obstruction could be declared a public nuisance (20-6-20).

It is unlawful for any person to cause, permit, maintain or allow the creation of a nuisance. It will be presumed that the owner, or, if the property is occupied, the occupant of the property on which a nuisance is found is responsible for that nuisance.

Reporting a Nuisance

Whenever a nuisance is discovered it is your responsibility as a concerned citizen to report the situation. By following these simple steps, you can assist in keeping the City beautiful.

1. First take note of the address and the property owner or occupant residing at the address if you know them.
2. Call the Development Services Department at (308) 630-6243. When calling, you will be asked to give the following information:
 - Owner or occupant of property with nuisance;
 - Address of nuisance;
 - Your name, telephone number and address; and
 - Description of the problem or nuisance.

It is very important that you be willing to give the above information. You may be assured that your report will be kept confidential. Should the situation lead to legal action being taken, you will be contacted concerning your willingness to testify on behalf of the City. This is an important factor in some cases as you may have been the only witness to the act or problem as it occurred.

What Next?

When a report or complaint is received by the Development Services Department, it is logged in on a report-tracking program and then assigned to a code enforcement officer.

The code enforcement officer once assigned the complaint will investigate the complaint verifying that it is indeed a code violation needing attention. After verification, the code enforcement officer will determine who is responsible for the violation. In some cases, this process becomes difficult without all of the information in the initial reporting procedure.

The code enforcement officer will then check through utility records and/or the County Assessor's Office to determine who is the legal property owner. When this determination is made, the officer will then contact the individual(s) (property owner and occupant) by telephone and/or notification asking for cooperation in resolving the problem.

Notification

The Scottsbluff Municipal Code requires the code enforcement officer handling the situation to hand deliver or sent certified notification (by U. S. mail) identifying the situation and the steps necessary to resolve the problem.

The Right to Due Process: The notification will instruct the recipient that they have five (5) days from the receipt of the notice to file, in writing, with the City Clerk a request for a hearing with the City Council.

The time period allowed for the situation to be resolved will vary depending on the severity of the violation, but generally this time period will be five to fifteen (5-15) days (depending on the violation) from the receipt of the notice. The notification also includes information as to what may happen should the person(s) creating the violation fail to abate or remove the nuisance.

The Final Step

It is hoped that when the violation deadline has been reached, the initial problem has been resolved and no further action is necessary. Some times a property owner will contact the officer handling the complaint requesting additional time to resolve the situation. In most cases, these requests are granted providing the owner or occupant can establish a reasonable timeline to have the problem resolved.

However, this is not always the case. Whenever a violation goes unresolved, beyond the allowed timeline, it becomes the officer's responsibility to determine the necessary action to remedy the situation. The officer will determine if it is possible for the City to take action itself to resolve the problem. This can be done if the problem is located on a vacant lot and an owner can not be contacted or if the problem is in a right-of-way such as an alley or along a street. Whenever the City is required to act in the resolution of the situation, the property owner will be billed for the work performed and an additional cost incurred such as dumping fees, etc. If the property owner fails to pay these costs, the matter is turned over the Finance Director who will then assess these costs in the form of a lien against the property.

If it is determined that the situation can not be resolved by a City crew, as in cases where the problem may exist on private property or where the problem is inaccessible, the officer will then turn the matter over to the City Attorney in the form of a prosecution request. The City Attorney will then file for prosecution with the County Court and a court summons will be issued.

In a court action, if the owner or occupant is found to be in violation of one or more of the City's Municipal Codes, the Judge can issue a fine and order that the defendant remedy the problem situation immediately. The Judge may also warn the defendant that for each day the violation exists there shall be an additional fine.

Thank you for helping to keep the City of Scottsbluff clean!

If you should have any questions or concerns or questions about the pamphlet please feel free to contact the Development Services Department.

**Development Services Department
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