

PLANNING AND DEVELOPMENT DEPARTMENT

MEMORANDUM 17-34

DATE: June 12, 2017
TO: Honorable Mayor Joyce Downing and City Council Members
FROM: James A. Hayes, AICP, City Manager ^{JH}
Brook Svoboda, Director of Planning and Development ^{BS}
SUBJECT: CB-1888 Nuisance Regulation Amendment
CB-1889 Nuisance Abatement Procedures

PURPOSE

Staff is seeking approval of the two attached ordinances, amending the Municipal Code as it relates to enforcement and abatement of nuisances.

BACKGROUND

May 15th Study Session Content

The following information is intended to provide greater clarity on the process for enforcement and consolidation of various enforcement provisions. These provisions are currently listed throughout the municipal code. Below are the main objectives for this effort:

1. Consolidate & re-organize Chapters/Section/Subsection in the Municipal Code
2. Restructure provisions so they are placed in areas that best fit. (I.e. All vehicle-related provisions in the traffic/vehicle chapter, animal issues in animal control chapter, etc.)
3. Update provisions that are dated, no longer apply, or that no longer practical (Oversized vehicles, membrane structure, mobile home parks).
4. Establish a standardized enforcement process that applies all chapters covered by Neighborhood Services
5. Ensure due process (hearing) for abatements that are performed by the City of Northglenn.
6. Develop and incorporate progressive fine schedule into the municipal court summons.
7. Decriminalize ordinance violations that do not impact life safety. (tall grass, expired plates etc.)
8. Clarify what provisions should be codified process vs. operational procedure.

Ordinance(s) Content:

Attachment 1 is a draft ordinance implementing revisions to Article 11, Chapter 9. **Attachment 2** is a draft ordinance implementation revisions to Chapters 7, 9, and 14 by the addition of two new articles to the municipal code. **Attachment 3** reflects the existing policy provisions administered by Neighborhood Services. The table depicts the disposition and consolidation of the respective provisions identified in **Attachment 2**.

Abatement Procedure Improvements

The Draft Nuisance Abatement Procedures, **Attachment 1**, have been drafted to address the Abatement process that will address administrative inconsistencies and ensure due process when carried out.

Enforcement Provisions – Consolidation:

As outlined in **Attachment 3**, the Neighborhood Services Division enforces over several chapters of the municipal code. The chapters in which the provisions exist in are not specifically geared toward enforcement and/or have limited enforcement provisions when compared to the provisions listed in the Nuisance sections of the code. The main objective was to remove these enforcement provisions from the regulatory provisions

Specific Provisions Discussion:

This process has attempted to consolidate various provisions of the Municipal Code enforced by Neighborhood Services, into fewer chapters. With the exception of the red text sections, there have been no new provisions introduced or addressing existing provisions. City Council may discuss substantial revisions, depending upon the revisions may affect the schedule for adoption.

May 22nd First Reading Content

Please note that the attached ordinances do not have the above mentioned **RED TEXT**, they are in final draft form.

Staff presented the proposed amendments to Council at the May 15th Study Session. Council provided consensus to schedule formal adoption. From the Study Session, Council requested clarification of the following:

Construction of Parking Areas, (CB-1888, Sec 9-17-6, pg 14)

- The concern was that this did not apply residential uses.
- The original language was taken from the Zoning Regulations (Chapter 11) under commercial parking areas. Staff has added to the title of this section "FOR NON-RESIDENTIAL USES.

RV Parking on Public ROW – 24 Hours (CB-1888, Sec 7-5-2, pg 5)

- This has been changed to 48 hours.

In response to Staff debrief after the Study Session the following changes were also added to the ordinances:

Nuisance Procedures, (CB-1889, 9-11-7(a)(3), pg 2)

- Protest Provision has been changed back to be filed with the City Clerk instead of the Inspector. This was originally filed with the City Clerk and was inadvertently changed through this process, and has now been changed back as it was.

