

CHAPTER 13

NUISANCES

Article I.

Section 13-1 Statutory Authorization

The Board of Aldermen of the City of Nixa in recognition of its duty to provide for the health, safety and well-being of the citizens of the City affirms the need to suppress all nuisances which are or may be injurious to the health and welfare of the inhabitants of the City, or prejudicial to the morals thereof, that such nuisances may be suppressed by ordinances, and the expenses for abating these nuisances may be assessed against the owner or occupant of the property and against the property on which said nuisance is committed and a special tax bill may be issued against said property for said expenses. Therefore, the City Board of Aldermen of the City of Nixa, Missouri, ordains as follows.

Section 13-2 Declarations and Purposes

A. The City Board of Aldermen for the City of Nixa, Missouri, does hereby find and declare that it is necessary to provide for the abatement of conditions which are detrimental to property values and community appearance, an obstruction to or interference with the comfort and enjoyment of adjacent property or premises, or hazardous or injurious to the health, safety or welfare of the general public in such ways that constitute a public nuisance and to establish community standards to safeguard health and public welfare in keeping with the character of the City by allowing for the maintenance of exterior property for each of the following purposes:

1. To safeguard the health, safety and welfare of the citizens of Nixa by maintaining exterior property in good and appropriate condition;
2. To promote a sound and attractive community appearance; and
3. To enhance the economic value of the community, and each area in it, through the regulation of the maintenance and conditions of property.

B. Accordingly, the City Board of Aldermen declares that the purposes of this Chapter are to:

1. Reduce the threat to health, safety, welfare, appearance and economic value to the decline in property condition(s) by lawfully delineating the circumstances under which such condition(s) are considered unlawful and/or abated; and further declares that

2. Abatement of such condition(s) is in the best interest of the health, safety and welfare of the residents of the City, as maximum use and enjoyment of property or premises in proximity to one another depends upon maintenance of those properties at or above the established minimum standards as defined within this Chapter.

Section 13-3 Administration and Enforcement

The Mayor and City Board of Aldermen for the City of Nixa, Missouri, hereby assign the duties of administering this Chapter as follows:

1. The Code Compliance Official within the Planning and Development Department (or within such other department designated for enforcement by the City Administrator) shall have the duty, responsibility and authority to enforce this Chapter and Sections in any manner authorized by the Nixa Municipal Code of Ordinances or by any other law including, but not limited to, issuance of citations, civil actions and abatement activity regulation.

2. The Records Divisions of the Nixa Police Department and Utility Department will provide the Planning and Development Department officials identifying information, when available, of the location and identifying descriptions of violators to assist the reporting, citation completion and service process.

3. For the purposes of inspections and/or enforcement of the provisions of this Chapter, Code Compliance Officials, Planning and Development Department officials or their designees shall be authorized and permitted to enter upon the property of another without being considered trespassers.

4. All inspections and enforcement actions, unless expressly stated to the contrary, shall be under the direction of the Code Compliance Official who may appoint or designate other public officers or employees to perform duties as may be necessary to enforce the provisions of this Chapter including, but not limited to, abatement activity, work orders, vegetation removal, mowing, etc....

5. When the Code Compliance Official determines an emergency exists which creates a dangerous and imminent health or safety hazard to persons, property or the general public which requires immediate action, the Code Compliance Official may order all required action necessary to immediately abate or remove the conditions causing the emergency. Any orders issued pursuant to this paragraph shall be effective immediately or in the time and manner prescribed in the order itself.

Section 13-4 Definitions

For the purpose of this Chapter, the following words are defined as follows:

ABANDONED: In addition to those definitions contained in applicable State Statutes, State Codes, other ordinances adopted by the City of Nixa or as contained in binding case

law decisions, the term "abandoned" refers to any item which has ceased to be used for its designed and intended purpose. The following factors, among others, will be considered in determining whether or not an item has been abandoned:

1. Present operability and functional utility;
2. The date of last effective use;
3. The condition of disrepair or damage;
4. The last time an effort was made to repair or rehabilitate the item;
5. The status of registration or licensing of the item.

ABATE: To repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the Code Compliance Official in his/her judgment shall determine is necessary in the interest of the general health, safety and welfare of the community.

CODE COMPLIANCE OFFICIAL City Official or employee as may be designated in writing by the City Administrator to enforce property or premises maintenance and other City Code violations as authorized herein.

DISMANTLED: That from which essential equipment, parts or contents have been removed or stripped and the outward appearance verifies the removal.

