

**ORDINANCE OF THE
CITY OF LONE TREE**

Series of 2023

Ordinance No. 23-03

**AN ORDINANCE REPEALING AND RE-ENACTING ARTICLE 1 OF
CHAPTER 7 OF THE LONE TREE MUNICIPAL CODE TO ADOPT BY
REFERENCE THE LONE TREE NUISANCE CODE, DELETING
ARTICLE II OF CHAPTER 7 TITLED HEALTH AND SAFETY,
AMENDING ARTICLES III AND IV OF CHAPTER 7 TITLED HEALTH
AND SAFETY, AMENDING CHAPTER 10 TITLED GENERAL
OFFENSES AND AMENDING CHAPTER 18 TITLED BUILDING
REGULATIONS REGARDING NUISANCES AND NUISANCE
ENFORCEMENT**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LONE TREE,
COLORADO:**

ARTICLE 1 – AUTHORITY

The City of Lone Tree (the "City") is a home rule municipality operating under the Lone Tree Home Rule Charter (the "Charter") adopted on May 5, 1998, and a Municipal Code (the "Code"), codified and adopted on December 7, 2004. Pursuant to its constitutional home rule authority, the City may adopt and amend ordinances. Pursuant to C.R.S. § 31-16-202 and Section 3 of Article V of the Lone Tree Home Rule Charter, the City may adopt by reference of standard codes.

ARTICLE 2 – DECLARATIONS OF POLICY AND FINDINGS

- A. The City currently has several code provisions relating to nuisances.
- B. The City Council finds that the current nuisance code codified in Chapter 7 requires updating, particularly the abatement provisions.
- C. The City Council desires to repeal and replace the current nuisance code provisions.
- D. The City Council finds that abandoned shopping carts should be moved from Chapter 7 (Health and Safety) to the Chapter 10 (General Offenses).
- E. The City Council desires to update Section 18-10-60 (Maintenance and Ongoing Inspection of Vacant Properties) to require the same abatement procedures provided in the updated nuisance code.

ARTICLE 3 – SAFETY CLAUSE

The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City and C.R.S. § 31-15-501(1)(c), that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare.

ARTICLE 4- AMENDMENT OF ARTICLE I OF CHAPTER 7.

Article I, Chapter 7 of the Lone Tree Municipal Code is hereby repealed in its entirety and replaced with a new Article I, entitled “Lone Tree Nuisance Code” to adopt by reference the City of Lone Tree Nuisance Code, 2023 Edition. A copy of the City of Lone Tree Nuisance Code, 2023 Edition, certified to be a true copy by the Mayor and City Clerk, shall be on file in the office of the City Clerk and may be inspected by any interested person between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, holidays excepted.

ARTICLE 5- DELETION OF ARTICLE II OF CHAPTER 7.

Article II of Chapter 7 of the Lone Tree Municipal Code entitled “Fences” is hereby deleted in its entirety and is reserved.

ARTICLE 6- AMENDMENT OF ARTICLE III OF CHAPTER 7.

Article III of Chapter 7 of the Lone Tree Municipal Code entitled “Trees” is hereby amended as follows:

Section 7-3-80 entitled “Dead or Diseased Tree Removal on Private Property” shall hereby be deleted.

Section 7-3-90 entitled “Removal of Stumps” shall hereby be amended to read as follows:

Sec. 7-3-90. Removal of Stumps.

All stumps of street or park trees shall be removed to a point that is below the surface of the ground so that the top of the stump shall not project above the surface of the ground. Further, all tree stumps shall be maintained, including removal of any tree suckers that sprout from such stump.

Section 7-3-110 entitled “Penalty” shall hereby be deleted.

ARTICLE 7- AMENDMENT OF ARTICLE IV OF CHAPTER 7.

Article IV of Chapter 7 of the Lone Tree Municipal Code entitled “Weeds” is hereby amended as follows:

Section 7-4-50 entitled “Inspection and Enforcement” shall hereby be deleted.

Section 7-4-60 entitled “Penalties” shall hereby be deleted.

ARTICLE 8- AMENDMENT OF ARTICLE VI OF CHAPTER 10.

Article VI, Chapter 10 of the Lone Tree Municipal Code is hereby amended with the addition of a new Section 10-6-60 entitled, "Abandoned Shopping Carts" to read as follows:

Sec. 10-6-60. Abandoned Shopping Carts.

