

Chapter 14 NUISANCES

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Chapter 14 NUISANCES

ARTICLE I. IN GENERAL

Sec. 14-1-1. Short Title.

This chapter and all sections within may be cited as the "Nuisance Ordinance."
(Code 2007, 14-1)

Sec. 14-1-2. Definitions.

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

(Ord. 2012-414, eff. 2012-Sept-19; Ord. 2012-409, eff. 2012-June-20)

Alley

A public right-of-way or private way or thoroughfare or part thereof, providing secondary access to abutting properties and not intended for general traffic circulation.

Antique Motor Vehicle

An operable motor vehicle more than 25 years old currently licensed.

Approved

Approved by the Enforcement Officer or Building Official.

Curb line

The edge of the curb or, in absence of a curb, the edge of the pavement or the travelled surface.

Deterioration

The weakening, disintegration, corrosion, rusting or decaying or loss of effectiveness.

Easement

A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

Egress

An exit.

Enforcement officer

Includes City police officers, code compliance officers, animal control officers and any other City employees responsible for enforcing municipal code.

Garbage

Means and includes any and all accumulation of waste and refuse, vegetable and animal matter, discarded from processing, storage, sale, or handling of food in or on any premises in the City.

Hobby Stock Vehicle

A licensed or unlicensed stock, race, and drag car capable of being operated in accordance with established hobby stock race policies or requirements.

Imminent Danger

A condition which could cause serious or life-threatening injury or death at any time.

Junk

Discarded, dismantled, partially dismantled, wrecked, inoperative, abandoned, unusable or broken machinery or parts, scrap metal, utility trailers, mobile homes, appliances, furniture, furnishings, sporting equipment, used building or construction materials, and all other items commonly known as junk.

Junked motor vehicle

Any motor vehicle, other than an antique or special interest vehicle, which has not been moved or had active and regular efforts to make the motor vehicle able to meet minimum safety standards for operation on public streets and highways, or water bodies and ways in New Mexico, and includes motor vehicles which have been wrecked, dismantled, partially dismantled, or abandoned or left on a public premises or on private property and either: 1) does not bear a valid, unexpired license plate; or 2) cannot be safely or legally operated on the public streets and highways, or water bodies and ways, of New Mexico. This definition includes boats, motorcycles, cars, trucks, recreational vehicles, and other motor vehicles.

Litter

All rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid, of every form, size, kind, and description.

Motor vehicle

Any vehicle which is designed, when in proper working order, to be self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motor-bikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts and self-propelled campers or motor homes.

Neglect

The lack of reasonable and necessary maintenance for a building or structure.

Occupancy

The purpose for which a building or portion thereof is utilized or occupied.

Occupant Any person, firm, entity, partnership, trust, corporation, association, or other organization that is occupying or leasing a building or other property for a period exceeding thirty (30) days.

Owner Any and all persons, firms, entities, partnerships, trusts, corporation, associations, or other organizations that own the fee title to, or have an undivided interest in, any building or property, which is subject to the provisions of these regulations.

Private property

Any real property within the city which is privately owned and which is not public property as defined in this section.

Privacy fence

A fence, including any gates, constructed of solid material, wood or masonry, through which no visual images may be seen.

Public property

Any street or highway which shall include the entire width between the boundary lines of every right of way publicly maintained for the purposes of vehicular or pedestrian travel, and shall also mean any other publicly owned property or facility.

Public Way

Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

Rubbish

Combustible and non combustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

Rights-of-Way A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, or other similar uses; generally the right of one to pass over the property of another.

Shrubs

A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground. It may be deciduous or evergreen.

Solid Waste

Unwanted or discarded material, including waste material with insufficient liquid content to be free flowing, includes solid waste materials resulting from industrial, commercial, industrial, institutional, municipal, residential, and agricultural activities.

Special Interest Vehicle

An operable motor vehicle currently licensed, which is owned by a collector and which the collector can demonstrate has special collector or historic value.

Structure

A combination of materials that form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

Tenant

A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Ventilation

The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

ARTICLE II. MOTOR VEHICLES

Sec. 14-2-1. Penalty.