GRAFFITI: Defacement, damage or destruction by the presence of paint or ink, chalk, dye or other similar substances; or by carving, etching or other engraving.

INOPERABLE: Incapable of functioning or producing activity for mechanical reasons or other reasons.

JUNK VEHICLE: Any vehicle which does not properly display license plates or stickers indicating current registration and has any one (1) or more of the following characteristics:

1. Lacks engine, wheel, tire, properly installed battery or other structural parts which renders the vehicle inoperable for use as designed by the manufacturer;
2. Has a missing windshield or missing windows;
3. Has a missing door, bumper, hood, driver's seat or other similar structural piece;
4. Has become or has the potential to become the breeding ground or habitat of rats, mice, snakes, mosquitoes or other vermin;

5. Has junk, garbage or refuse stored therein; or paper, cardboard, wood or other combustible materials stored therein; or is used as a storage facility for solid waste or other hazardous materials; or is used for the storage of gasoline, propane or diesel fuel at any location on or about the vehicle other than in the vehicle's gas or fuel tank;

6. Has become a potential source of contamination of the soil from petroleum products or other toxic liquids being discharged or leaking from the vehicle.

LIEN HOLDER: Any person or entity who has a recorded interest in real property, including mortgagee, beneficiary under a deed of trust or holder of other recorded liens or claims of interest in real property.

NUISANCE: In addition to the conditions described within this Chapter, any unlawful act or the failure to perform a duty, or permitting any condition or thing to be or exist on property owned or occupied in which such act, omission, condition or thing:

1. Injures or endangers the health, safety or welfare of others; and/or

2. Unlawfully interferes with the use of, obstructs or tends to obstruct or renders dangerous any property, path, sidewalk, stream, ditch or drainage.

OCCUPANT: Any person or persons holding and exercising temporary or terminable tenancy rights with respect to a residence, building or property including renters, lessees and/or other persons residing temporarily on the subject property.

OWNER: The registered owner of a vehicle; the person(s) to whom property tax is assessed on real or personal property as shown on the last equalized assessment roll of the County.

PARTS: Any mechanical, structural, body or decorative part of any vehicle, machinery or trailer.

PROPERTY: Any land, lot, parcel or portion of land whether improved or unimproved, occupied or unoccupied, including any alley, sidewalk, parkway or public easement abutting such land, lot, parcel or portion of land.

VEHICLE: Any self-propelled vehicle not operating exclusively on tracks except for farm tractors. The term "vehicle" shall include, but is not limited to, an automobile, truck, van, sports utility vehicle, motorcycle, motorized scooter or dirt-bike.

Section 13-5 Enumeration of Nuisances

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a public nuisance and a violation of this Chapter; provided

however, this enumeration shall not be deemed or construed to be exclusive, limiting or restrictive:

1. No property owner shall be permitted to allow weeds, grass, brush, briars, and other rank vegetation to grow in excess of twelve (12) inches in height, exclusive of ornamental shrubs or flowers, vegetable crops, fruit trees, berry bushes, cover crops and domestic grains or other cultivated crops. A violation unabated for a period greater than five (5) days will warrant the issuance of a summons to the property owner. The property owner shall be responsible for all abatement costs. Owners of undeveloped land shall maintain their property so that weeds shall not exceed a height of eighteen (18) inches.

2. Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or items offensive to the senses or a risk to health, safety and/or welfare.

3. Any condition which provides harborage for rats, mice, snakes and other vermin.

4. Allowing or permitting vegetation, grass or weeds to grow outside or extend beyond the boundaries of any lot or property to a length greater than six (6) inches, to a height greater than twelve (12) inches or encroach upon any sidewalk more than four (4) inches.

5. Conditions contributing to or causing rank or noxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.

6. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage or industrial wastes.

7. Abandoning, discarding or knowingly permitting to remain on premises or property, in a place accessible to children, any abandoned or discarded icebox, refrigerator or other airtight or semi-airtight container which has a capacity of one and one-half (1½) cubic feet or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein.

No part of this Section shall apply to any icebox, refrigerator or other airtight or semi-airtight container located in that part of a building occupied by a dealer, warehouseman or repairman of such products.

8. All furniture, machinery, discarded containers or any other appliance, article, item or equipment designed for use inside a dwelling unit if stored, placed or set upon the ground or on any open porch, in any attached carport or freestanding carport, or in any garage or shed that is without doors to conceal such articles.

9. To permit, cause, keep, maintain or allow a fence or partitioning containing barbed wire, razor wire, electric wire or razor ribbon fencing in any residential or commercially zoned district.