- (a) It shall be unlawful for any person to remove from the premises of a business a shopping cart and abandon the same on public or private property throughout the city.
- (b) As used in this Section, the following words and terms shall have the following meanings:
 - (1) *Abandoned Shopping Cart* shall mean a shopping cart that is left unattended, discarded or abandoned upon any public or private property other than the premises of the retail establishment from which the shopping cart was removed, regardless of whether such shopping cart was removed from the premises with or without the permission of the owner.
 - (2) *Owner* shall mean any person or entity that owns, leases, possesses, or makes more than ten (10) shopping carts available to customers or the public in connection with the conduct of a business.
 - (3) *Premises* shall mean any building, property, or other area upon which any retail establishment business is conducted or operated, including the parking area provided for customers in such retail establishment or the shopping center in which such retail establishment is located.
 - (4) *Retail Establishment* shall mean any business which offers or provides shopping carts for the use of the customers of such business.
 - (5) *Shopping Cart* shall mean a basket which is mounted on wheels or a similar device generally used in a retail establishment by a customer for the purpose of transporting goods of any kind.
- (c) The owner of any abandoned shopping cart, shall, within forty-eight (48) hours of written notice by the City, retrieve such shopping cart and return it to the premises of the retail establishment from which the shopping cart was removed.
- (d) Any person found guilty of violating any provision of this Division shall be subject to the penalty set forth in Section 1-4-20. Each day such violation continues shall be considered a separate offense.

ARTICLE 9 - AMENDMENT OF SECTION 18-10-60.

Section 18-10-60, entitled "Maintenance and Ongoing Inspection of Vacant Properties" of the Lone Tree Municipal Code is hereby amended to read as follows:

Sec. 18-10-60. Maintenance and Ongoing Inspection of Vacant Properties.

- (a) The owner shall keep the property secured against trespass and safe and the building and grounds properly maintained in accordance with all applicable laws, including, but not limited to, Chapter 18 and Chapter 7 of the Code. Nothing in this Section shall be considered to conflict with or abrogate any and all other property maintenance requirements set forth in the Code.
- (b) Vacant properties shall comply with the following standards:
 - (1) All exterior signs, awnings, and lighting systems, if not removed, shall be maintained in a completely operable, clean, non-deteriorated, and safe condition.
 - (2) The property must be posted with "no trespass" signs visible from public access points.
 - (3) All exterior features or appurtenances thereof, including, but not limited to, gutters, rain guards, ornamental trim, ornamental decorations, cornice, brickwork, lettering, and light fixtures shall be maintained in a nondeteriorated and safe condition.
 - (4) Doors, windows, and other openings shall be weather-tight and secured against entry by birds, vermin, and trespassers, and no doors, windows, or other coverings shall be missing or broken. Broken windows or doors shall not be covered with plywood or similar boarding material except as an emergency measure lasting no longer than thirty (30) days. Doors, windows, and other openings shall not be obscured by vegetation.
 - (5) Structural components shall be maintained to resist and prevent deterioration.
 - (6) The walking surface of passageways, stairways, or other surfaces near exits shall be maintained in a condition so as to provide safe and adequate means of exit in case of fire or panic.
 - (7) The grounds on which a structure is located shall be clean, safe, and sanitary, and not threaten the public health or safety. Grounds shall be maintained in a manner similar to surrounding properties, with grass mown and landscaping watered regularly.

- (8) The grounds shall be kept free of excess debris and litter. Any handbills, circulars, newspapers, advertisements and similar materials deposited on the property shall not remain for more than five (5) days.
- (9) No property or structure shall be left in a state of incomplete construction, partial demolition, or damaged by vandalism, fire, or other acts for a period of greater than six (6) months, excluding such time when work is in progress pursuant to a valid building or other construction permit.
- (10) No property shall be maintained or kept in such a way that it is likely to attract, contain, or harbor vermin, debris, trash, illegal dumping or other conditions that are detrimental to the public health, safety, and welfare.
- (11) No property or structure shall be kept in a state in which the roof or walls are leaking water into the interior of the building as evidenced from the exterior of the structure.
- (c) Abatement. If the Community Development Director or Building Official has reason to believe that an owner has violated this Section, the city shall follow the same process for abatement of a nuisance as set forth in Chapter 7 of this Code.
- (d) Regular inspections. The Community Development Director shall regularly inspect vacant properties in the City for the purpose of enforcing and assuring compliance with the provisions of this Article.

ARTICLE 10 – PENALTY FOR ARTICLE 1 SET FORTH HEREIN

Violations of Article 1 of this ordinance shall be punishable as provided in the following Municipal Code sections, which read as follows:

Sec. 7-1-130. Violations and Penalties.

- (a) It is unlawful for any person to violate any provision of the Lone Tree Nuisance Code.
- (b) If a person is found to have violated the Lone Tree Nuisance Code, such person may be subject to the following penalties:
 - (1) An administrative citation, as provided in Section 7-1-140.
 - (2) A criminal summons and complaint, as provided in Section 7-1-150.
 - (3) City abatement and reimbursement as provide in Section 7-1-170.

Sec. 7-1-140. Administrative Citation.

