

# Memorandum

To: City Council  
From: Keith Robinson  
Date: September 29, 2015  
Subject: Nuisance Ordinance Rewrite



Council may remember; as the marijuana ordinance adoption was coming to an end and the ordinances dealing with Idling Engines were adopted earlier this year, I advised that the ordinances related to nuisance issues would be reviewed for amendment starting in the fall. At Council's request the review process is being brought forward now for discussion.

Staff met on September 23<sup>rd</sup> to review past complaints, concerns, issues with existing code and how the process should proceed. Issues typically under nuisance violations deal with community standards of acceptance rather than safety, health or society expectations. Yes, health and safety may be of concern and where possible those are identified and dealt with in a more direct response. With nuisances however our existing ordinances and those researched try to blend criminal and civil remedies. We also have to insure that adoption of a criminal/civil enforcement action does not conflict with existing land use regulations. Those conflicts are part of the delay in enforcement, causes confusion in the process and a lack of noticeable action in many cases. The review and rewrite discussed is intended to clarify a process where a violation can be identified, clearly defined, and a course of action established from initial contact, compliance, court action, and conclusion either through voluntary compliance, court ordered compliance, or court ordered.

The existing Nuisance Ordinance is located in Title 5, Chapter 30, Sections 010 thru 070. The proposed plan consists of myself working with City Attorney Kathy Fogo to define a process for nuisance issues to be handled. That process will be developed in conjunction with PD staff and members of the City Compliance Task Force (CTF) Group reviewing, discussing and providing input. The envisioned process includes initial contact and voluntary compliance through court ordered abatement. Where possible we will be looking for opportunities to address some issues early with summons before they grow into a nuisance issue. Mainly the hope is a clearly defined process to get complaints resolved with property owner voluntarily and if not a clean understandable process to force compliance.

To address Council's request for a planned approach, I would propose updating Council at the November 17, 2015, work session, with information pertaining to 5.30.030 Inspection of Property, 5.30.040 Abatement, 5.30.050 Recovery of Expenses, 5.30.060 Protest of Notice of Abatement and 5.30.070 Enforcement and Remedies. Addressing

these areas should provide a frame work for dealing with a nuisance issue from initial complaint through resolution. This portion of the ordinance could then be completed in draft form and approved.

Specific nuisance topics can then be identified, defined and ordinances drafted under 5.30.020 Nuisance Prohibited. Additional ordinances can be approved or adopted individually or in groups at Council's direction. Without considering what may already be addressed in the land development code, existing general offenses, model traffic code, or fire code the basic categories identified for consideration and discussion are:

1. Excessive Noise
  - Commercial Operations
  - Residential
2. Weeds/Vegetation:
  - Right of way
  - Established yards vs. undeveloped lots
  - Wild habitat/wet lands/agriculture
  - Noxious weeds vs. natural landscaping, zero scape, appearance
3. Inoperable or junk vehicles
  - Antiques
  - Parts
  - Street, yards
  - Covered vs. open storage
4. Use of City Right of Way
  - Storage of non-motorized items
  - Storage of motorized or towed vehicles
  - Conducting Business
5. Litter/Rubbish/Allowable Storage
  - Household Furniture
  - Appliances
  - Building Materials
  - Yard waste
  - Electronics

Again, trying to give Council a plan for rewrite and adoption. I would anticipate an update every 4 to 6 weeks once the abatement and enforcement sections are approved. The update might be the language that already exists and how enforcement is going to be applied. In some cases the needed ordinance change may not be in Chapter 30 but can be more effective in another Chapter.

The plan laid out is very aggressive but should allow for a workable nuisance code rewrite in place by July 1, 2016.