

## **Sec. 13-24 - Unlawful accumulations; definitions; nuisance; notice; abatement by city; lien.**

(a) *Definitions.* For purposes of this section, the following terms shall have the meaning shown:  
*Excess Vegetation.* Whether living, dormant, or dead:

- (i) All grasses, weeds, and other plants in excess of twelve (12) inches in height that are cultivated and growing in rank profusion; or
- (ii) Noxious weeds; or
- (iii) Uncultivated brush or weeds in excess of twelve (12) inches in height; or
- (iv) Shrubs and tree limbs that overhang or obstruct public Sidewalks, Streets, or Alleys in violation of other provisions of this Code of Ordinances.

Provided however, the term Excess Vegetation shall not include cultivated flowers, gardens, and lawns.

*Premises.* Upon a lot, tract, or parcel of land; along the Sidewalk or Street adjacent to the Premises between the property line and the Curb, or if there is no Curb, then within ten (10) feet outside of that property line; or in an Alley or Easement adjacent to the Premises measured to the centerline of such Alley or Easement.

*Trash.* Animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food; ashes and similar material; boxes, bricks, broken concrete; cans, cartons, clinkers, clothing, combustible and noncombustible waste materials; construction waste, crockery; dead tree stumps, dead trees, debris, dirt, discarded appliances; excelsior; furniture designed for interior use, glass, gravel; inoperable or discarded ATV's, motorcycles, bicycles, or lawn care equipment; junk; leather, lumber; mineral matter; other bulky heavy materials; paper, plaster, plastics; rags, refuse, rubber, rubbish, rubble; sand, scrap lumber, scrap metal; shingles; residue from the burning of wood, coal, coke and other combustible materials; tires, tree branches; vehicle frames, parts or accessories; wheels; yard trimmings, or any other unsightly or unsanitary matter of whatever nature.

**(b) *Duty; Offense; Declaration of Nuisance.* It shall be the duty of every person having ownership, occupancy, supervision, or control of any Premises to remove or cause to be removed all Trash and Excess Vegetation as often as may be necessary to comply with this section. It shall be unlawful for any person owning, occupying, or having supervision or control of any Premises, whether occupied or unoccupied, within the City limits, to:**

- (1) Allow on such Premises the accumulation of Trash or Excess Vegetation; or**
- (2) Allow on such Premises the outdoor storage, in view from public property, any materials, equipment, merchandise of any kind, unscreened. (These must be screened from public view).**

All such conditions described in subsections (1) and (2) are hereby declared to be a public nuisance and shall be abated by cutting, trimming, or removal in accordance with this Section. A Declaration of Nuisance and all of the terms of this Section shall be applicable to and enforceable within the city limits.

(c) *Enforcement.* The Building Official and/or Fire Marshal shall cause to be examined every Premises suspected of being in violation of the provisions of this section. When an apparent violation is found to exist, the Building Official and/or Fire Marshal shall give a written notice of the violations to the persons described in subsections (d) (1) or (2) of this section. Service of notice is sufficient if it is deposited into the U.S. mail with proper postage for certified mail return receipt requested or is personally delivered to the persons described hereinabove. Such notice shall describe the violation and the necessary steps to correct such violation.

(d) *Procedures.* The following procedures shall apply to the several kinds of nuisance violations arising under this section:

(1) *Excess Vegetation; Opportunity to Cure; City Abatement.* The Building Official and/or Fire Marshal shall give notice as required in subsection (c) to the recorded owner of the Premises. The owner shall have ten (10) calendar days from the date the initial notice of violation is mailed or served in which to mow, trim, cut or remove Excess Vegetation, or to cause such to occur. At the expiration of such ten (10) days the Building Official and/or Fire Marshal or designee may enter upon the Premises and may do necessary work or cause the same to be done, in order to abate and remove the matters mentioned in this subsection. Further, in accordance with state law, if the owner, occupant, or person in control of or having supervision of the Premises subsequently allows or commits another violation of the same kind or nature, under this subsection, that poses a danger to the public health and safety on or before the first anniversary date of the notice sent by the City per this section, then without further notice the City may enter and abate the violation at the owner's expense and assess such expense against the property, as further provided herein.