Parking of Certain Equipment, (CB-1888, Sec 7-2-8.5(c), pg 2)

- When Council discussed their concerns for RV parking, Staff identified that tow trucks and wreckers would be allowed to be parked on private property. This version has been updated to prohibit tow trucks and wreckers from being parked on private property.

Residential Containers (CB-1888, Sec 9-17-8, pg 15)

- Keeping residential container regulations in Section 16-7-9 but added a violation of that section into the Property Maintenance Article in Chapter 9 so that a violation of Section 16-7-9 may be treated like a nuisance and subject to the enforcement provisions of Chapter 9.

UPDATE

At the May 22nd Council Meeting, the City Council unanimously approved the first reading for CB 1888 and 1889, setting a Public Hearing for June 12, 2017.

BUDGET IMPLICATIONS

There are no budget implications with the effort

SCHEDULE/TIME IMPLICATIONS

The second reading is scheduled for June 12th for adoption.

NEXT STEPS/CITY COUNCIL OPTIONS

A motion to schedule a second reading / public hearing for CB-1888 and CB-1889.

STAFF RECOMMENDATION

Staff recommends adoption of CB-1888 & CB-1899

STAFF REFERENCE

Brook Svoboda, Director of Planning and Development	bsvoboda@northglenn.org	303.450.8937
Tom Carlson, Neighborhood Services Supervisor	tcarlson@northglenn.org	303-280-7844

ATTACHMENTS

Attachment 1

Existing Policy Provisions Table – Consolidation Guide

ATTACHMENT 1

Ordinance Title	Use /Association	Dept	Proposed Action
Chapter 7			
Parking Violations 7-2-3, 7-2-9	vehicle	p.d., n.s.	Recommend not moving
Traffic Hazard 7-3-1	p.n.	n.s., eng, p.d., cmgr	Recommend not moving
Abandonment of Motor Vehicles 7-3-5	P/N,vehicle	p.d./n.s.	Recommend not moving
Chapter 9			
Littering in Streams or Waterways 9-2-7	P/N	n.s.,p.w.	Revised to only include streams and waterways and moved to 9-11-15 (littering on public property)
Sidewalk Obstruction 9-4-10	P/N	n.s.	Move to a new section 9-11-16.5
Animal Protection Ordinance 9-7	animal	P.D.	Moved to Chapter 14; content unchanged
Public Nuisance 9-11-3	P/N	p.d., n.s.	Recommend not moving
Evictions – (Littering on Private Property) 9-11-14	P/N	n.s.,p.d.	Revised in procedure ordinance; Recommend not moving
Littering 9-11-14	P/N	n.s.	Recommend not moving
Littering of Public Streets, Buildings and Grounds 9-11-15	P/N	n.s.,p.d., p.r.	Recommend not moving; revised by the addition of water and stream littering and pollution. Delete handbill provisions - already addressed in Sec. 9-11-24.
Junkyards Dumping grounds 9-11-16	P/N	n.s.,p.d.	Recommend not moving
Discharge of a Noxious Liquid 9-11-17	P/N	n.s.,eng	Recommend not moving; revised to provide for immediate abatment
Stale Mater 9-11-18	P/N	n.s., eng	Recommend not moving; revised to provide for immediate abatment
Sewer Inlet 9-11-19	P/N	eng, p.d., n.s.	Recommend not moving
Rodents/Nuisance animals 9-11-21	animal	P.D., n.s.	Section moved to Chapter 14
Stagnant Ponds 9-11-22	P/N	n.s., eng	Recommend not moving
Handbills, Posters and Placards 9-11-24	vehicle	p.d.	Recommend not moving; but added new subsection (c)
Blowing Dust 9-11-25	P/N	n.s.	Moved to New Property Maintenance Article (9-17)
Weed and Grass control 9-11-27	P/N	n.s.	Moved to New Property Maintenance Article (9-17); combined with 11-6-13(c)(6), (e)and (h)
Dead or Diseased Trees and Shrubs 9-11-28 (a)	P/N	n.s., p.r.	Recommend not moving; deleted notice provisions
Illegal Trees Prohibited 9-11-28(e), 11-7-2 (i); 11-6-13(b)(1)	P/N	n.s.	Keep Sec. 9-11-28(e) but revised to prohibit propagation; deleted Sec. 11-7-2(i); Revised 11-6-13(b)(1) to eliminate prohibition.
Trees/ shrubs overhanging street/sidewalk 9-11-29(a)	Maint.	n.s., p.w., p.r.	Moved to Property Maintenance Section (9-17-4)
Graffiti 9-11- 29.5	P/N	n.s., p.d., p.w.	Recommend not moving; revised to delete public threat/health issue
Minimum Housing Maintenance 9-12-4	Maint.	n.s.	Recommend not moving; revised to delete notice provisions
Noise Control-Prohibited Acts 9-13-4(b)(4,5,6,7)	P/N	p.d., bldg, n.s.	Recommend not moving
Chapter 11			
Junk Storage 11-6-11(a)	P/N	n.s.	Subsection (a) moved to 9-11-14
Vision Triangle 11-6-11(b)	P/N	n.s.	Moved to 9-11-21.5 (new section)
Detached Trailer 11-6-11(e)	vehicle	p.d.	Deleted; already in 7-2-8
Special Mobile Equipment (street) 11-6-11(g)	P/N, Vehicle	p.d.	Deleted; move to 7-2
Construction Equipment 11-6-11 (g)	P/N	n.s.	Deleted; moved to 7-2
Residing in Vehicles 11-6-11(h)	P/N	p.d., n.s., p.r.	Deleted; moved to 9-11-27.5
Commercial Landscaping 11-6-13(c)(6), (e) and (h)	Maint.	n.s.,pln	Moved to 9-17-5 (Property Maintenance)