Violations of this article are punishable as provided in Section 1-8.
(Code 2007, 14-27)

Sec. 14-2-2. Prohibited.

No person shall park, store, leave, or permit the parking, storing or leaving of any motor vehicle of any kind which is in an abandoned, wrecked, dismantled, inoperative, junked or partially dismantled condition, whether attended or not, upon any public or private property within the city for a period of time in excess of seventy-two (72) hours. The presence of an abandoned, wrecked, dismantled, inoperative, junked, or partially dismantled vehicle or parts thereof on private or public property is hereby declared to be a public nuisance which may be abated as such in accordance with the provisions of this article.

(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-2-3. Exceptions.

1. This section shall not apply to any vehicle enclosed within a building or behind a privacy fence on private property or to any vehicle held in connection with a business enterprise, lawfully licensed by the City and properly operated in an appropriate business zone, pursuant to the zoning laws of the City.
2. Any Hobby Stock Vehicle maintained in track-operable condition or regularly used for racing purposes.
3. Any Antique Motor Vehicle retained by the owner for antique collection purposes.
4. Any Special Interest Vehicle retained by the owner for vehicle collection purposes.

(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-2-4. Unhitched Trailers.

No person shall leave any type of trailer unhitched upon any street, public right-of-way or public parking area.

(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-2-5. Casual Sale of Vehicles and Trailers.

No person making a casual sale of his own motor vehicle, boat; motorized or otherwise, or trailer duly registered to him shall sell the vehicle or offer or display the motor vehicle, boat, or trailer for sale at any location other than his current residence, place of employment, or at any site where the seller of the motor vehicle, boat, or trailer has obtained prior written permission from the land owner. The written land owner permission must be visibly

displayed in the vehicle offered for sale. Only two (2) vehicles, boats or trailers are allowed to be displayed on any one lot or parcel. Vehicles shall be parked so as not to impede traffic visibility on corners and intersections and shall not encroach on, in, over, or under any real property owned by the City or any public way, sidewalk, or public right-of-way owned by the City, including easements. A vehicle displayed for sale in a location in violation of this article may be towed no sooner than 48 hours after a warning sticker is placed on the vehicle. The warning sticker shall contain the following information:

1. The date and time the warning sticker was affixed to the vehicle;
2. A statement that pursuant to this article, if the vehicle is not removed within 48 hours of the time the sticker is affixed, it may be taken into custody and stored at the owner's expense or if the vehicle is located being displayed for sale in a location in violation of this article, within 48 hours from receipt of the warning sticker, the vehicle shall be taken into custody and stored pursuant to this article
3. A statement that if the vehicle is towed pursuant to this article, the owner will have the opportunity to challenge the action as a hearing, and a written notice of the procedure for the hearing will be mailed to the owner's address as provided by the state motor vehicle division files or the files of the appropriate motor vehicle regulatory agency of another state;
4. The location and telephone number where additional information may be obtained; and
5. The identity of the affixing person
6. The Date and time the warning sticker was affixed to the vehicle;
(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-2-6. Removal Generally.

No Police Officer, Enforcement Officer, or City Employee shall remove or cause to be removed any unattended vehicle from any street, alley or public way within the corporate limits, except as provided in this article.

(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-2-7. Notice to Remove Nuisance.

Whenever it comes to the attention of the Enforcement Officer that any nuisance under this article exists in the city, a notice in writing shall be served upon the occupant of the land where the nuisance exists, or in the case there is no such occupant, upon the owner of the property or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in this article.

(Code 2007, 14-36)

Sec. 14-2-8. Responsibility for Removal.

Upon proper notice and opportunity to be heard, the owner of the abandoned, wrecked, dismantled or inoperative vehicle or vehicle or trailer offered for casual sale in a prohibited location and the owner or occupant of the private property on which the same is located, either or all of them, shall be responsible for its removal. In the event of removal and disposition by the city, the owner or occupant of the private property where same is located shall be liable for the expenses incurred.

(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-2-9. Circumstances Permitting Summary Vehicle Removal.