- (a) If, after the follow-up inspection pursuant to the Lone Tree Nuisance Code, the authorized inspector discovers that the nuisance described in the Notice of Abatement has not been abated, then the authorized inspector may issue the owner or occupant an administrative citation, requiring such person to pay a designated fine, as indicated in subsection (d) of this Section. The administrative citation shall also specify a deadline by which the nuisance must be remedied by.
- (b) Service. Service of an administrative citation must be completed either through personal service, or via certified mail, return receipt requested, to the owner, occupant, or author of the nuisance.
- (c) Abatement not a Defense. Abatement of the nuisance shall not waive the fine in the citation.
- (d) The authorized inspector may issue an administrative penalty in an amount not to exceed five hundred dollars (\$500.00) for each finding of non-compliance. The authorized inspector may impose an administrative penalty in an amount of seven hundred fifty dollars (\$750.00) for a second finding of non-compliance and one thousand dollars (\$1,000.00) for a third finding of non-compliance within a twelve-month period. For any nuisance constituting an imminent public safety or health hazard, the authorized inspector is authorized to issue an administrative penalty up to one thousand dollars (\$1,000.00) regardless of whether such violation is a first or subsequent violation. Administrative penalty assessments shall be customarily imposed upon the owner or occupant when failing to promptly abate the nuisance in the time period proscribed. Interest at five percent (5%) each full calendar month (prorated for any partial month) shall accrue upon any outstanding and unpaid administrative penalty assessment amount owed until the assessment is paid in full. Interest accrual shall not be stayed or suspended during any period of administrative or judicial challenge or appeal.

Sec. 7-1-150. Criminal Summons and Complaint.

- (a) If, after the follow-up inspection pursuant to Section 7-1-120, the authorized inspector discovers that the nuisance described in the Notice of Abatement has not been abated, then the City may bring and maintain an action in any court of record, including the Lone Tree Municipal Court, for the prevention, restraining, abatement or enjoining of any public nuisance.
- (b) When judgment is rendered against any person for creating, keeping or maintaining any nuisance it shall be the duty of the Court before whom such

judgment is had, to order the defendant in such suit, to forthwith abate the nuisance.

- (c) The Court may also specifically authorize the City to take actions necessary to abate the nuisance and recover the expense of such abatement in accordance with the Lone Tree Nuisance Code.
- (d) The order shall be entered upon the docket of the Court and be made a part of the judgment of the case and the cause.
- (e) A violation of the Lone Tree Nuisance Code shall be punishable as provided in Section 1-4-20 of this Code.

Section 1-4-20 of the Lone Tree Municipal Code reads as follows:

Sec. 1-4-20. – General Penalty for Violation.

- (a) Any person who violates any provision of this Code for which a different penalty is not specifically provided shall, upon conviction thereof, be punished by a fine not exceeding two thousand six hundred fifty dollars (\$2,650.00) or by imprisonment not exceeding one (1) year or by both such fine and imprisonment per violation or count, except as provided in Section 1-4-30. Each day such violation continues shall be considered a separate offense.
- (b) Nothing in this Section shall prevent the court from imposing all costs, fines, surcharges and fees in any case. In addition to maximum penalties, the court may impose any other sentence conditions which the court deems appropriate.
- (c) The following Code violations shall be deemed petty offenses and shall be punished by a fine not to exceed four hundred and ninety-nine dollars (\$499.00): Section 10-3-20, Littering; Section 10-4-10, Disturbing the Peace; Section 10-4-30, Urinating/Defecating in Public; Section 10-4-70, Obstruction of Roadways or Public Places; Section 10-4-80, Noise; Section 10-4-90, Construction Hours; Section 10-4-100, Fireworks; Section 10-6-20, Park Hours; Section 10-6-30, Unlawful Conduct in Parks or on Public Property; Section 10-6-40, Camping; Section 10-6-50, Median Safety; Section 10-8-40(b), Sale, Purchase and Possession of Cigarettes and Tobacco Products; Section 10-9-10, Open Containers; Section 10-9-20, Possession of Marijuana; Section 10-9-30, Possession of Drug Paraphernalia.

Sec. 7-1-170. City Abatement and Reimbursement.

- (a) In the cases of emergency nuisances, or if the owner of the property where the nuisance exists does not timely comply with the Court Order issued

pursuant to Section 7-1-150, then the then the City may enter upon such property and abate the nuisance.

- (b) The actual costs of abating the nuisance, including five (5) percent for administrative costs of inspection and enforcement, a minimum fee assessment of twenty-five (\$25.00) dollars and other incidental costs in connection therewith, shall be assessed upon the lot or lots or tracts of land in the city upon which such nuisance is abated.
- (c) All costs and expenses incurred by the city in abating any nuisance, shall be paid by the property owner to the city clerk in full within thirty (30) days after mailing by the city clerk to the property owner, by registered or certified mail, a notice of and the assessment of such cost. Such notice shall include a statement of the work performed to abate the nuisance, the date of performance and the costs and expenses.
- (d) If the owner desires to object to the assessment, the owner shall have thirty (30) days from the date of mailing of the same to file a written objection with the city clerk. The city clerk shall then schedule the matter for hearing before the City Manager. The owner shall be given at least fourteen (14) days' written notice of the date, time and place of the hearing. The decision of the City Manager shall be final. Notice of the hearing shall be mailed to the owner.
- (e) In case any assessment is not paid within thirty (30) days, the City Clerk shall then be and is hereby authorized to certify to the County Treasurer of the County in which the property is located, the list of all delinquent assessments, giving the name of the owner as appears of record, the number of lot, block and subdivision, or other legal descriptions sufficient to identify such property upon the records of the said County Treasurer, and the amount of the assessment. Said certification shall be the same in substance and in the same form as required for the certification of special assessment, and the County Treasurer, upon the receipt of such certified list is hereby authorized to place the same upon the tax list for the current year and to collect the special assessment in the same manner as other taxes are collected with a ten percent (10%) penalty thereon; and all the laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and the redemption thereof, shall apply to and have full force and effect for the collection of such assessments.