Residential Landscaping 11-6-14(e) and (f)	Maint.	n.s.	Moved to 9-17-5 (Property Maintenance)
Prohibited Animals 11-7-2(G)	animal	P.D.	Moved to Chapter 14
Portable Storage Containers, Dumpsters 11-7-2(j)	land use	bldg, n.s.	Recommend not moving
Over-sized Vehicles 11-7-3(a)	P/N	p.d.,n.s.	Moved to 7-5-4
Truck or Semi-Trailer in Residential Zone 11-7-3(b)	Vehicle	n.s.,p.d.	Moved to 7-5-4
Vehicle Parked on Unapproved Surface 11-7-3 (c)(2)	Maint.	n.s.	Moved to 9-11-28.5
Detached Camper 11-7-3(c)(3)(a)	P/N	n.s.	Moved to 9-11-28.5
Registration - 11-7-3(d)			Moved to 9-11-28.5
Special Mobile Equipment (private property) 11-7-3	P/N,Vehicle	n.s.	Moved to 7-2-8.5
Tow Truck in a Residential Area 11-7-3(g)	Vehicle	n.s., p.d.	Moved to 7-2-8.5
Unenclosed Commercial Trailer 11-7-3(k)	Vehicle	n.s., p.d.	Moved to 7-2-8.5
Animal Limits 11-7-4(a)	animal	P.D.	Moved to Chapter 14
Home Occupation Limitations 11-7-6(g)	Land use	n.s.	Limitations moved out of definition; includes nuisance abatement provision
Yard Sale 11-7-6 (h)	Land use	n.s.	Recommend not moving; made revisions
Membrane Structure 11-30-3(o)	Maint.	n.s.	Not moved per staff's direction
Accessory Uses 11-32-1	Land use	pln/n.s.	Recommend not moving
Commercial Parking lot maintenance 11-33-4 (a)	Maint.	n.s.,pln	Moved to new Property Maintenance Article (9-17); added drainage language
Vehicle for Sale 11-33-4 (b)	Land use	n.s., p.d., pln	Moved to new subsection 7-2-4.5
Swimming Pool – Fencing 11-34-3(d)	land use	bldg.	Recommend not moving
Commercial Trash Enclosure 11-34-3 (g)	Land use	n.s.,pln	Recommend not moving
Fence-Inconsistent Materials 11-34-4	P/N	n.s.,bldg	Recommend not moving
Fence-Height of Fence 11-34-5	P/N	n.s.,bldg	Recommend not moving
Fence/Retaining Wall in Disrepair 11-34-9	Maint.	n.s.,bldg	Moved to new Property Maintenance Article (9-17)
Illegal vehicles 11-46-2 (a)(1)	P/N,vehicle	n.s.,p.d.	Deleted completely from zoning; amended definition of abandoned vehicle in 7-3-4(a) to include the criteria of an illegal vehicle. See also changes to 7-3-6(a).
Chapter 14			
Unsanitary Conditions 14-2-15	P/N	p.d.	Recommend not moving
Chapter 16			
Snow and Ice on Sidewalks 16-1-2	P/N	n.s.	Moved to a new Section 9-11-15.5
Snow and Ice Deposited on a Roadway 16-1-5	P/N	p.w., p.d. n.s.	Moved to 7-3-14.
Trash Containers 16-7-9 (a) (b), 11-7-2(b), 11-13-13	Maint.	n.s., p.w.	Deleted these sections and combined into one section in Property Maintenance (Art. 9-17)
Access to Fire hydrants, Manholes, Meters 16-18-3	Maint.	p.w/n.s.	Moved to new Property Maintenance Article (9-17)