10. Dismantled, non-licensed, inoperable or junk vehicles as defined herein.

11. Bricks, shingles, building materials, salvage materials including, but not limited to, auto parts, scrap metal, tires and any other trade materials stored, deposited, dumped discarded and/or abandoned on any section of property.

12. Buildings, structures or other surfaces upon which graffiti exists.

13. Any flammable material which may endanger public safety.

14. All substances or things, which cause an odor disagreeable to the surrounding neighborhood.

15. Ashes, slop, filth, excrement, stones, straw, soot, rubbish, manure, offal, stagnant water, decaying animal matter, decaying fruit or vegetable matter, wrecks or parts of worn-out vehicles or machinery, scrap iron or other metals, cans, bottles, broken glass, discarded wearing apparel, dead animals or any other offensive or disagreeable substances or thing, dilapidated buildings or building materials which may be offensive to the sight or smell or a menace to health, safety, peace or comfort, or which may be or become harborers or breeding places for mosquitoes, ants, flies, rats, mice or other vermin, animals or insects, or which may provide shelter, food or protection for rodents, whether left or deposited upon private premises or vacant lots or upon any public property.

16. All mud, dirt, rocks or debris from construction sites, fields or pastures which fall on city streets from the loads, tires or bodies of vehicles driven from said sites onto city streets. Developers and contractors are required to provide the city with a route plan for construction traffic in and out of new subdivisions and development sites. Failure to do so will be a violation of the Nixa City Code.

17. Any vehicle operable or not, parked off street in a residential district in a space not complying with the definition of "parking space" in the zoning ordinance of the City of Nixa. In addition to the vehicle capacity of a residence including garage space and driveway space, one accessory space may be designated. This space must be constructed out of 3/4" base rock, asphalt or concrete. If constructed of base rock, it must be bordered with landscaping timbers. Vehicles parked to the rear of the front elevation of the house must be covered with an appropriate cover or behind a privacy fence at least six (6) feet tall. This includes storage of boats, campers, trailers, and all other accessory vehicles. Any vehicle not parked according to these guidelines will be considered in violation of the Nuisance Code.

Section 13-6 Exceptions

- A. The provisions of this Chapter do not regulate or place limitations on any properly zoned junk yard, salvage dealer or waste tire facility holding valid licenses and/or other necessary Federal, State or municipal permits.
- B. The provisions of this Chapter do not prohibit the proper storage of idle but operable recreational vehicles, boats or lawn mowing equipment.
- C. The provisions of this Chapter do not prohibit the orderly storage of firewood.
- D. The provisions of this Chapter are not intended to regulate or place limitations on any residential or commercial building project for which a valid building permit has been issued by the City of Nixa. This exception shall be limited to the site for which any such permit was issued and this exception shall not apply if continuous and substantial progress toward completion of the building project is not being made.

Section 13-7 Nuisances Prohibited

- A. It is unlawful for any owner or occupant having control of any lot or land or any part thereof in the City of Nixa to cause, permit or maintain any nuisance on any such lot or land or contribute to the creation or maintenance of any nuisance as defined within this Chapter; and it is further unlawful for any person or his/her agent, servant, representative or employee to cause or maintain a nuisance on the property of another, with or without permission.
- B. Any person who shall cause, create or maintain a nuisance or contribute to any nuisance as defined within this Chapter shall be guilty of violating the provisions hereof and shall be liable for all costs and expenses attendant upon the removal and/or correction of such a nuisance in addition to any penalties provided. Each day that a nuisance is maintained can be the basis of a separate offense.

Section 13-8 Notice

A. Upon verification of a reported nuisance violation within the City, the Code Compliance Official shall contact the owner or occupant of the property upon which such nuisance exists and/or the person causing or maintaining the nuisance-and provide a written notice to abate. The following methods of service of the written notice to abate shall be deemed adequate:

1. By personal service upon the owner or occupant of the property upon which the nuisance exists or upon the person or persons or other responsible party causing or maintaining the violation.

2. If, after reasonable effort, personal service cannot be obtained, then by sending the notice by certified mail to the last known address of the owner, occupant or person causing or maintaining the nuisance.

3. If there is no last known or forwarding address, by publishing the notice once a week for two (2) consecutive weeks in a newspaper of general circulation in the City of Nixa, Missouri, or by posting the notice in a conspicuous place on the property or building whereat the nuisance exists.