ARTICLE 11 – SEVERABILITY

If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance which can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

ARTICLE 12 – CAUSES OF ACTION RETAINED

Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

ARTICLE 13 - EFFECTIVE DATE

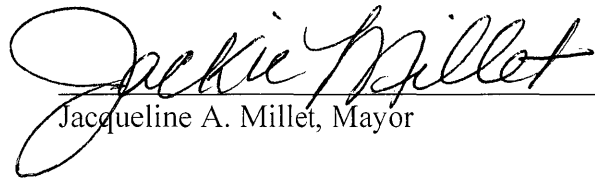
This Ordinance shall take effect thirty (30) days following publication after the first reading if no changes are made on second reading, or twenty (20) days after publication following second reading if changes are made upon second reading.

INTRODUCED, READ AND ORDERED PUBLISHED ON FEBRUARY 7, 2023.


APPROVED AND ADOPTED WITH CHANGES ON SECOND READING THIS 21ST DAY OF FEBRUARY, 2023 TO BECOME EFFECTIVE ON MARCH 29, 2023.

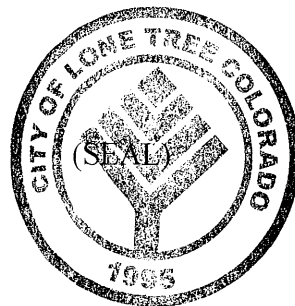
PUBLISHED IN THE DOUGLAS COUNTY NEWS PRESS ON FEBRUARY 16, 2023; LEGAL NOTICE NO. 944649 AND MARCH 9, 2023; LEGAL NOTICE NO. 945054

CITY OF LONE TREE:


Jacqueline A. Millet, Mayor

ATTEST:


Rick Parsons, City Clerk



**CITY OF LONE TREE
NUISANCE CODE**

Division 1 – General Information

Sec. 7-1-10. Definitions.

- (a) When used in this *Lone Tree Nuisance Code*, the following terms shall have the following meanings:
- (1) *City* means the City of Lone Tree, Colorado, or the area within the territorial limits of the City of Lone Tree, Colorado, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision.
 - (2) *City Manager* shall mean the City Manager of the City, or his or her designee.
 - (3) *Code* shall mean the Lone Tree Municipal Code as published and subsequently amended, unless the context requires otherwise.
 - (4) *Emergency* shall mean and include any immediate crisis where there is imminent danger of loss of, or injury or damage to, life, limb, or property or health, or where there is an illicit discharge and there is a probability that City assistance will be helpful in alleviating that crisis.
 - (5) *Litter* shall mean any and every rubbish, waste material, refuse, garbage, trash, debris, excrement, urine, offal composed of animal matter or vegetable matter or both, dead animal, dead bird, dead fish, fishing line, bait, chemical, chemical compound, petroleum product or compound, automobile part or accessory, tire, wheel, junk, paper, cardboard, can, lid, bottle, bottle cap, carton, wrapper, box, wooden object, plastic object, clothing, cloth, metal object, rubber object, leather object, hide, feathers, grass clippings, leaves, weeds, branches cut from trees or bushes, brick, cinderblock, building material, paint, concrete, sand, gravel, stone, glass, asphalt, ashes, cigarette, cigar, food or food product, solvent, dye, beverage, and any noxious or offensive matter whatever.
 - (6) *Occupant* shall mean and include any person who occupies the whole or a part of a building, premises, or land, whether alone or with others. A manager of a retail store is considered an occupant of the premises.
 - (7) *Owner* shall mean and include:
 - (a) Any owner or holder of any legal or equitable estate in real property, including a dominant or servient estate, except a future or reversionary interest and except the interest of a public trustee, lien holder, mortgagee, or beneficiary of a deed of trust.