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1889
Series of 2017

Series of 2017

A BILL FOR AN ORDINANCE AMENDING ARTICLE 11 OF CHAPTER 9 OF THE NORTHGLENN MUNICIPAL CODE RELATED TO NUISANCE ABATEMENT PROCEDURES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Section 9-11-7 of the Northglenn Municipal Code is hereby amended as follows:

(a) INITIAL Notice of Abatement. The authorized inspector, as provided by Section 9-11-4, upon the DETERMINATION OF THE EXISTENCE OF A ~~discovery of any~~ nuisance on public or private property in the City of Northglenn, shall notify the owner or occupant of such property OF THE EXISTENCE OF THE NUISANCE.

(1) THE INSPECTOR SHALL ATTEMPT TO MAKE FIRST CONTACT AT THE PROPERTY. IF THE AUTHORIZED INSPECTOR IS ABLE TO MAKE CONTACT IN PERSON WITH OWNER OR OCCUPANT, THE INSPECTOR SHALL PROVIDE NOTICE OF VIOLATION WITH THE INFORMATION PURSUANT TO SECTION 9-11-8.

(2) IF THE OWNER OR OCCUPANT CANNOT BE CONTACTED, THE INSPECTOR SHALL POST A NOTICE OF VIOLATION ON THE PROPERTY WITH INFORMATION PURSUANT TO SECTION 9-11-8. ~~in writing, requiring the owner or occupant of the property to remove and abate from the property the thing or things therein described as a nuisance within the time specified in the notice.~~

(3) IN NO EVENT SHALL THE NOTICE DESCRIBED IN THIS SECTION BE REQUIRED PRIOR TO THE ISSUANCE OF A SUMMONS AND COMPLAINT AS PROVIDED IN THIS CHAPTER.

(b) TIME FOR ABATEMENT.

(1) The time for abatement of nuisance posing an imminent danger of loss of life, limb, property or health shall not exceed one (1) day. THIS SECTION SHALL CONTROL OVER ANY OTHER TIMEFRAME FOR ABATEMENT IF IMMEDIATE DANGER IS DEEMED TO EXIST.

(2) As to other nuisances, the reasonable time for abatement 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. ~~The written notice of abatement shall be served by the authorized inspector of the City by delivering a copy thereof to an owner or occupant, over the age of eighteen (18) years of the property described in the notice, or if the property is unoccupied and the owner is a nonresident, then by mailing a notice to his last known address as reflected in the Adams County real estate records. Provided, that if the owner has filed a registration statement with the City of Northglenn, as provided by Section 20-2-1, notice will be sent to the agent designated by the owner.~~ Provided further that if the owner or occupant shall fail to comply with the requirements for a period longer than that named in the notice, then the City Manager shall proceed to have the nuisance, described in the notice, removed or abated from the property described in the notice without delay; and the City Manager shall have the authority to call for any necessary assistance. In no event shall the notice described by this section be required prior to issuance of a summons and complaint for violation of this article.