Any Police Officer or any Enforcement Officer who is authorized to direct traffic or enforce state or local parking or motor vehicle laws may remove or cause to be removed any vehicle within the corporate limits without prior notice to the owner or operator thereof when:

1. Any vehicle is left unattended on a bridge, viaduct or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.
2. Any vehicle is parked or left standing upon a street, alley or public way in such a position as to obstruct normal movement of traffic or is in such a condition as to create a hazard to other traffic.
3. Any vehicle is found upon a street, alley or public way or private property and a report has been previously made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been stolen.
4. Any vehicle is found upon a street, alley, public way, right of way, or easement that is obstructing a City construction or infrastructure maintenance project.
5. Any vehicle is illegally parked so as to block the entrance to a private driveway.
6. Any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant.
7. The person in charge of a vehicle upon a roadway is because of physical injuries, intoxication or any illness, incapacitated to such an extent as to be unable to provide for the custody or removal.
8. An officer arrests any person driving or in control of the vehicle for an alleged offense and the officer is by ordinance or by law required or permitted to take and does take the person arrested before a municipal judge without unnecessary delay.
9. An abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the street, alley or public way or its physical location is causing the impeding of traffic.
10. The use of the street, alley or public way or any portion thereof is authorized by the city for a purpose other than the normal flow of traffic or for the movement of equipment, articles or structures of unusual size and the parking of any vehicle would

prohibit or interfere with such use of movement and signs giving notice that such vehicle may be removed are erected or placed within at least 24 hours prior to the removal.

11. Any vehicle is parked or left standing where prohibited by ordinance or other state or local law, provided that no vehicle may be removed unless signs are posted giving notice of the removal at least 24 hours prior to the removal.
12. The vehicle is parked or standing in a manner so as to obstruct necessary emergency services, rerouting of traffic at the scene of a disaster and moving the vehicle to a legal parking location is impractical. However, the owner or operator of a vehicle so relocated or removed shall not be subject to any relocation, removal or storage charge if the vehicle is otherwise lawfully parked. Such charges shall be paid by the city.

(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-2-10. Notice Procedure.

The Enforcement Officer shall give notice of removal to the owner or occupant of the private property where a nuisance under this article is located. The notice shall describe the violation and shall establish a reasonable time limit for abatement thereof by the owner, occupant or tenants, which limit shall be not less than two (2) days or more than thirty (30) days after service of the notice. The notice may be served either personally or by mail at the owner's or occupants last known address of record. If such owner cannot be served, a copy of the ordinance from which this article derives shall be posted on the property.

(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-2-11. Contents of Notice.

The notice issued under this article shall contain the request for removal of the nuisance within the time specified in this article, and the notice shall advise that upon failure to comply with the notice to remove, the city or its designee shall undertake such removal with the cost of removal to be levied against the owner or occupant of the property.

(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-2-12. Request for Hearing.

The persons to whom the notices are directed, or their duly authorized agents, may file a written request for a hearing before the Municipal Judge, or its designee period of compliance prescribed in Section 14-2-10 for the purpose of defending the charges by the city.

(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-2-13. Procedure for Hearing.

The hearing provided for in this article shall be held as soon as practicable after the filing of the request and the persons to whom the notices are directed shall be advised of the time and place of such hearing at least seven (7) days in advance thereof. At any such hearing

the City and the persons to whom the notices have been directed may introduce such witnesses and evidence as either party deems necessary.

(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-2-14. Removal of Motor Vehicle from Property.

If the violation of this article described in the notice has not been remedied within period of compliance, or in the event that a notice requesting a hearing is timely filed, a hearing is had, and the existence of the violation is affirmed by the Municipal Judge, or its designee, the Enforcement Officer or his designee shall have the right to take possession of the junked motor vehicle and remove it from the premises. It shall be unlawful for any person to interfere with, hinder, or refuse to allow such person or persons to enter upon private property for the purpose of removing the vehicle under the provisions of this article.

(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-2-15. Notice of Removal.

Within forty-eight (48) hours of the removal of any vehicle under this article, the Enforcement Officer shall give notice to the registered owner of the vehicle, if known, and also to the owner or occupant of the private property from which the vehicle was removed, that such vehicle has been impounded and stored for violation of this article. The notice shall give the location of where the vehicle is impounded and the costs incurred by the City, or the private firm for removal.