- (b) The owner of record, as reflected by the records of the office of the County Clerk and Recorder of the County of Douglas, State of Colorado, shall be presumed to be the owner.
- (8) *Persons* shall mean natural person, joint venture, joint stock company, partnership, association, club, company, firm, corporation, business, trust or organization, or the manager, lessee, agent, servant, officer or employee of any of them.
- (9) *Public place* shall mean a place to which the public or a substantial number of the public has access, and includes but is not limited to highways, transportation facilities, schools, places of amusement, parks, playgrounds, and the common areas of public and private buildings and facilities.
- (10) *Public or private property* shall mean the real or personal property of any person, state, county, city, public or private corporation, partnership, association or other non-public entity, or the United States; the right-of-way of any street, road, railroad, or highway; any body of water, irrigation ditch, or watercourse, including frozen areas thereof and the shores and beaches thereof; any park, playground building or recreation area; and any school grounds, school building or property used for school purposes.
- (11) *Statute* shall mean a statute of the State of Colorado.
- (12) *Trees* and *shrubs* shall mean and include all trees, shrubs, bushes and all other woody vegetation.
- (b) When terms are not otherwise defined in this Chapter, the terms used in this Chapter shall be as defined in Chapter 1 of this Code or, as applicable, Title 18 of the Colorado Revised Statutes, and any amendments thereto, or as used in their ordinary, usual, and accepted sense and meaning.

Sec. 7-1-20. Person(s) Liable for Nuisance.

- (a) The following persons are considered the author of the nuisance and therefore liable under this Nuisance Code:
 - (1) Any person who makes or causes any nuisance to exist; or
 - (2) Any person who has possession or control of the private ground or premises where a nuisance exists, including without limitation the owner or occupant.

Sec. 7-1-30. Parental Responsibility for Acts of Minor Children.

- (a) It is made the duty of parents, guardians or persons having the charge, custody, or control of minor children to actively prevent all minor children lawfully under their direction, control, or custody from violating any section of this Nuisance Code.

Sec. 7-1-40. Each Day a Separate Offense.

- (a) Each and every day during which any nuisance continues shall be deemed a separate offense and shall be prosecutable and punishable as a separate offense.

Division 2 – Nuisances Defined

Sec. 7-1-50. Public Nuisance Defined.

The following are considered public nuisances:

- (a) All offenses known to the common law of the land and the state statutes as nuisances;
- (b) The use of any property or improvement which presents a substantial danger or hazard to the physical health or safety of the public, or any use in violation of a City ordinance or state statute;
- (c) The condition of any property or improvement which has not been maintained so as to prevent disrepair and to present a neat and orderly appearance;
- (d) Dry or dead grass, shrubs or trees, refuse or other material growing or left on property within the City which constitutes a fire hazard to property, improvements or other property, or which will in reasonable probability constitute a fire hazard when dry;
- (e) Any obstacle, landscaping or material installed or maintained in violation of City roadway standards contained in Chapter 11, Article III of this Code and as amended from time to time, except that existing permanent improvements constructed in accordance with applicable building and zoning regulations shall be permanently excepted;
- (f) Any swimming pool, pond or other body of water which is abandoned, unattended, unfiltered or not otherwise maintained, resulting in the water becoming polluted, or any standing or flowing water from a septic tank, cesspool or sewer service line.
- (g) Refuse, which by reason of its location and character is dangerous to public health, safety or welfare, unsightly or interferes with the enjoyment of property by neighbors, detrimentally affects property values in the surrounding neighborhood or community or which would materially hamper or interfere with the prevention or suppression of fire upon the premises.
- (h) The existence of any of the following conditions on property or improvements:
 - (1) A detriment to public health, safety or general welfare.
 - (2) A defect or condition of disrepair that diminishes the value of surrounding property or is otherwise detrimental to surrounding properties. This

condition shall include, but shall not be limited to, keeping, disposing or scattering the following on or over the property:

- (A) Junk, trash, litter, or debris;
 - (B) Abandoned, discarded or unusable objects or equipment such as furniture, appliances or mechanical components; or
 - (C) Any device, decoration, design or improvement which is unsightly by reason of its condition or its inappropriate location, which is no longer in its original or upright position, or which has deteriorated due to lack of maintenance.
- (3) Maintenance so out of harmony or conformity with the maintenance standards of adjacent property or improvements as to cause diminution of the enjoyment, use or property values of such adjacent property or improvements.
- (4) Improvements abandoned, boarded up or partially destroyed or left in a state of partial construction.
- (5) Property that exhibits lack of maintenance as follows:
- (A) Plant materials have not been adequately irrigated and maintained and are dead or dying;
 - (B) Lawns have grown over six (6) inches or shrubs have not been trimmed and are overhanging sidewalks or public rights-of-way;
 - (C) Weeds have grown over six (6) inches and have not been removed;
or
 - (D) Dead or diseased plants or trees have not been removed or replaced.
- (6) Exterior of improvements that have not been maintained so as to present a neat and orderly appearance.
- (7) Fences that are not safe, structurally sound or uniform or compatible in color and structure, consistent with the City's design standards including without limitation: leaning fences, fences that are missing slats or blocks, have holes, breaks, rot, crumbling, cracking or peeling of paint or rust, graffiti or damaged material.
- (8) Trees not permitted by Article III of Chapter 7;
- (9) Tree topping in violation of Section 7-3-60; or

- (10) Tree stumps that extend above the surface of the ground in violation of Section 7-3-90.