B. In addition to the notice requirements of this Chapter, the notice to abate a nuisance issued under the provisions of this Chapter shall contain:

1. A notice to abate the nuisance within a stated time;
2. The location of the nuisance, if the same is stationary;
3. A description of what constitutes the nuisance;
4. A statement of action necessary to abate the nuisance:

5. A statement that if the nuisance is not abated as directed, the City will seek an order to abate the nuisance and assess the cost thereof against such person or against the property or both.

C. A violation unabated for a period greater than the stated time in the notice to abate will warrant the issuance of a Municipal Court Summons to the property owner or occupant having control of any lot or land or any part thereof, pursuant to Section 13-7. The absence of notice as provided in this Section shall not delay, nor prevent, nor be a defense in a prosecution pursuant to Section 13-7. If a similar violation occurs on the property within 12 months from the date of a prior notice of violation, it shall be unnecessary to issue a new notice prior to proceeding with the issuance of a Municipal Court Summons.

Section 13-9 Abatement Costs Special Tax Liens

A. In the event that any violation of this Chapter is not abated by the responsible person or persons as notified within the notice to abate and within the time specified, the City may initiate an administrative hearing before a hearing officer pursuant to the following procedures:

1. The Mayor shall appoint a hearing officer who shall give notice by personal service or certified mail of a hearing to determine if a nuisance exists. The hearing date shall be not less than five business days from the date of personal service or the notice mailing.

2. If upon hearing the hearing officer determines that a violation exists, proper notice was given, and there has been a failure to abate the nuisance, the hearing officer shall make an order directing the Chief of Police or the Code Compliance Official to have the nuisance abated or removed. The decision of the hearing officer that a nuisance exists and is to be abated may be appealed pursuant to the provisions of Chapter 536, Revised Statutes of Missouri, by any person aggrieved, provided such appeal is filed within thirty (30) days after the hearing officer notifies the person of his decision by one of the methods provided in Section 13-8.

3. In addition to all other fees, fines and costs imposed hereunder, the city is hereby empowered to charge and collect all costs of abatement, including administrative expenses, which shall be determined by the Code Compliance Official, Chief of Police, Planning and Development Department officials or their designees and/or Municipal Court. Whenever the City is authorized to undertake the abatement of any conditions constituting a nuisance as described within this Chapter, the City may cause the abatement to be performed by City employees or by private contract under the direction of the Code Compliance Official. Said costs shall be reported to the hearing officer in an itemized document titled "Certificate of Cost" showing the costs of abatement, administrative expenses and any outstanding penalties. Said costs shall be assessed and billed to the owner, occupant or entity having control of the property upon which the violation(s) exists along with a notice advising that a special tax bill may be issued or the costs of the abatement may be added to the annual real estate taxes assessed against the property. The person or entity causing, maintaining, or permitting the nuisance shall be personally liable to the city for the cost of such abatement. Said costs shall be paid to the city within thirty (30) days from the date of billing.

B. In the event the person or persons billed fails to pay within the thirty (30) day period set forth in this Section, the hearing officer shall certify the amount thereof to the City Clerk. The City Clerk is authorized to take any and all steps necessary for a special tax bill to be issued and/or for the costs of the abatement to be added to the annual real estate taxes assessed against the property. The cost of the abatement as determined by the hearing officer shall be certified to the City Clerk not sooner than thirty (30) days after issuance of the hearing officer's written findings, if not sooner paid.

C. In addition to the administrative remedies available, if upon a trial for the violation of this Chapter, the Judge of the Municipal Court shall find that a violation exists and that the defendant has had proper notice, as provided in this Chapter, and that the defendant has failed to abate the nuisance, the Judge of the Municipal Court shall, in addition to the penalty for violating this chapter, shall make an order authorizing the Chief of Police, and the Code Compliance Official, or any of them, to abate such nuisance forthwith, and immediately report the expense thereof to the Judge of the Municipal Court, who shall, as a part of the costs of such prosecution, render judgment against the defendant for the amount of such expense, which shall be collected as other fines and costs. If the City has already abated the nuisance in accordance with this Chapter at the time judgment is rendered, the Judge shall, as a part of the costs of such prosecution, render judgment

against the defendant for the amount of such expense, which shall be collected as other fines and costs.

Section 13-10 Weeds and Other Rank Vegetation

Rank vegetation is declared to be a hazard to the public health, safety and welfare. Notwithstanding the other provisions of this Chapter, the procedures set forth in this Section shall apply to the abatement of weeds and other rank vegetation.

