

Chapter 21

ABATEMENT OF NUISANCES¹

- Art. I. Vegetation, §§ 21-1-21-15
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ARTICLE I. VEGETATION

Sec. 21-1. Injuring Trees And Shrubs In Public Places:

It shall be unlawful to injure any tree or shrub planted in any public place. (Ord. 1999-12, § 2, 4-5-1999)

Secs. 21-2-21-15. Reserved:

ARTICLE II. NOXIOUS GROWTH

Sec. 21-16. Declared A Nuisance; Prohibited:

Any weeds such as jimson, burdock, ragweed, thistle, cocklebur and any rank vegetable growth which exhales unpleasant or obnoxious odors found growing in any lot or tract of land in the city are hereby declared to be a nuisance and it shall be unlawful to permit any such weeds to grow or remain in any such place. (Ord. 1999-12, § 2, 4-5-1999)

Sec. 21-17. Barberry Plants:

It shall be unlawful and is declared a nuisance for any person to plant or permit the growth of any bush of any species of tall, common or European barberry, further known as *Berberis vulgaris*, or its horticultural varieties within the city. (Ord. 1999-12, § 2, 4-5-1999)

Sec. 21-18. Height; Growth Which Conceals Dangerous Deposits:

It shall be unlawful for any person to permit any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants, to grow to a height exceeding eight inches (8"), or to permit any rank vegetable growth which may conceal conditions or deposits dangerous to the public health anywhere in the city. Any such plants or weeds are hereby declared to be a nuisance. (Ord. 1999-12, § 2, 4-5-1999)

Sec. 21-19. Notice To Abate:

It shall be the duty of the building inspector to serve or cause to be served a notice by personal service, notice posted on the property or certified mail, return receipt requested, upon the owner or occupant of any premises on which weeds or plants are permitted to grow in violation of the provisions of this article and to demand the abatement of the nuisance within ten (10) days. (Ord. 1999-12, § 2, 4-5-1999)

Sec. 21-20. Abatement By City:

If a person served pursuant to section 21-19 of this article does not abate the nuisance within ten (10) days the city may proceed thereafter to abate the nuisance, keeping an account of the expenses of the abatement. The expense of the abatement by the city shall be charged to and paid by the owner or occupant. (Ord. 1999-12, § 2, 4-5-1999)

¹. See also chapter 15, article II of this code.

Sec. 21-21. Special Assessment:

In addition to any other method authorized by law, if: 1) a property owner is cited with a code violation under this article, requiring the cutting of grass and weeds, 2) noncompliance is found upon reinspection of the property after the due date for compliance with an order to correct the code violation or with an order for abatement, 3) costs for services rendered by the municipality to correct the code violation remain unpaid, and 4) a lien has been filed of record by the municipality in the office of the recorder, then those costs may be collected as a special assessment on the property pursuant to 65 Illinois Compiled Statutes 5/9-2-4.5. Upon payment of the costs by the owner of record or persons interested in the property, the lien shall be released by the municipality and the release shall be filed of record in the same manner as the filing of notice of the lien. (Ord. 2007-17, § 3, 10-15-2007)

Secs. 21-22-21-30. Reserved:

ARTICLE III. REMOVAL OF GARBAGE AND DEBRIS

Sec. 21-31. Failure To Remove Garbage And Debris From Private Property:

It shall be unlawful for any owner of private property to fail to remove garbage and debris from said private property. (Ord. 1999-12, § 2, 4-5-1999)

Sec. 21-32. Garbage And Debris Defined:

For the purpose of this chapter, "garbage and debris" shall include, but not be limited to, demolition materials, food and industrial processing waste, garden trash, land cleaning wastes, mixed refuse, noncombustible refuse, rubbish and trash as those terms are defined in section 1653 of the solid waste disposal district

act, 70 Illinois Compiled Statutes 3105/3. (Ord. 1999-12, § 2, 4-5-1999)

Sec. 21-33. Notice To Abate:

The building inspector shall serve, or cause to be served, a notice by personal service, notice posted on the property or certified mail, return receipt requested, upon the owner or occupant of any premises on which trash or debris has been allowed to accumulate in violation of the provisions of this article and to demand the abatement of the nuisance within ten (10) days. (Ord. 1999-12, § 2, 4-5-1999)

Sec. 21-34. Abatement By City:

If a person served pursuant to section 21-33 of this article does not abate the nuisance within ten (10) days, the city may proceed thereafter to abate the nuisance, keeping an account of the expenses of the abatement. The expense of the abatement by the city shall be charged to and paid by the owner or occupant. (Ord. 1999-12, § 2, 4-5-1999)

Secs. 21-35-21-40. Reserved:

ARTICLE IV. CHARGES; FILING AND RELEASE OF LIENS

Sec. 21-41. Charges; Filing Of Lien Claim:

(a) Charges for the abatement of the nuisances described in this chapter shall be as follows:

- (1) The minimum charge for administrative costs shall be two hundred fifty dollars (\$250.00).
- (2) If any labor is provided by city employees, such labor shall be charged at the rate of sixty dollars (\$60.00) per hour, in addition to the minimum charge above.

- (3) All costs of abating the nuisance, including, but not limited to, all labor, expenses of abatement including the rental of any equipment or disposal and all other costs incurred by the city including reasonable attorney fees. Abatement includes the cost of removing debris or litter which may be necessary to cut the weeds or other vegetation.
- (4) The cost of any independent contractor hired by the city.
- (5) The costs of preparing the notice of violation and lien, recording the lien, releasing the lien and determining ownership of the land.

(b) Upon completion of the abatement of the nuisance, the city administrator shall prepare and deliver an invoice for all charges attributable to abatement and related activity. In the event that said invoice is not paid by the close of business on the tenth day following the date of the invoice, the city attorney shall prepare and file a lien against the property where said abatement occurred.

(c) All of the above costs shall be a lien against the property and a charge against the owner or occupants. The lien shall be recorded with the Madison County recorder of deeds as soon as practical after the nuisance being abated and the invoice for such charges being unpaid. The form of the lien shall conform to the requirements of law. (Ord. 1999-12, § 2, 4-5-1999)

Sec. 21-42. Notice Of Filing Of Lien Claim; Release Of Lien:

Notice of the lien claim filed pursuant to section 21-41 of this article shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense by the owner of, or persons interested in, the land after a notice of lien has been filed, the city shall execute a release of the lien and the city clerk shall cause the release to be recorded

in the county recorder's office. (Ord. 1999-12, § 2, 4-5-1999)

Sec. 21-43. Foreclosure Of Lien:

Property subject to a lien under this article shall be sold for nonpayment of the charges. The proceeds of the sale shall be applied to pay the charges after deducting the costs, as in the case of the foreclosure of statutory liens. Such foreclosures shall be in equity in the name of the city. (Ord. 1999-12, § 2, 4-5-1999)

Sec. 21-44. Duty Of The City Attorney To File Suit:

The city attorney is hereby authorized and directed to institute proceedings, in the name of the city, in any court having jurisdiction over such matter, against any land concerning which the city clerk has recorded a notice of lien in the county recorder's office. (Ord. 1999-12, § 2, 4-5-1999)