Division 3 – Inspection Procedures

Sec. 7-1-60. Authorized Inspector.

- (a) The City Manager shall have the power and authority to appoint and authorize any police officer, building inspector, code enforcement officer, or other officer of the City to inspect and examine any public or private property in the City for the purpose of ascertaining the nature and existence of any nuisance. Any authorized inspector is authorized to issue any Notice or summons and complaint pursuant to this Chapter.

Sec. 7-1-70. Entry Upon Private Property; Consent.

- (a) Whenever an authorized inspector has reasonable cause to believe that a nuisance exists on or in any building or upon any private premises, the authorized inspector may present proper credentials and request entry from the owner or tenant of the building or premises to conduct an inspection.
- (b) This Section shall not apply when the alleged nuisance is an emergency as defined in Section 7-1-10(a)(4). Entry for emergencies shall be controlled by Section 7-1-80.
- (c) This Section shall not apply when the alleged nuisance occurs on public property. If an authorized inspector has reasonable cause to believe that a nuisance exists on public property, the inspector shall have the right to enter public property without first obtaining consent or a court order.

Sec. 7-1-80. Entry for Emergencies.

- (a) Whenever an emergency exists in relation to the enforcement of any of the provisions of this Chapter, an authorized inspector may enter into any building or upon any premises within the jurisdiction of the city after presenting proper credentials.
- (b) The authorized inspector may use reasonable force to enter and inspect the building or premises in such emergency
- (c) It is unlawful for any owner or occupant of a building or premises to deny entry to any authorized inspector or to resist reasonable force used by the authorized inspector in gaining such entry.

Sec. 7-1-90. Entry Upon Refused Entry; Notice of Intent to Inspect; Search Warrant.

- (a) If entry upon private property is refused, or if the owner or occupant cannot be located after reasonable effort, then the authorized inspector shall post in a conspicuous place at the building or premises a written Notice of Intent to Inspect.
- (b) Contents of Notice of Intent to Inspect. The Notice given to the owner or occupant, or posted on the building or premises shall contain the following information:
 - (1) A statement that the property owner or occupant has the right to refuse entry and that, in the event such entry is refused, inspection may be made only upon issuance of a search warrant by the Municipal Judge, or by a judge of any other court having jurisdiction; and
 - (2) A statement of when the authorized inspector intends to inspect the premises. Such notice to inspect shall be issued at least twenty-four (24) hours before the inspection is set to occur.
- (c) Search Warrant. If, prior to the expiration of the time period contained in the Notice to Inspect, the owner or occupant grants permission for the authorized inspector to inspect the premises or building, the authorized inspector may inspect such building or premises. If, after the expiration of the time period contained in the Notice of Intent to Inspect, the owner or occupant refuses entry or still has not been located, the authorized inspector may appear before the Municipal Judge and, upon a showing of probable cause by written affidavit, obtain a search warrant entitling such inspector to enter the building or upon the premises.
 - (1) Probable Cause for Issuance of Search Warrant. For purposes of this Section, a determination of probable cause will be based upon reasonableness. If a valid public interest and reasonable suspicion of violation justify the intrusion contemplated, there is probable cause to issue a search warrant. The person applying for such warrant shall not be required to demonstrate specific knowledge of the condition of the particular structure or premises at issue in order to obtain a search warrant, but must show some factual or practical circumstances that would cause an ordinary prudent person to act.
 - (2) Jurisdiction of Municipal Court. Any Municipal Judge shall have the power to issue search warrants upon a showing of probable cause as provided in Subsection (c)(2) above.
- (d) Entry. Upon presentation of the search warrant and proper credentials, or possession of the same in the case of an unoccupied building or premises, the authorized inspector may enter into the building or upon the premises using such reasonable force as may be necessary to gain entry. It is unlawful for any owner or occupant of the building or premises to deny entry to any authorized inspector or to resist reasonable force used by an authorized inspector, acting pursuant to this Section.

Division 4 – Abatement Procedures

Sec. 7-1-100. Abatement Procedure Overview.

- (a) Notice of Abatement. The authorized inspector as provided by Section 7-1-60, after inspecting the property or building and upon the determination of the existence of a nuisance on such property, shall notify the owner or occupant of such property of the existence of the nuisance by issuing such person a Notice of Abatement. The Notice of Abatement must comply with Section 7-1-110.
- (b) Follow-Up Inspection. After the time specified in the Notice of Abatement has expired, the authorized inspector shall conduct a follow-up inspection as provided in Section 7-1-120.
- (c) City Options. If the nuisance has not been abated at the time of the follow-up inspection, then the City has the following abatement options:
 - (1) Issuing an administrative citation pursuant to Section 7-1-140;
 - (2) Issuing a criminal summons and complaint pursuant to Section 7-1-150;
 - (3) Summarily Abating the Nuisance pursuant to Section 7-1-160.
- (d) City Abatement of Nuisance. If the author of the nuisance does not timely abate such nuisance after the issuance of an administrative citation, court order, or Show Cause Order, the City may abate the nuisance and seek reimbursement of the costs of abatement pursuant to Section 7-1-170.