1. The presence of high weeds, brush and other rank vegetation, excluding shade trees, ornamental shrubs, fruit trees, domesticated berry bushes and vines, cover crops and domestic grains and plantings, on lots and pieces of land within the City constitute a menace to the public safety, health and welfare by reason that such conditions may:

- a. Cause a fire hazard.
- b. Furnish cover for prowlers.
- c. Create a nuisance with potential danger of injury on rocks, debris, holes, etc., covered by excess growth.
- d. Obstruct visibility at street intersections.
- e. Result in the aggravation of allergies.
- f. Furnish a potential harborage or breeding place for disease-carrying insects, arthropods, animals and poisonous snakes.

2. The growth of weeds, brush or rank vegetation shall constitute a public nuisance when, in the opinion of the Code Compliance Official, any such growth on a lot or piece of land may substantially endanger the health, safety or welfare of the public, having considered those hazards enumerated in paragraph (1).

3. The abatement procedure for weeds or other rank vegetation shall be as follows:

- a. Whenever the Code Compliance Official is informed and determines that a nuisance, per se, exists under paragraph (3), or whenever the Code Compliance Official shall determine that a nuisance exists as provided by paragraph (2), he shall notify the owner of the property of his order to abate the nuisance by any of the methods set forth in 13-8 hereof.
- b. If the nuisance is not abated within five (5) days from the date the notice is first given (by delivery, deposit to the mails or posting of property), then the Code Compliance Official shall notify the appropriate City department(s) of such nuisance, giving the location thereof, and the appropriate City department(s) shall cause such nuisance to be abated by

whatever reasonable means are necessary including use of contractor services.

4. No property owner shall be permitted to allow weeds, grass, brush, briars, and other rank vegetation to grow in excess of twelve (12) inches in height, exclusive of ornamental shrubs or flowers, vegetable crops, fruit trees, berry bushes, cover crops and domestic grains or other cultivated crops. A violation unabated for a period greater than five (5) days will warrant the issuance of a summons to the property owner. The property owner shall be responsible for all abatement costs. Owners of undeveloped land shall maintain their property so that weeds shall not exceed a height of eighteen (18) inches.

5. Charges for abatement by the City shall be determined as follows:

a. Charges for the cost of abatement shall be determined pursuant to Code Section 13-9 Subsections (A), and (B).

b. If extraordinary weed maintenance procedures are required to abate a nuisance under the provisions of this Chapter, the actual expenses incurred by the City for the abatement of the nuisance shall be charged to the person in charge of the parcel of land as set out in this Chapter.

c. For purposes of this Section, the term "extraordinary weed maintenance procedures" shall be deemed to mean the required use of heavy construction equipment such as motor graders, crawler-tractors, wheel loaders and/or track-type loaders. Actual expenses shall be deemed to include all administrative costs, including costs incurred in renting such equipment; the cost of fuel, oil, lubrication, filters and repair or replacement of parts, including tires, when such repair or replacement is not a result of normal wear and tear the per mile cost of dump trucks used in hauling away the rank vegetation; and all labor costs.

6. No proceeding in Municipal Court for prosecution of a violation of paragraph (4) shall prohibit or be any bar to a proceeding by the City under the provisions of paragraphs (5) and (6), nor shall any proceedings by the City under paragraphs (5) and (6) prohibit or be any bar to a proceeding in Municipal Court for prosecution of a violation of paragraph (4).

Section 13-11 Penalties and Fine Schedule

Upon entry of a guilty plea or upon a finding of guilt of a violation of any Section of this Chapter, the court will order the following:

1. The imposition of a fine as scheduled within Subsection (3).
2. Issuance of an abatement order for abatement of the violation.

3. Fine schedule for violations of this Chapter. (Fines in this table do not include court costs or abatement fees.)

Section #	Title	Offense	Fine
13-7, 13-10	Nuisances Prohibited	1st	\$150.00
13-7, 13-10	Nuisances Prohibited	2nd	\$300.00
13-7, 13-10	Nuisances Prohibited	3rd	\$500.00
13-12	Failure to Abate A Nuisance as Ordered	Any	\$500.00

Section 13-12 Failure to Abate a Nuisance as Ordered

Upon conviction for the violation of any provision of this Chapter, an order to abate will be issued directing the person or persons so convicted to abate or correct the underlying nuisance. Failure of the person or persons to abate such underlying nuisance within the time ordered shall be the basis of a separate and chargeable offense.

Section 13-13 Separability

Every Section, provision or part of this Chapter is declared separable from every other Section, provision or part; and if any Section, provision or part hereof shall be held invalid, it shall not affect any other Section, provision or part. (Ord. No. 1561 11/08)

Section 13-14 through 13-15 Reserved

ARTICLE II UNSAFE BUILDINGS

Section 13-16 Purpose and Scope.