(c) PROTEST. UPON RECEIPT OF ANY NOTICE UNDER THIS SECTION, 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 IN THE NOTICE. 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. THE CITY MANAGER OR A HEARING OFFICER APPOINTED BY HIM SHALL FORTHWITH SCHEDULE A HEARING ON THE PROTEST. SUCH HEARING SHALL BE CONDUCTED IN ACCORDANCE WITH SECTION 3-7-1 *ET SEQ.* OF THIS MUNICIPAL CODE RELATING TO QUASI-JUDICIAL PROCEEDINGS. 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.

(d) CHRONIC VIOLATORS. WHEN AN INSPECTOR ISSUES THREE (3) WRITTEN NOTICES TO A PROPERTY FOR THE SAME NUISANCE WITHIN ANY TWELVE (12) MONTH PERIOD OR THE OWNER OR OCCUPANT IS CURRENTLY SUBJECT TO A DEFERRED JUDGMENT AGREEMENT OR PROBATION AGREEMENT ON THE SAME NUISANCE, THE OWNER OR OCCUPANT IS DEEMED A CHRONIC VIOLATOR. UNDER SUCH CIRCUMSTANCES, THE INSPECTOR MAY ISSUE A SUMMONS AND COMPLAINT, WITHOUT ANY FURTHER NOTICE UNDER SEC. 9-11-7.

Section 2. Section 9-11-9 of the Northglenn Municipal Code is hereby amended as follows:

Section 9-11-9. ABATEMENT PROCEDURES. After issuance of a notice as provided in Section 9-11-7 of this article:

(a) FOLLOW UP PROCEDURES TO NOTICE.

(1) THE INSPECTOR SHALL CONDUCT A FOLLOW UP INSPECTION OF THE PROPERTY WITHIN THE TIMEFRAME SET IN THE NOTICE FOR CORRECTION OF THE VIOLATION. IF THE NUISANCE HAS BEEN CORRECTED, NO FURTHER ACTION SHALL BE TAKEN BY THE INSPECTOR. IF THE NUISANCE HAS NOT BEEN CORRECTED, THE INSPECTOR SHALL DETERMINE THE APPROPRIATE ENFORCEMENT ACTION. ~~If the owner or occupant of the premises refuses or fails to comply with the directions of the written notice, the City Manager or his designated representative may enter upon such property for the purposes of abating the nuisance as provided in Section 9-11-11.~~

(2) IF THE NUISANCE CONSTITUTES AN IMMINENT DANGER TO LIFE, SAFETY OR WELFARE, THE CITY MAY SUMMARILY ABATE THE NUISANCE WITHOUT FURTHER NOTICE.

(3) FOR NUISANCES NOT SUBJECT TO SUBSECTION (2) ABOVE, THE INSPECTOR MAY TAKE THE FOLLOWING ENFORCEMENT ACTIONS:

(A) ISSUE AN ADMINISTRATIVE CITATION REQUIRING PAYMENT OF A DESIGNATED FINE, AS PRESCRIBED BY THE FINE SCHEDULE ADOPTED BY CITY COUNCIL. IF CONTACT IS NOT MADE WITH THE PROPERTY OWNER, THE INSPECTOR SHALL SEND A COPY OF THE CITATION VIA CERTIFIED MAIL TO THE PROPERTY OWNER. ABATEMENT OF THE NUISANCE SHALL NOT WAIVE THE FINE IN THE CITATION. IF NUISANCE IS NOT ABATED BY THE PAYMENT DATE OF THE FINE, THE INSPECTOR MAY ISSUE ANOTHER CITATION WITH A GRADUATED FINE OR ISSUE A SUMMONS AND COMPLAINT AS DESCRIBED IN THIS SECTION. IF AFTER THE THIRD CITATION, THE OWNER OR OCCUPANT HAS NOT CONTACTED THE INSPECTOR OR CORRECTED THE NUISANCE AND PAID THE ADMINISTRATIVE FINES IMPOSED, THE INSPECTOR MAY ISSUE A SUMMONS OR ABATE THE NUISANCE AS APPROPRIATE.