Sec. 7-1-110. Notice of Abatement.

- (a) Initial Notice of Abatement. The authorized inspector, upon the determination of the existence of a nuisance on public or private property in the city, shall notify the owner or occupant of such property of the existence of the nuisance.
- (b) Contents of Notice. The Notice of Abatement shall contain the following information:
 - (1) A description of the nuisance;
 - (2) The time in which the nuisance is to be abated; and
 - (3) A statement that the person issued the Notice of Abatement may, within the time period specified, protest the notice by filing a written appeal with the office of the City Clerk.
- (c) Service of Notice. The Notice of Abatement shall be served upon the owner or occupant of the nuisance in the following manner:

- (1) If the owner or occupant of the nuisance is known, service shall be performed either by personal service or by service via certified mail, return receipt requested, upon such owner, occupant, or author of the nuisance.
- (2) If the owner or occupant of the nuisance is unknown, or cannot be served pursuant to subsection (c)(1) after reasonable effort, the Notice of Abatement shall be posted on a conspicuous place on the property.
- (d) Time Provided in Notice. The time provided in the Notice of Abatement shall be as follows:
 - (1) For nuisances posing an emergency , the time period shall not exceed one (1) day.
 - (2) For non-emergency nuisances, the time period shall not exceed seven (7) days unless it appears from the facts and circumstances that compliance could not reasonably be made within seven (7) days or that a good faith attempt at compliance is being made as determined by the authorized inspector.
- (e) Protest of Notice. Upon receipt of any Notice of Abatement under this Chapter, the owner or occupant may file a protest with the City Clerk of the determination of the existence of a nuisance. Any protest shall be made in writing within the period provided for such notice.
 - (1) The period of abatement as stated in the notice shall be extended until the final disposition of the protest by the City Manager plus ten (10) days.
 - (2) The City Manager or a hearing officer appointed by the City Manager shall schedule a hearing on the protest and provide at least five (5) days advance written notice of such hearing date to the protesting party. Any protesting party who fails to appear at the hearing is deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that proper notice of the hearing has been provided.

Sec. 7-1-120. Follow-Up Inspection.

- (a) After issuance of a Notice of Abatement as provided by Section 7-1-110 above, the authorized inspector shall conduct a follow-up inspection of the property within the timeframe set in the notice for correction of the violation.
- (b) If the nuisance has been timely and satisfactorily corrected, no further action shall be taken by the inspector.
- (c) If the nuisance has not been timely and satisfactorily corrected, the inspector shall determine the appropriate enforcement action under Sections 7-1-140, 7-1-150, and 7-1-160.

Division 5 – Abatement by City, Violations, and Penalties

Sec. 7-1-130. Violations and Penalties.

- (a) It is unlawful for any person to violate any provision of the *Lone Tree Nuisance Code*.
- (b) If a person is found to have violated the *Lone Tree Nuisance Code*, such person may be subject to the following penalties:
 - (1) An administrative citation, as provided in Section 7-1-140.
 - (2) A criminal summons and complaint, as provided in Section 7-1-150.
 - (3) City abatement and reimbursement as provided in Section 7-1-170.

Sec. 7-1-140. Administrative Citation.

- (a) If, after the follow-up inspection pursuant to the Lone Tree Nuisance Code, the authorized inspector discovers that the nuisance described in the Notice of Abatement has not been abated, then the authorized inspector may issue the owner or occupant an administrative citation, requiring such person to pay a designated fine, as indicated in subsection (d) of this Section. The administrative citation shall also specify a deadline by which the for the nuisance must be remedied by.
- (b) Service. Service of an administrative citation must be completed either through personal service, or via certified mail, return receipt requested, to the owner, occupant, or author of the nuisance.
- (c) Abatement not a Defense. Abatement of the nuisance shall not waive the fine in the citation.
- (d) The authorized inspector may issue an administrative penalty in an amount not to exceed five hundred dollars (\$500.00) for each finding of non-compliance. The authorized inspector may impose an administrative penalty in an amount of seven hundred fifty dollars (\$750.00) for a second finding of non-compliance and one thousand dollars (\$1,000.00) for a third finding of non-compliance within a twelve-month period. For any nuisance constituting an imminent public safety or health hazard, the authorized inspector is authorized to issue an administrative penalty up to one thousand dollars (\$1,000.00) regardless of whether such violation is a first or subsequent violation. Administrative penalty assessments shall be customarily imposed upon the owner or occupant when failing to promptly abate the nuisance in the time period proscribed. Interest at five percent (5%) each full calendar month (prorated for any partial month) shall accrue upon any outstanding and unpaid administrative penalty assessment amount owed until the assessment is paid in full. Interest accrual shall not be stayed

or suspended during any period of administrative or judicial challenge or appeal.

