

Chapter 14 - NUISANCES<sup>[1]</sup>

ARTICLE III. - WEEDS, NOXIOUS VEGETATION, TRASH, AND RUBBISH<sup>[3]</sup>

Footnotes:

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**Editor's note**— [Ord. No. 2-2015, § 1, adopted February 4, 2015](#), amended art. III, §§ 14-51—14-57, in its entirety. Former art. III pertained to weeds, noxious vegetation, diseased and infested trees, trash and rubbish and was derived from Code 1964, §§ 12-1—12-4; Ord. No. 3-1989, §§ 2—4, adopted June 21, 1989; Ord. No. 1-1993, §§ 1—4, adopted February 3, 1993; Ord. No. 15-1995, §§ 1, 2, adopted September 20, 1995 and Ord. No. 19-1997, § 1, adopted December 17, 1997.

**Cross reference**— Buildings and building regulations, Ch. 4; streets, sidewalks and other public places, Ch. 16; subdivisions, Ch. 17; zoning, Ch. 21

Sec. 14-51. - Removal required.

- (a) It is made the duty of every owner, every tenant and every person in possession of any real property in the city to provide for and cause the removal of weeds, noxious vegetation, trash, and rubbish of all kinds from such property and along any street and sidewalk adjoining the same and to the middle of each public street, alley, or other public right-of-way.
- (b) For purposes of this article, any plant identified on the State of Colorado Department of Agriculture Noxious Weed List A (subject to eradication wherever found), maintained by the Colorado Department of Agriculture pursuant to C.R.S. § 35-5.5-108 shall be considered noxious. Any plant identified on the State of Colorado Department of Agriculture Noxious Weed List B or C may be considered noxious if specifically identified as noxious by rule promulgated by the director of the city department of parks and recreation after public hearing.
- (c) Any non-ornamental vegetation that has bloomed or reached a height of eight (8) inches shall be considered noxious for the purposes of this article whether or not it appears on the noxious weed list referenced above. No thistle or knapweed species contained on noxious weed list A, B, or C may be considered ornamental vegetation.
- (d) It is hereby declared to be a nuisance to fail to comply with the provisions of this section 14-51.

([Ord. No. 2-2015, § 1, 2-4-15](#))

Sec. 14-52. - Failure to remove; notice; pre-abatement hearing, abatement.

- (a) In the event of the failure of the owner, tenant or person in possession of any such real property in the city to remove the weeds, noxious vegetation, trash and rubbish, as provided in section 14-51, in addition to any citation that may issue pursuant to the provisions of section 14-56, the city manager or the city manager's designee shall give written notice of violation upon the property owner whose property is being kept contrary to the provisions of this article. Said notice shall specifically describe the nature of the violation and shall include a statement that if the weeds, noxious vegetation, trash or rubbish are not removed from the property within seven (7) days of the date of service, if service is by personal delivery, or within ten (10) days, if service is by mail and/or posting, the removal may be done by the city, and the whole cost thereof will be assessed against the property. The notice shall also advise the property owner that the owner may appeal the determination of a nuisance as contained in the notice of violation to the city manager by filing with the city manager a written request for hearing stating the reason for the appeal within that same time period provided for abatement.

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- (b) In the event a hearing is requested, the city manager shall set the hearing to be held within fourteen (14) days of the date of the request. The owner may appeal in person and with counsel, if so desired, and such hearing shall be duly recorded. After the hearing, the city manager shall make a determination in writing of whether the nuisance exists, and mail such determination to the property owner by regular mail at the owner's last known address, with a copy e-mailed in the event the owner has provided an email address. If a nuisance is found to exist, the property owner shall abate it within seven (7) days of the date of mailing of the city manager's written determination. The city manager's determination of any such appeal shall have no probative value in any court proceeding on any citation that may have been issued for the violation, except that, if the city manager determines a nuisance does not exist, any such court proceeding shall be dismissed. If the owner is dissatisfied with the decision of the city manager, the owner shall have the right to have the decision reviewed pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure, provided that such a review is sought within the time and in the manner provided by law. The decision of the city manager shall not be stayed pending any review except as provided by Rule 106(a)(4) of the Colorado Rules of Civil Procedure.
- (c) Service of the notice of violation may be obtained in one (1) or more of the following manners:
- (1) By personally delivering a copy of the notice to the property owner, or the owner's agent, if known.
  - (2) By mailing a copy of the notice by certified mail, postage pre-paid, to the property owner.
  - (3) By posting the property conspicuously with the notice. In the event the property is posted, a copy of the notice shall also be mailed, by regular mail, postage pre-paid, to the property owner at such owner's last known address as contained in the records of the county assessor's office.
- "Property owner" shall be defined, for the purposes of section 14-52, as the individual listed, as of the date of the notice, in the records of the county assessor's office, as the current owner of the property.
- (d) The cost reimbursable to the city under subpart (a) shall be increased by an additional amount, not to exceed one hundred dollars (\$100.00), determined by the city manager or the city manager's designee, for costs of inspection, documentation, service of notice, and other incidental costs related to the enforcement of this section against an offending property owner. This assessment shall be a lien against each lot or tract of land from which the weeds, noxious vegetation, trash or rubbish were removed and shall have priority over all other liens, except general taxes and prior special assessments.