(B) ISSUE A SUMMONS AND COMPLAINT FOR THE VIOLATION, WHICH MAY BE SERVED IN PERSON OR THROUGH CERTIFIED MAIL.

(C) ISSUE A WRITTEN NOTICE TO SHOW CAUSE TO THE OWNER OR OCCUPANT PURSUANT TO SECTION (4) BELOW.

(D) ABATE THE NUISANCE AS DESCRIBED IN SEC. 9-11-11.

(4) NOTWITHSTANDING THE COMMENCEMENT OF ANY CRIMINAL PROSECUTION ALLEGING A VIOLATION OF THE CODE OR THE LACK OF

SUCH CRIMINAL PROSECUTION, THE NOTICE TO SHOW CAUSE SHALL INDICATE THAT A HEARING SHALL BE HELD ON A SPECIFIED DATE TO SHOW CAUSE WHY THE NUISANCE SHALL NOT BE REMOVED OR ELIMINATED BY THE CITY IN ACCORDANCE WITH THIS CHAPTER. IF THE OWNER OR OCCUPANT HAS BEEN ISSUED THREE (3) WRITTEN NOTICES TO A PROPERTY FOR THE SAME NUISANCE WITHIN ANY TWELVE (12) MONTH PERIOD OR THE OWNER OR OCCUPANT IS CURRENTLY SUBJECT TO A DEFERRED JUDGMENT AGREEMENT OR PROBATION AGREEMENT ON THE SAME NUISANCE, THE INSPECTOR MAY ISSUE A NOTICE TO SHOW CAUSE IMMEDIATELY. IF IT REASONABLY APPEARS TO THE INSPECTOR THAT THE PROPERTY IS ABANDONED OR UNOCCUPIED OR IF THE PROPERTY IS SUBJECT TO A FORECLOSURE PROCEEDING, THE INSPECTOR MAY IMMEDIATELY ISSUE A NOTICE TO SHOW CAUSE.

(A) THE NOTICE TO SHOW CAUSE, REFERRED TO IN SUBSECTION (4), SHALL DESCRIBE THE CONDITION THAT IS A NUISANCE, SHALL STATE THAT THE OWNER OR OCCUPANT OF THE PROPERTY MAY BE SUBJECT TO ASSESSMENT FOR ALL COSTS ASSOCIATE WITH ABATEMENT OF THE NUISANCE BY THE CITY AND SHALL BE PERSONALLY SERVED UPON THE OWNER AND OCCUPANT OF THE PROPERTY. IF DILIGENT EFFORTS TO SERVE THE NOTICE PERSONALLY ARE UNSUCCESSFUL, IT SHALL BE DEEMED SUFFICIENT NOTICE; IF THE NOTICE TO SHOW CAUSE IS MAILED BY CERTIFIED MAIL TO THE OWNER OF THE REAL PROPERTY, AS SHOWN BY THE ADAMS COUNTY ASSESSOR'S OFFICE, AND TO THE OCCUPANT AT THE REAL PROPERTY ADDRESS. FOR PROPERTY OWNERS WHO DO NOT RESIDE IN COLORADO, NOTICE WILL ALSO BE SENT BY CERTIFIED MAIL. IF NOTICE IS MAILED, A COPY OF THE NOTICE TO SHOW CAUSE SHALL ALSO BE POSTED IN A CONSPICUOUS PLACE ON THE PREMISES WHERE THE NUISANCE IS FOUND. NO FURTHER NOTICE SHALL BE NECESSARY.