(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-2-16. Use of Private Firms for Removal, Relocation, Storage, or Disposition.

1. A person, private business or company may remove or place a vehicle in storage whenever:
 - 1) Requested to do so by the owner or operator of the vehicle;
 - 2) Directed to do so by an authorized Enforcement Officer or Police Officer per the terms of this article; or
 - 3) Otherwise allowed by law.
2. No removal or storage shall be undertaken at the direction of an authorized City employee or Police Officer unless the person ordering the removal or storage provides to each private business or company taking possession of the vehicle a copy of the removal and storage order.
3. When the city chooses to delegate the removal or storage to a private business or company, the city may enter into a franchise or contract with the private business or company. Such franchise or contract shall at a minimum provide for the following:
 - 1) Require the private company or business to obtain compensation for the removal and storage of unclaimed vehicles by obtaining a lien and foreclosing the lien.

- 2) Set the rates for removal and storage of vehicles which will be paid to the private business or company by the city whenever a vehicle is reclaimed from storage and the city is liable for such costs under Section 14-2-8.
- 3) Require the private business or company to provide a performance bond.
- 4) Require the private business or company to carry liability insurance and hold the city harmless against negligent relocation, removal or storage.
(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-2-17. Liens.

1. Whenever a vehicle has been removed under this article and placed in storage, the owner of the storage facility may obtain a lien on the vehicle to compensate the owner for removal and storage of the vehicle when a municipal judge issues an order upholding the legality of the removal, storage or assessment or the owner fails to challenge the removal and storage in the manner specified in Section 14-2-15.
2. No lien shall attach to any personal property in or on the vehicle.
3. If a hearing has been conducted by the municipal judge on the legality of the removal and storage, the legality of assessing the owner or driver of the vehicle, or liability for removal and storage charges and the judge rules that removal and storage or the assessment were legal, the owner of the storage facility shall have a lien on the vehicle to cover costs of removal and storage.
4. If no hearing on the legality of the removal and storage was conducted, the owner of the storage facility desiring to obtain a lien on the vehicle shall send written notice of hearing to the registered owner of the vehicle. Such hearing shall be held before the municipal judge no less than ten days after the notice is sent by registered or certified mail, return receipt requested. If no signed receipt is received, the hearing shall be not less than ten days after notice by publication is made at least twice, no less than seven days apart, in a newspaper of general circulation. Such notice by mail or publication shall contain notice written in bold type or all capitals stating the lien could be attached to the vehicle in favor of the owner of the storage facility if the owner of the vehicle does not appear at the hearing.
5. If the owner of the vehicle does not appear at the hearing and if a prima facie case showing compliance with this article is proved, the judge shall order that the removal and storage were legal and that the assessment of the removal and storage charges against the owner of the vehicle are proper. The prima facie case is established by the introduction of a copy of the order for the removal and storage and the order which has been substantially and materially completed correctly.
6. All liens created under this section shall be enforced and foreclosed in any manner allowed by law.
(Ord. 2012-409, eff. 2012-June-20)

ARTICLE III. WEEDS, ALLEYS, JUNK, TRASH AND REFUSE

Sec. 14-3-1. Penalty.

Violations of this article are punishable as provided in Section 1-8.
(Code 2007, 14-61)

Sec. 14-3-2. Declaration of Nuisance; Unlawful.

In the interest of the inhabitants of the City, it is necessary to prohibit the accumulation of junk, trash, solid waste, debris, garbage and refuse on property within the corporate limits of the City by declaring such accumulation a nuisance. Violations of this article are a public nuisance.
(Code 2007, 14-62)

Sec. 14-3-3. Disposal Restricted Generally.

It shall be unlawful for any reason for any person to keep, store, deposit, sweep, place or throw solid waste, garbage, rubbish or other solid waste materials in or upon any sidewalk, street, alley, river, arroyo, irrigation ditch, or unoccupied premises or lots, or upon private property, whether owned by such person or not, within the City, except in the manner and in the receptacles or containers as provided in Section 21-25.
(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-3-4. Unsanitary Premises.