It is the purpose of this ordinance to provide a just, equitable and practical method for the repairing, vacation or demolition of buildings or structures that may endanger the life, limb, health, property, safety or welfare of the occupants of such buildings or the general public, and this ordinance shall apply to all dangerous buildings, as herein defined, that now are in existence or that may hereafter exist in the City of Nixa, Missouri.

Section 13-17. Dangerous Buildings Defined.

All buildings that are detrimental to the health, safety or welfare of the residents of the City of Nixa and that have any or all of the following defects shall be deemed “dangerous building”.

- 1) Those with interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
- 2) Those that, exclusive of the foundation, show thirty-three (33) percent or more damage or deterioration of the supporting member or members, or fifty (50) percent damage or deterioration of the mensuration enclosing or outside walls or covering.
- 3) Those that have improperly distributed loads upon the floors or roofs, or in which the same are overloaded or that have insufficient strength to be reasonably safe for the purpose used.
- 4) Those that have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the city.
- 5) Those that are so dilapidated, decayed, unsafe, insinuator or that so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or welfare of those occupying such building.
- 6) Those having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.

- 7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other adequate means of evacuation.
- 8) Those that have parts thereof that are so attached that they may fall and injure members of the public or property.
- 9) Those that because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this city.

Section 13-18. Dangerous Buildings Declared Nuisance.

All dangerous buildings, as defined by Section 13-17, are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as provided herein.

Section 13-19. Standards for Repair, Vacation or Demolition.

The following standards shall be followed in substance by the building inspector and the building commissioner, in ordering repair, vacation or demolition of any dangerous building.

- 1) If the dangerous building reasonably can be repaired so that it no longer will exist in violation of the terms of this ordinance, it shall be ordered repaired.
- 2) If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered vacated and repaired.
- 3) In all cases where a building cannot be repaired so that it no longer will exist in violation of the terms of this ordinance, it shall be demolished.

Section 13-20. Building Inspector.

All city police officers and all other city employees so designated by the city administrator shall be building inspectors within the meaning of this ordinance.

Section 13-21. Duties of Building Inspector; Procedure and Notice.

The building inspector shall have the duty under this ordinance to:

- 1) Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist that render such places a dangerous building when he has reasonable grounds to believe that any such building is dangerous.

- 2) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this ordinance, and the building inspector determines that there are reasonable grounds to believe that such building is dangerous.
- 3) Inspect any building, wall or structure reported by the fire or police departments of this city as probably existing in violation of this ordinance.
- 4) Notify in writing, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of these modes of service, then service may be had by publication in a newspaper qualified to publish legal notices for two (2) successive weeks, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Christian County, of any building found by him to be a dangerous building within the standards set forth in Section 13-17.

The notice required shall state that:

- a) The owner must vacate, vacate and repair or vacate and demolish said building in accordance with the terms of the notice and this ordinance;
 - b) The occupant or lessee must vacate said building or have it repaired in accordance with the notice and remain in possession;
 - c) The mortgagee, agent or other persons having an interest in said building as shown by the land records of the Recorder of Deeds of the county wherein the land is located, may, at his own risk, repair, vacate or demolish or have such work done, provided that any person notified under this subsection to repair, vacate or demolish any building, shall be given such reasonable time not exceeding thirty (30) days to commence the required work.
- 5) The notice provided for in this section shall state a description of the building or structure deemed dangerous a statement of the particulars that make the building or structure a dangerous building and an order requiring the designated work to be commenced within the time provided for in the above subsection;
 - 6) Report in writing to the city building commissioner the noncompliance with any notice to vacate, repair or demolish or upon the failure to proceed continuously with work without unnecessary delay;
 - 7) Appear at all hearings conducted by the building commissioner and testify as to the condition of dangerous buildings.

- 8) Immediately report to the building commissioner concerning any building found by him to be inherently dangerous and that he determined to be a nuisance per se. The building commissioner may direct that such building be marked or posted with written notice reading substantially as follows:

“This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice that has been given the owner, occupant, lessee, mortgagee or agent of the building, and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Christian County. It is unlawful to remove this notice until such notice is complied with.”

Provided, however, that the order by the building commissioner and the posting of said notice, shall not be construed to deprive all persons entitled thereto by this ordinance to the notice and hearing prescribed herein

Section 13-22. Building Commissioner.

The City Administrator shall act as building commissioner under this ordinance.

Section 13-23. Duties of the Building Commissioner.