(2) *Accumulation of Trash or Display of Materials, Merchandise, or Personal Property; Opportunity to Cure; City Abatement.* The Building Official and/or Fire Marshal shall give notice as required in subsection (c) to the recorded owner, occupant, or person in control of, or having supervision of the Premises. If such person(s) cannot abate the violation within ten (10) calendar days after the notice of violation is mailed or served, due to the volume or amount of Material, Personal property, or Trash present on the Premises, or for circumstances beyond the reasonable control of the person(s), then he/she may apply for a provisional permit in accordance with the requirements of [Section 4-3-3](#) of this Code in order to obtain more time to abate the nuisance under this subsection, If the person fails, refuses, or neglects to either timely abate the violation or to obtain a provisional permit and timely perform it, then the Building Official and/or Fire Marshal may obtain an administrative search warrant to enter the premises and abate the violation by removal of the items that violate this ordinance. Provided however, if the estimated cost to the City for abating the nuisance under this subsection is one thousand dollars (\$1,000.00) or greater, then the Building Official and/or Fire Marshal may condemn and remove such only after notice to persons described hereinabove and a hearing conducted in accordance with the procedures of [Section 4-3-3\(e\)](#) through (h) (with appropriate wording changes to refer to violations of this section and removal or cleaning, instead of Dangerous Structures and abatement thereof).

(3) *Junked or abandoned vehicles; Diseased Vegetation; Salvage Yards.* The regulation and abatement of these shall be in accordance with Chapters 15 and 13 respectively, of this Code or other applicable ordinance or state law.

(e) *Costs; collection.* Should the City have to enter the premises and abate or remove any violation of this section, then:

(1) *Invoice; due date; administrative charge.* The invoice for the costs incurred by the City resulting from the abatement of the condition existing by reason of the failure, refusal, or neglect of the owner or other person in control of a Premises, shall be mailed to the recorded title owner of the Premises and any recorded lien holder, and must be paid within thirty (30) days after the mailing of the invoice. In addition to all other actual costs incurred, an administrative charge of seventy-five dollars (\$75.00) shall be added to cover the City's cost of inspection, re-inspection, notices, bookkeeping and other administrative expenses. The Building Official and/or Fire Marshal or designee shall provide a statement of the charges and other information needed for preparation of the invoice, in the form and process prescribed by the City's account receivable staff.

(2) *Filing lien statement with county clerk.* If the invoice is not paid within the period specified in subsection (1), the City may file a statement, signed by the Building Official and/or Fire Marshal, with

the county clerk of the county where the Premises is located, that shows the owner's name, description of Premises, and the actual expenses incurred by the City for the abatement plus the administrative charge. Thereupon the City shall have a privileged lien on the Lot upon which such expense is incurred, second only to tax liens and liens for Street Improvements, for the cost as specified in subsection (e)(1) of this section plus interest of ten (10) percent per annum or as otherwise allowed by law from the date payment is due.

(3) Suit for recovery and foreclosure. For all costs incurred, administrative charge, and interest, suit may be instituted by the City Attorney or designee for recovery and foreclosure to be had in the name of the City, as allowed by law.

(4) Proof of amount. The statement filed by the Building Official and/or Fire Marshal or designee as provided in subsection (e)(1) of this section, or a copy of the invoice shall be prima facie proof of the amount expended and due for any work performed by the City.

(f) *Additional Authority to Abate Dangerous Weeds.*

(1) Pursuant to state law, the City may abate, without notice, Dangerous Weeds, meaning weeds that have grown higher than forty-eight (48) inches and are an immediate danger to the health, life, or safety of any person. Such Dangerous Weeds are hereby declared to be a nuisance and the terms of this subsection shall be specifically applicable to and enforceable within the city limits.

(2) Not later than the 10th day after the date the City abates Dangerous Weeds under this section, the City shall give notice to the property owner in the manner required by subsection (d)(1) of this section. The notice shall contain:

- (i) An identification, which is not required to be a legal description, of the property;
- (ii) A description of the violations of the ordinance that occurred on the property;
- (iii) A statement that the City has abated the weeds; and
- (iv) An explanation of the property owner's right to request an administrative hearing about the City's abatement of the weeds.

(3) The Director of Public Works shall conduct an administrative hearing on the abatement of weeds under this section if, not later than the 30th day after the date of the abatement, the property owner files with said official a written request for a hearing.

(4) An administrative hearing conducted under this section shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relevant to the City's abatement of the Dangerous Weeds.

(5) The City may assess the actual costs and administrative fees and create liens under this subsection in the same manner and amounts that it assesses expenses and creates liens under subsection (e) of this section. A lien created under this subsection is subject to the same conditions as a lien created under subsection (e) of this section.