Sec. 7-1-150. Criminal Summons and Complaint.

- (a) If, after the follow-up inspection pursuant to Section 7-1-120, the authorized inspector discovers that the nuisance described in the Notice of Abatement has not been abated, then the City may bring and maintain an action in any court of record, including the Lone Tree Municipal Court, for the prevention, restraining, abatement or enjoining of any public nuisance.
- (b) When judgment is rendered against any person for creating, keeping or maintaining any nuisance it shall be the duty of the Court before whom such judgment is had, to order the defendant in such suit, to forthwith abate the nuisance.
- (c) The Court may also specifically authorize the City to take actions necessary to abate the nuisance and recover the expense of such abatement in accordance with the *Lone Tree Nuisance Code*.
- (d) The order shall be entered upon the docket of the Court and be made a part of the judgment of the case and the cause.
- (e) A violation of the *Lone Tree Nuisance Code* shall be punishable as provided in Section 1-4-20 of this Code.

Sec. 7-1-160. Abatement in Special Circumstances; Emergencies.

- (a) Public Property. Any nuisance located or found in or upon any public street, avenue, alley, sidewalk, highway, public right-of-way, public grounds, park, recreation facility, or public property in the city may be summarily abated by the City Manager or his designated representative without notice.
- (b) Evicted Property. When a public nuisance is created by placement of evicted property in any public-right-of-way within the City, the following procedures shall apply:
 - (1) The City shall abate the nuisance by immediately removing any and all evicted property from any public right-of-way within the City and transport such property to any site designated as a repository for solid waste and/or rubbish.
 - (2) No later than the close of the next business day following the removal of the evicted property, the City shall provide notice, by certified mail, postage prepaid, to the last known address of the owner of the evicted property as indicated in the county records. Such notice shall state that the evicted property constituted a nuisance and that such property has been removed, and the notice shall identify by street address and telephone number the repository where the evicted property was disposed.
 - (3) The owner of the premises from which the evicted property was removed shall be responsible for reimbursing the City for the cost of disposal of the evicted property.

If the owner fails within thirty (30) days after billing to pay such costs to the owner, such costs may be collected as a lien against the property.

- (4) The City is authorized to abate any nuisance caused by the placement of evicted property onto any public right-of-way within the City and to dispose of such evicted property as provided herein. The procedures contained herein shall not constitute a bailment, and the City shall not be considered the bailee of any evicted property. No person shall maintain any claim or suit against the City, its officers, officials, employees or agents responsible for disposing of any property or possession under this Section.
- (c) Abatement of Nuisance Constituting an Emergency. If the nuisance constitutes an imminent danger to life, safety or welfare, the City may summarily abate the nuisance without further notice to the owner or occupant.

Sec. 7-1-170. City Abatement and Reimbursement.

- (a) In the cases of emergency nuisances, or if the owner of the property where the nuisance exists does not timely comply with the Court Order issued pursuant to Section 7-1-150, then the then the City may enter upon such property and abate the nuisance.
- (b) The actual costs of abating the nuisance, including five (5) percent for administrative costs of inspection and enforcement, a minimum fee assessment of twenty-five (\$25.00) dollars and other incidental costs in connection therewith, shall be assessed upon the lot or lots or tracts of land in the city upon which such nuisance is abated.
- (c) All costs and expenses incurred by the city in abating any nuisance, shall be paid by the property owner to the city clerk in full within thirty (30) days after mailing by the city clerk to the property owner, by registered or certified mail, a notice of and the assessment of such cost. Such notice shall include a statement of the work performed to abate the nuisance, the date of performance and the costs and expenses.
- (d) If the owner desires to object to the assessment, the owner shall have thirty (30) days from the date of mailing of the same to file a written objection with the city clerk. The city clerk shall then schedule the matter for hearing before the City Manager. The owner shall be given at least fourteen (14) days' written notice of the date, time and place of the hearing. The decision of the City Manager shall be final. Notice of the hearing shall be mailed to the owner.
- (e) In case any assessment is not paid within thirty (30) days, the City Clerk shall then be and is hereby authorized to certify to the County Treasurer of the County in which the property is located, the list of all delinquent assessments, giving the name of the owner as appears of record, the number of lot, block and subdivision, or other legal descriptions sufficient to identify such property upon the records of the said

County Treasurer, and the amount of the assessment. Said certification shall be the same in substance and in the same form as required for the certification of special assessment, and the County Treasurer, upon the receipt of such certified list is hereby authorized to place the same upon the tax list for the current year and to collect the special assessment in the same manner as other taxes are collected with a ten percent (10%) penalty thereon; and all the laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and the redemption thereof, shall apply to and have full force and effect for the collection of such assessments.