The building commissioner shall have the power pursuant to this ordinance to:

- 1) Supervise all inspections required by this ordinance, and cause the building inspector to make inspections and perform all the duties required of him by this ordinance. Upon receiving a complaint or report from any source, that a dangerous building exists in the city, the building commissioner shall cause an inspection to be made forthwith. If the building commissioner deems it necessary to the performance of his duties and responsibilities imposed herein, the building commissioner may request an inspection and report be made by any other city department or retain services of any expert whenever the building commissioner deems such service necessary.
- 2) Upon receipt of a report from the building inspector indicating failure by the owner, lessee, occupant, mortgagee, agent or other person(s) having interest in said building to commence work of reconditioning or demolition within the time specified by this ordinance or upon failure to proceed continuously with work without unnecessary delay, the building commissioner shall hold a hearing giving the affected parties full and adequate hearing on the matter.

Written notice, either by personal service or by certified mail, return receipt requested, or by publication for two (2) successive weeks, in a newspaper qualified to publish legal notices, at least twenty-one (21) days in advance of a hearing date, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the recorder of deeds of the county wherein the land is located, to appear before the building commissioner on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with statement of particulars set forth in the building inspector's notice as provided herein

Any party may be represented by counsel and all parties shall have an opportunity to be heard.

- 3) Make written finding so fact from the evidence offered at said hearing as to whether or not the building in question is a dangerous building within the terms of Section 13-17.
- 4) If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, the building commissioner shall issue an order based upon its findings of the fact commanding the owner, occupant, mortgagee, lessee, agent or other person(s) having an interest in said building as shown by the land records of the county wherein the land is located, to repair, vacate or demolish any building found to be a dangerous building, provided that any person so notified, shall have the privilege of either repairing or vacating and repairing said building, if such repair will comply with the ordinances of this city or the owner or any person having an interest in said building as shown by the land records of the county wherein the land is located, may vacate and demolish said dangerous building at his own risk to prevent the acquiring by the city of the lien against the land where the dangerous building stands. If the evidence does not support a finding that a building or structure is a dangerous building, no order shall be issued.
- 5) If the owner, occupant, mortgagee or lessee fails to comply with the order within thirty (30) days, the building commissioner shall cause such building or structure to be repaired, vacated or demolished as the facts may warrant; and the building commissioner shall certify the cost of the work borne by the city for such repair, vacation or demolition to the City Clerk as a special assessment represented by a special tax bill against the real property affected; said tax bill shall be lien upon said property and shall be deemed a personal debt against the property owner (s). Except as provided in subsection 6 of this section, at the request of the taxpayer this special tax bill may be paid in installments over a period of not more than ten (10) years; said assessment shall bear interest at the rate of 10 percent per annum until paid.

- 6) As to damage or loss to a building or other structure caused by an arising out of any fire, explosion or other casualty loss, if an order is issued by the building commissioner as provided in subsection 5 of this section, and a special tax bill or assessment is issued against the property, it shall be deemed a personal debt against the property owner. If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, the following procedure is established for the payment of up to (10) percent of the insurance proceeds, as set forth in subdivisions “a” and “b” of this subsection. This subsection shall apply only to a covered claim payment that is in excess of fifty (50) percent of the face value of the policy covering a building or other structure;
 - a) The insurer shall withhold from the covered claim payment up to ten (10) percent of the covered claim payment, and shall pay such moneys to the city to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under the ordinance.
 - b) The city shall release the proceeds and any interest that has accrued on such proceeds received under subdivision “a” of this subsection to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after receipt of such insurance moneys, unless the city has instituted legal proceedings under the provisions of subsection 5 of this section. If the city has proceeded under the provisions of subsection 5 of this section, all moneys in excess of that necessary to comply with the provisions of the subsection 5 of this section for the removal of the building or structure, less salvage value, shall be paid to the insured.
- 7) If there are no proceeds of any insurance policy as set forth in subsection 6 of this section, at the request of the taxpayer, the tax bill may be paid in installments over a period not more than ten (10) years. The tax bill from date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid.
- 8) Subsection 6 of this section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.
- 9) Subsection 6 of this section does not make the city a party to any insurance contract, and the insurer is not liable to any party for an amount in excess of the proceeds otherwise payable under its insurance policy.
- 10) The building commissioner may certify in lieu of payment of all or part of the covered claim under subsection 6 that it has obtained satisfactory proof that the insured has removed or will remove the debris and repair, rebuild or

otherwise make the premises safe and secure. In this event, the building commissioner shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without the deduction pursuant to subsection 6 of this section. It shall be the obligation of the insured or other person making the claim to provide the insurance company with the written certificate provided from this subsection.