It shall be unlawful for any person to permit or cause to remain in or about his premises any solid waste, garbage, rubbish, weeds, automobiles 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 is unsanitary or injurious to public health.
(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-3-5. Hazardous Premises.

It shall be unlawful for any person to permit in or about his premises trees, weeds, briars, brush, shrubs, machinery, appliances, scrap metal, lumber, logs, pilings, open pits, quarry, cistern, well or other excavation without barriers, or any other waste, rubbish, or debris to become, in any way, hazardous or injurious to public health, to create a fire danger, or to obstruct pedestrian or vehicular traffic.
(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-3-6. Accumulation of Solid Waste.

No person shall allow any solid waste, garbage, or rubbish to accumulate upon premises

owned, leased, rented or occupied, except in the manner herein provided.

(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-3-7. Storage on Private Property.

It shall be unlawful for any person to leave outside any building or dwelling in the City any dilapidated furniture, appliances, machinery, equipment, building material, junk, or other items which are either wrecked, junked, dismantled or in inoperative condition, and which are not completely enclosed within a building or dwelling, or behind a privacy fence. All fences must be permitted and constructed as provided in Chapter 26 – Land Use.

(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-3-8. Weeds, Responsibility of Owner.

It shall be unlawful for any owner, agent, lessee, or occupant of any lots, tracts or parcels of land within the city to allow weeds to be planted, lie, grow or be located upon any such property or along any street adjoining the same between the property line and the curb line thereof. Weeds include, but are not limited to:

<i>A-H</i>	<i>I-P</i>	<i>Q-Z</i>
Absinth Wormwood	Jointed Goatgrass	Ragweed
Alfombrilla	Kochia	Ravenna grass
African Rue	Lambsquarter	Russian Knapweed
Black Henbane	Leafy Spurge	Russian Olive
Bull Thistle	London Rocket Mustard	Russian Thistle
Camelthorn	Malta Starthistle	Saltcedar
Canada Thistle	Musk Thistle	Sandbur
Cheatgrass	Mustard Weeds	Scotch Thistle
Chicory	Myrtle spurge	Siberian Elm
Cypress Spurge	Oxeye Daisy	Silverleaf Nightshade
Dalmation Toadflax	Parrotfeather	Spotted Knapweed
Diffuse Knapweed	Perennial Pepperweed	Spurge
Dyer's Woad	Pigweed	Tansy Mustard
Eurasian Watermilfoil	Plumeless Thistle	Teasel
Field Bindweed	Poison Hemlock	Tree of Heaven
Flix Weed	Puncture Vine	Tumble Weeds
Giant Salvinia	Purple Loosestrife	Yellow Foxtail
Halogeton	Purple Starthistle	Yellow Starthistle
Green Foxtail	Purslane	Yellow Toadflax
Hoary Cress		
Houndstongue		
Hydrilla		

(Ord. 2012-414, eff. 2012-Sept-19; Ord. 2012-409, eff. 2012-June-20)

Sec. 14-3-9. Invasive Species and Noxious Weeds, Planting Prohibited

It shall be unlawful for any owner, agent, lessee, or occupant of any lots, tracts or parcels of land within the city to allow invasive species or noxious weeds to be planted upon any such property. Invasive Species and Noxious Weeds include, but are not limited to:

<i>A-H</i>	<i>I-P</i>	<i>Q-Z</i>
Absinth Wormwood	Jointed Goatgrass	Ragweed
Alfombrilla	Kochia	Ravenna grass
African Rue	Lambsquarter	Russian Knapweed
Black Henbane	Leafy Spurge	Russian Olive
Bull Thistle	London Rocket Mustard	Russian Thistle
Camelthorn	Malta Starthistle	Saltcedar
Canada Thistle	Musk Thistle	Sandbur
Cheatgrass	Mustard Weeds	Scotch Thistle
Chicory	Myrtle spurge	Siberian Elm
Cypress Spurge	Oxeye Daisy	Silverleaf Nightshade
Dalmation Toadflax	Parrotfeather	Spotted Knapweed
Diffuse Knapweed	Perennial Pepperweed	Spurge
Dyer's Woad	Pigweed	Tansy Mustard
Eurasian Watermilfoil	Plumeless Thistle	Teasel
Field Bindweed	Poison Hemlock	Tree of Heaven
Flix Weed	Puncture Vine	Tumble Weeds
Giant Salvinia	Purple Loosestrife	Yellow Foxtail
Halogeton	Purple Starthistle	Yellow Starthistle
Green Foxtail	Purslane	Yellow Toadflax
Hoary Cress		
Houndstongue		
Hydrilla		