(B) AT THE HEARING REFERRED TO ABOVE, THE CITY MANAGER, OR A DESIGNEE, SHALL HEAR SUCH STATEMENTS AND CONSIDER SUCH EVIDENCE AS THE INSPECTOR, THE OWNER OR OCCUPANT, OR ANY OTHER WITNESS SHALL OFFER RELATIVE TO THE EXISTENCE OF AND REMOVAL OR ELIMINATION OF THE NUISANCE. THE BURDEN OF PROOF IS UPON THE CITY TO ESTABLISH THAT THE NUISANCE EXISTS ON THE PROPERTY BY A PREPONDERANCE OF THE EVIDENCE. IF THE CITY IS SEEKING A CONTINUING ORDER, AS AUTHORIZED BY SUBSECTION (C) HEREIN, EVIDENCE SHALL BE PRESENTED ESTABLISHING THE PUBLIC NECESSITY FOR SUCH ORDER WHICH EVIDENCE MAY INCLUDE, BUT NOT BE LIMITED TO, THAT THE PROPERTY SUBJECT TO THE ORDER IS VACANT PROPERTY, FORECLOSED PROPERTY, ABANDONED PROPERTY OR PROPERTY WHERE THE OWNER HAS DEMONSTRATED

A PATTERN OF REPEATEDLY FAILING TO COMPLY WITH ADMINISTRATIVE ORDERS. THE HEARING SHALL BE AN ADMINISTRATIVE HEARING WHERE THE STRICT RULES OF EVIDENCE SHALL NOT BE ADHERED TO AND HEARSAY SHALL BE ADMITTED. HOWEVER, ANY DECISION WITH REGARD TO THE NUISANCE ON THE PROPERTY SHALL NOT BE BASED SOLELY ON HEARSAY EVIDENCE.

(C) THE CITY MANAGER OR A DESIGNEE SHALL ISSUE AN ORDER BASED ON THE FINDINGS OF FACT MADE PURSUANT TO THE HEARING EITHER RELIEVING THE OWNER OR OCCUPANT OF ANY RESPONSIBILITY BY FINDING THAT NO NUISANCE EXISTS ON THE REAL PROPERTY, OR COMMANDING THE OWNER OR OCCUPANT TO ABATE THE NUISANCE WITHIN A REASONABLE TIME AND THEREBY REHABILITATING THE PROPERTY. ANY CONTINUING ORDER ISSUED SHALL REMAIN IN EFFECT FOR ONE YEAR FROM THE DATE OF SUCH ORDER REQUIRING THE OWNER OF THE PROPERTY TO MAINTAIN THE PROPERTY IN COMPLIANCE WITH THE SPECIFIC REQUIREMENTS IDENTIFIED IN THE CONTINUING ORDER.

(D) THE ORDER OF THE CITY MANAGER, OR A DESIGNEE, MADE PURSUANT TO SUBSECTION (C) ABOVE, SHALL BE A FINAL DECISION AND MAY BE APPEALED TO THE DISTRICT COURT PURSUANT TO COLORADO RULE OF CIVIL PROCEDURE 106(A)(4). FAILURE OF AN OWNER OR OCCUPANT TO APPEAL SAID ORDER CONSTITUTES A KNOWING WAIVER OF ANY RIGHT TO CONTEST THE CITY'S ORDER AND CONSEQUENTIAL AUTHORITY TO ABATE THE NUISANCE FROM THE OWNER'S PROPERTY, AND CHARGE THE RESULTING COSTS TO THE PROPERTY OWNER.

(E) IF ANY ORDER ISSUED BY THE CITY MANAGER, OR A DESIGNEE, PURSUANT TO SUBSECTION (C) ABOVE HAS NOT BEEN COMPLIED WITH, WITHIN THE DESIGNATED TIME FRAME CONTAINED IN THE ORDER, THE CITY, AT THE DIRECTION OF THE CITY MANAGER, OR A DESIGNEE, MAY CAUSE THE ABATEMENT OF THE NUISANCE AS SPECIFICALLY IDENTIFIED IN THE ORDER AND ANY CONTINUING ORDER ISSUED MAY AUTHORIZE THE CITY TO ELIMINATE SUCH CONDITIONS SO LONG AS THE ORDER IS IN EFFECT AND SO LONG AS THE PROPERTY IS OWNED BY THE SAME OWNER IDENTIFIED IN THE ORDER.

