

ORDINANCE NO. 3542

AN ORDINANCE DECLARING CERTAIN MATTERS AS NUISANCES WITHIN THE CITY OF IOLA, KANSAS; PROVIDING FOR THE REMOVAL OR ABATEMENT OF NUISANCES; AUTHORIZING THE ASSESSMENT OF COST AND PROVIDING FOR PENALTIES

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF IOLA, KANSAS, PURSUANT TO ORDINANCE NO. 3462, CHAPTER VIII, ARTICLE 1, SECTIONS 8-101 THROUGH 8-108 ARE HEREBY REPEALED AND REPLACED AS FOLLOWS:

8-101. Nuisances.

Section 1. NUISANCES UNLAWFUL; DEFINED. It shall be unlawful for any person to maintain or permit any nuisance within the City as defined, without limitation, as follows:

- (a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal, or any other offensive or disagreeable thing or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;
- (b) All dead animals not removed within 24 hours after death;
- (c) Any place, structure, or substance that emits or causes any offensive, disagreeable, or nauseous odors;
- (d) All stagnant ponds or pools of water;
- (e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes;
- (f) Abandoned appliances kept on the premises under the control of any person or deposited on the sanitary landfill;
- (g) All articles or things whatsoever caused, kept, maintained, or permitted by any person to the injury, annoyance, or inconvenience of the public or any neighborhood;
- (h) Any fence, structure, thing, or substance placed upon or being upon any street, sidewalk, alley, or public ground to obstruct the same, except as permitted by the laws of the City. (K.S.A. 21-4106:4107)

Section 2. PUBLIC OFFICER. The Governing Body shall designate a public officer to be charged with the administration and enforcement of this ordinance.

Section 3. COMPLAINTS; INQUIRY AND INSPECTION. The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints in writing signed by one or more persons stating that a nuisance exists and describing the same and where it is located or is informed that a nuisance may exist by the Board of Health, Chief of Police or the Fire Chief, or their subordinates. The public officer may make such inquiries and inspections when he or she observes conditions that appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings.

Section 4. RIGHT OF ENTRY. The public officer has the right of access and entry upon private property at any reasonable time to make an inquiry and inspection to determine if a nuisance exists.

Section 5. ORDER OF VIOLATION.

(a) The governing body shall serve upon the owner, any agent of the owner of the property, or any other person, corporation, partnership, or association found by the public officer to violate Section 1 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.

(b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent according to this Section during the preceding twenty-four-month period, the governing body of the City may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to,

door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first-class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this Section shall be given by telephone communication or first-class mail. (K.S.A. 12-1617e)

Section 6. SAME; CONTENTS. The order shall state the condition(s) which is (are) in violation of Section 1. The order shall also inform the person, corporation, partnership, or association that:

(a) He, she, or they shall have 10 days from the receipt of the order to abate the condition(s) in violation of Section 1; provided, however, that the governing body, or its designee named in Section 5, shall grant one or more extensions of the 10 days if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions in violation of Section 1; or,

(b) He, she, or they have 10 days from the receipt of the order, plus any additional time granted under subsection (a), to request a hearing before the governing body or its designated representative of the matter as provided by Section 9;

(c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by Section 7 and/or abatement of the condition(s) by the City as provided by Section 8.

Section 7. FAILURE TO COMPLY; PENALTY. Should the person, corporation, partnership, or association fail to comply with the order to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the City against such person, corporation, partnership, or association and upon conviction of any violation of provisions of Section 1, be fined in an amount not to exceed \$100. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

Section 8. ABATEMENT. In addition to, or as an alternative to prosecution as provided in Section 7, the public officer may seek to remedy violations of this ordinance in the following manner. If a person to whom an order has been served pursuant to Section 5 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the periods specified in Section 6, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the City to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the City shall be charged against the lot or parcel of ground on which the nuisance was located as provided in Section 11. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- (a) Personal service upon the person in violation;
- (b) Certified mail, return receipt requested; or,
- (c) In the event the whereabouts of such person is unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the City clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official City newspaper and by posting a copy of the resolution on the premises where such condition exists.
- (d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent according to this Section during the preceding twenty-four-month period, the governing body of the City may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to,

door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first-class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this Section shall be given by telephone communication or first-class mail.

Section 9. DISPOSITION OF VEHICLE. Disposition of any motor vehicle removed and abated from property pursuant to this ordinance shall be as provided by K.S.A. Supp. 8-1102, as amended.

Section 10. HEARING. If a hearing is requested within the 10-day period as provided in Section 6, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the governing body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the City of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the City may introduce such witnesses and evidence as is deemed necessary and proper by the governing body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the governing body or its designated representative shall be prepared in resolution form, adopted by the governing body, and the resolution shall be served upon the person in the manner provided in Section 8.

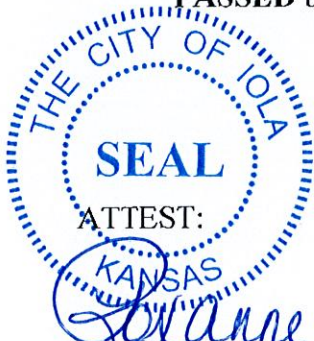
Section 11. COSTS ASSESSED. If the City abates or removes the nuisance according to Section 8, the City shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the City. The notice shall also state that the payment is due within 30 days following receipt of the notice. The City also may recover the cost of providing notice, including any postage, required by this Section. The notice

shall also state that if the cost of the removal or abatement is not paid within 30 days, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115. Amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located. The City clerk, at the time of certifying other City taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land. It shall be collected by the county treasurer and paid to the City as other City taxes are collected and paid. The City may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

Section 12. All Ordinances or parts of ordinances in conflict with the foregoing are hereby repealed.

Section 13. This Ordinance shall be in full force and effect from and after its adoption and publication in the official City newspaper.

PASSED by the Council and **SIGNED** by the mayor, this 25th day of August, 2025.



Roxanne Hutton
Roxanne Hutton, City Clerk

Steve French
Steve French, Mayor

(First Published in The Iola Register, _____, 2025)

ORDINANCE NO. 3542 SUMMARY

On August 25, 2025, the City of Iola, Kansas, adopted Ordinance 3542, incorporating by reference the Removal or Abatement of Nuisances Ordinance with certain additions, amendments, and deletions thereto. The purpose of this ordinance is to provide for the removal or abatement of nuisances within the jurisdiction of the City of Iola, Kansas. A complete copy of this ordinance is available at City Hall, 2 W. Jackson, Iola, Kansas, or may be viewed on the City's website at www.cityofiola.com. This summary has been certified by Chase Vaughn, Iola City Attorney.