(Ord. 2012-414, eff. 2012-Sept-19; Ord. 2012-409, eff. 2012-June-20)

Sec. 14-3-10. Alleys.

It shall be unlawful for any owner, agent, lessee, or occupant of any lots, tracts or parcels of land within the city to allow weeds, shrubs, trees, or rubbish to become, in any way, hazardous or injurious to public health or to obstruct pedestrian and vehicular traffic on or along any alley adjoining the same between the property line and the center of such alley.

(Ord. 2012-414, eff. 2012-Sept-19; Ord. 2012-409, eff. 2012-June-20)

Sec. 14-3-11. Notice of Nuisance.

Any Enforcement Officer or City employee designated by the City Manager, upon observing any violation of this article, 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 shall establish a reasonable time limit for abatement thereof by the owner, occupant or tenants, which limit shall be not less than two (2) days or more than thirty (30) days after service of the notice. The notice may be served either personally or by mail at the owner's or occupants last known address of record. If

such owner cannot be served, a copy of the ordinance from which this article derives shall be posted on the property.

(Ord. 2012-414, eff. 2012-Sept-19)

Sec. 14-3-12. Citation.

In the event the owner or occupant of the property where the nuisance violation exists has failed, within the prescribed period of compliance, to abate the nuisance, then an Enforcement Officer shall issue a citation charging violation of this article with the municipal court, demanding that the owner of the property, or the occupant thereof, or both, be held to answer to the court for the violation of this article.

(Ord. 2012-414, eff. 2012-Sept-19; Ord. 2012-409, eff. 2012-June-20)

Sec. 14-3-13. Removal of Nuisance.

In the event that a person, owner, or occupant in charge of property fails to remove the nuisance, the City may enforce this article in any manner consistent with the law including, but not limited to, removal of the nuisance and collection of reasonable costs of labor, equipment and materials. Failure to pay these costs shall result in a lien against the subject property for these costs, which may be enforced as provided in NMSA 1978 § 3-36-1 et seq.

(Ord. 2012-414, eff. 2012-Sept-19)

Sec. 14-3-14. Injunctions.

The City Police Department, City Attorney, Enforcement Officer, or any other official of the City, when a nuisance exists as set forth in this article, 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.

(Ord. 2012-414, eff. 2012-Sept-19)

ARTICLE IV. DANGEROUS AND UNSAFE STRUCTURES

Sec. 14-4-1. Penalty.

Violations of this article are punishable as provided in Section 1-8.
(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-4-2. Prohibited.

1. It shall be unlawful for any person or persons, corporation or entity to:
 - 1) Maintain or permit the existence of any dangerous or unsafe building or structure within the City;
 - 2) Fail to repair, remodel or renovate any building or structure designated as dangerous or unsafe, or any building moved within the City;
 - 3) For the owner, occupant, or person in custody of any dangerous building to allow or permit the same to remain in a dangerous condition and to permit any building or structure to be occupied while it is or remains in a dangerous condition.
(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-4-3. Unsafe Structures or Premises.

An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.
(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-4-4. Dangerous Structures or Premises.

For the purpose of this code, any building, structure or premises that have any or all of the conditions or defects described below shall be considered dangerous:

1. Any door which is unsecured or any door, aisle, passageway, stairway or other means of egress, including windows, that does not conform to the current New Mexico Building Code and Fire Code as adopted by the authority having jurisdiction relating to the requirement for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure, or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any

- other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
4. Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
 5. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads required by the New Mexico Building Code.
 6. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
 7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
 8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirements or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
 9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the Enforcement Officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
 10. Any portion of a building remaining on a site after a demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-4-5. Determination.