Section 13-24. Appeal.

Any owner, occupant, lessee, mortgagee, agent or any other person(s) having an interest in a dangerous building as shown by the land records of the recorder of deeds of the county wherein the land is located, may, within thirty (30) days from the receipt of the order of the building commissioner, appeal such decision to the circuit court of the county wherein the land is located, pursuant to the procedure established in Chapter 536 of the Revised Statutes of Missouri.

Section 13-25. Emergencies.

In cases where it reasonably appears that there is immediate danger to the health, life or safety of any person unless a dangerous building, as defined herein, is immediately repaired, vacated or demolished, the building inspector shall report such facts to the building commissioner and the building commissioner may cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Section 13-22 (5).

Section 13-26. Violations; Disregarding Notices or Orders.

- 1) The owner, occupant or lessee in possession of any dangerous building who shall fail to comply with the order to repair, vacate or demolish said building given by the building commissioner shall be guilty of a misdemeanor and upon conviction shall be punishable as set forth in Section 13-27.
- 2) Any person removing any notices provided for in this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with Section 13-27.

Section 13-27. Penalties.

Any person violating the provisions of this ordinance is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00).

Each day that a person fails to comply with an order of the building commissioner May be deemed a separate offense (763 6/92)

Section 13-28 through 39

**ARTICLE III
DISPOSAL OF UNCLAIMED PROPERTY
HELD BY THE POLICE DEPARTMENT**

Section 13-40 Disposal of Property held by the Police Department

1. This section relates to and embraces lost, stolen, strayed, abandoned, unclaimed or confiscated property which of itself is not contraband or the possession of which is not unlawful, which is now or which may hereafter come into the possession of the Nixa Police Department, which is not subject to other provision of state or federal law pertaining to the disposal of property.
2. All personal property shall be kept by the Nixa Police Department for a period of sixty (60) days, unless the owner or person entitled to the possession of such property shall sooner claim such property and establish his ownership and right to possession thereof.
3. If the owner or person entitled to the possession of the property shall fail to claim such property with sixty (60) days and the Nixa Police Department is unable to locate the owner, then at such time or at any time thereafter the Chief of police may cause a notice to be published in a local paper for a period of not less than three (3) days, which notice shall be given in a manner reasonably calculated to reach the attention of all interested persons. The notice shall state that the property shall be disposed of on a certain date or dates for use in the Police Department, for sale by public auction (live or internet), or destroyed if the property is of such poor quality or would be a safety concern if returned to the general public. In the event the property will be sold at public auction to the highest bidder for cash, the notice shall state the time, place and method (live or internet) for the sale.
4. If the owner or person entitled to the possession of property advertised as above shall fail to claim the same at any time before the date of disposal, then the property shall be transferred or sold to the highest bidder for cash, and the acquiring department or purchaser shall take a good and perfect title to the property. The City Purchasing Agent of the City of Nixa is hereby authorized to contract for the services of an auctioneer and clerk (live or internet) for said auction sales and may pay for the costs of such services from the proceeds of the sale.
5. Any funds, other than those payable to the State, received from the sale of any property as provided in this section, less the cost of the publication and keeping the same for sale and the costs of such sale, shall be paid into the General Fund of the City of Nixa.

6. Whenever a weapon comes into the possession of the Nixa Police Department, it is no longer needed as evidence, and there is no applicable Missouri Statute for its disposition, then the Chief of Police may cause such firearms to be retained for use by the city within the Police Department or application may be made by the Chief of Police to the Judge of the Municipal Court for an order of disposition. The Judge of the Municipal Court is authorized to order the sale of legal fire arms which are in apparent working order to the highest bidder who holds a valid Federal Firearms License; a certified copy of said license shall be provided to the Police Department at the time of the sale. The Judge of the Municipal Court is also authorized to order the destruction of ammunition or of any firearm or weapon which is illegal to possess, or a firearm which is in such worn condition as to be dangerous for use.

7. Upon application by the Chief of Police, the Judge of the Municipal court is authorized to issue an order of destruction or disposition of any alcoholic beverage seized as a result of a violation of the Nixa City Code or state law.

8. The Chief of Police shall order the destruction of all property which is not disposed of as above. Said property shall be destroyed in the presence of the Nixa Police Department's Evidence Technician and at least one (1) Police Officer who both shall sign a certificate of said destruction. These certificates shall become part of the permanent records kept by the Nixa Police Department. (#1557 10/0g)