(F) ANY SUCH OWNER OR OCCUPANT WHO FAILS TO COMPLY WITH AN ORDER ISSUED BY THE CITY MANAGER, OR A DESIGNEE, PURSUANT TO SUBSECTION (C) ABOVE, SHALL BE CHARGED WITH ALL ADMINISTRATIVE COSTS AND EXPENSES INCURRED IN THE ABATEMENT OF THE NUISANCE. SUCH

ADMINISTRATIVE COSTS SHALL INCLUDE THE COST OF SAID ABATEMENT, INSPECTION FEES, POSTAL CHARGES, LEGAL EXPENSES, AND OTHER EXPENSES AS RELATED TO THE ENFORCEMENT OF THE ORDER.

(G) ONCE THE COSTS FOR ABATEMENT ARE DETERMINED PURSUANT TO SUBSECTION (F) ABOVE, THE CITY SHALL SEND OUT A NOTICE OF PAYMENT DUE ("NOTICE") FOR SUCH COSTS TO THE OWNER OR OCCUPANT, IF DIFFERENT THAN THE OWNER, OF THE PROPERTY UPON WHICH THE ABATEMENT OCCURRED ADVISING OF THOSE COSTS AND THAT PAYMENT NEEDS TO BE MADE WITHIN 30 DAYS FROM THE DATE OF THE NOTICE. FAILURE TO PAY IN ACCORDANCE WITH THE NOTICE MAY RESULT IN THE COLLECTION OF SUCH COSTS AS ALLOWED BY THIS CHAPTER AND SHALL CONSTITUTE A LIEN AGAINST THE PROPERTY.

Section 3. Section 9-11-10 of the Northglenn Municipal Code is hereby amended as follows:

Section 9-11-10. Abatement Without Notice.

(a) Any nuisance located or found in or upon any street, avenue, alley, sidewalk, highway, public right-of-way, public grounds, park, recreation facility, or public property in the City of Northglenn may be abated by the City Manager or his designated representative without notice.

(b) WHEN A PUBLIC NUISANCE CREATED BY THE PLACEMENT OF EVICTED PROPERTY IN ANY PUBLIC RIGHT-OF-WAY WITHIN THE CITY HAS OCCURRED, 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 OR TO THE PERSON LISTED IN THE REGISTRATION PURSUANT TO SECTION 20-1 OF THIS CODE, 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.

Section 4. Section 9-11-13 of the Northglenn Municipal Code is hereby deleted in its entirety.

Section 9-11-13. RESERVED.

Section 5. Article 11 of Chapter 9 of the Northglenn Municipal Code is hereby amended by the addition of a new Section 9-11-31.5 to read as follows:

Section 9-11-31.5. PENALTY.

IN ADDITION TO THE PUBLIC NUISANCES, DEFINED IN THIS ARTICLE, IT IS HEREBY DECLARED TO BE A PUBLIC NUISANCE AND A CRIME PUNISHABLE UNDER THE GENERAL PENALTY PROVISION OF SECTION 1-1-10 OF THIS CODE FOR ANY OWNER OR OCCUPANT OF PROPERTY:

(a) TO INTENTIONALLY, KNOWINGLY, RECKLESSLY, OR THROUGH CRIMINAL NEGLIGENCE PERMIT OR ENCOURAGE ANY PUBLIC NUISANCE UNDER THIS CODE; OR

(b) TO INTENTIONALLY, KNOWINGLY, RECKLESSLY OR THROUGH CRIMINAL NEGLIGENCE PARTICIPATE IN, ABET, OR OTHERWISE ALLOW OR FACILITATE ANY PUBLIC NUISANCE TO OCCUR ON OR WITHIN ANY PROPERTY OR STRUCTURE UNDER THE OWNER'S OR OCCUPANT'S CONTROL OR OWNERSHIP.

INTRODUCED, READ AND ORDERED POSTED this 22nd day of May,
2017.


JOYCE DOWNING
Mayor

ATTEST:


JOHANNA SMALL, CMC
City Clerk


PASSED ON SECOND AND FINAL READING this ____ day of _____,
2017.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:


COREY Y. HOFFMANN
City Attorney