When the Enforcement Officer suspects that a building or structure may be unsafe or dangerous, the Enforcement Officer shall request that the Building Official perform a complete inspection and generate a report on the condition of the structure.

(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-4-6. Procedure to Abate.

1. Whenever the Building Official, the Fire Official, or the Enforcement Officer shall be of the opinion that any building or structure in the city is a dangerous or unsafe building, that Enforcement Officer shall file a written notice to be served upon the legal owner of record thereof, and upon the occupant thereof, if any, by mail or by personal service to the last known address. Such notice shall state that the building has been declared to be in a dangerous condition, and that such dangerous condition(s) must be removed or remedied by repairing or altering the building or by demolishing it; and that the condition must be remedied within a fixed period of time not to exceed ninety (90) days.
2. Based on the report submitted by the Building Official, the City Commission may, by formal resolution, find the property to be dangerous. A copy of the resolution shall be served on the owner, occupant or agent in charge of the building, structure or premise. If the owner, as shown by the real estate records of the county clerk, occupant or agent in charge of the building, structure or premise cannot be served within the city, a copy of the resolution shall be posted on the building, structure or premise and a copy of the resolution shall be published one time.
(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-4-7. Removal and Appeal.

1. Within ten (10) days of the receipt of a copy of the resolution or of the posting and publishing of a copy of the resolution, the owner, occupant or agent in charge of the building, structure or premise shall commence removing the building, structure, ruin, rubbish, wreckage or debris, or file a written objection with the City Clerk asking for a hearing before the governing body of the municipality.
2. If a written objection is filed as required in this section, the City shall:
 - 1) Fix a date for a hearing on its resolution and the objection;
 - 2) Consider all evidence for and against the removal resolution at the hearing; and
 - 3) Determine if its resolution should be enforced or rescinded.
3. Any person aggrieved by the determination of the governing body may appeal to the district court by:
 - 1) Giving notice of appeal to the governing body within five (5) days after the determination made by the governing body; and
 - 2) Filing a petition in the district court within twenty (20) days after the determination made by the governing body. The district court shall hear the matter de novo and enter judgment in accordance with its findings.
4. If the owner, occupant or agent in charge of the building, structure or premise fails to commence removing the building, structure, ruins, rubbish, wreckage or debris:

- 1) Within ten (10) days of being served a copy of the resolution or of the posting and publishing of the resolution; or
 - 2) Within five (5) days of the determination by the governing body that the resolution shall be enforced; or
 - 3) After the district court enters judgment sustaining the determination of the governing body, the municipality may remove the building, structure, ruins, rubbish, wreckage or debris at the cost and expense of the owner. The reasonable cost of the removal shall constitute a lien against the building, structure, ruin, rubbish, wreckage or debris so removed and against the lot or parcel of land from which it was removed. The lien shall be foreclosed in the manner provided in Sections 3-36-1 through 3-36-6 NMSA 1978.
5. The municipality may pay for the costs of removal of any condemned building, structure, wreckage, rubbish or debris by granting to the person removing such materials, the legal title to all salvageable materials in lieu of all other compensation.
6. Any person or firm removing any condemned building, structure, wreckage, rubbish or debris shall leave the premises from which the material has been removed in a clean, level and safe condition, suitable for further occupancy or construction and with all excavations filled.
(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-4-8. Recording of Lien; Interest Rate on Lien.

1. It shall be the duty of the City Clerk to make out, sign, attest, file and record in the office of the county clerk, a claim of lien upon premises described in any delinquent assessment roll.
2. Such lien shall bear interest at the rate of eight percent per annum from the date of filing until paid, together with reasonable attorney fees for the foreclosure of same.
(Ord. 2012-409, eff. 2012-June-20)

Sec. 14-4-9. Emergency Action.

When the city official feels the dangerous building or debris must be abated immediately, the official may submit a report directly to the City Commission and follow the procedures outlined in Section 14-4-6 and Section 14-4-7.

(Ord. 2012-409, eff. 2012-June-20)