[\(Ord. No. 2-2015, § 1, 2-4-15\)](#)

Sec. 14-53. - Notice of assessment for abatement; appeal.

- (a) The city manager or the city manager's designee shall cause a written notice of the assessment for costs of abatement to be mailed by certified mail to the owner of the property, at the owner's last address shown by the county assessor's records. Such notice shall state the amount assessed, the description and street address of the property assessed and that the owner may, within fifteen (15) days from the date of the notice, request in writing a hearing before the city manager of the owner's objections to the assessment.
- (b) In the event such a hearing is requested, the city manager shall schedule the same to be held within fourteen (14) days of the request for a hearing. The objector may appeal in person and with counsel, if so desired, and such hearing shall be duly recorded. The city manager shall either modify, affirm, or reverse such assessment after the hearing. Any owner of real estate dissatisfied with the decision of city manager shall have the right to have the decision reviewed pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure, provided that such a review is sought within the time and in the manner provided by law.

[\(Ord. No. 2-2015, § 1, 2-4-15\)](#)

Sec. 14-54. - Failure to pay final assessment; collection.

In case such final assessment is not paid within thirty (30) days after the same has been assessed, or within thirty (30) days after the final decision by the city manager after the hearing referenced above, whichever occurs later, the city clerk shall certify the amount of the assessment to the county officer having custody of the tax list, for placement of the assessment upon the tax list for the current or next upcoming year, and such officer shall thereafter collect the same in the same manner as other taxes are collected, with an additional ten (10) percent administrative processing fee thereon; and all the laws of the state for the assessment and collection of the general taxes, including the laws for the sale of property for taxes and redemption thereof, apply to and have full force and effect for the collection of all such assessments. Any amount so collected shall be remitted to the city finance director by the county officer who is collecting.

[\(Ord. No. 2-2015, § 1, 2-4-15\)](#)

Sec. 14-55. - Hazardous trees, shrubs, and plants

- (a) It is hereby declared a nuisance to keep, harbor or fail to abate the adverse condition of a hazardous tree, shrub or other plant within the city. It is hereby made the duty of every owner, every tenant and every person in possession of any real property in the city to remove or abate the adverse condition of a hazardous tree, shrub or other plant from his, her or its private property and from along any public way adjoining the same and to the middle of each public right-of-way contiguous thereto.
- (b) "Hazardous tree, shrub or other plant," as used herein, shall mean:
  - (1) Any tree, plant or shrub that is diseased, infected, infested with insects, parasites or fungus, when such disease, infection or infested condition may reasonably be expected to affect other healthy trees, plants or shrubs within the city; and
  - (2) Any tree, shrub or plant that is dead or dying, or that contains dead or dying limbs which may pose a danger to the life, health or property of any person, when such hazardous tree, shrub or plant is located on the premises of such owner, tenant and possessor, or within the adjacent, contiguous public way up to the center of said contiguous public way.
- (c) It is hereby declared a nuisance for an owner or occupant of private property to allow any branches of trees, shrubs, bushes or any other plant material growing on such property to:
  - (1) Overhang streets or alleys in such a manner that the branches interfere with the safe and unobstructed movement of vehicles on any street or alley, or overhang the first fourteen (14) feet of space above any street or alley;
  - (2) Encroach upon any public sidewalk or overhang the first eight (8) feet of space above any public sidewalk;
  - (3) Overhang, or encroach into public rights-of-way in such a manner as to visually obstruct motorists' views of traffic signs, traffic signals or oncoming traffic; or
  - (4) Become overgrown and unkempt as to be a nuisance to neighboring property owners.

[\(Ord. No. 2-2015, § 1, 2-4-15\)](#)

Sec. 14-56. - Abatement.

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It is hereby declared unlawful to fail to abate a nuisance declared pursuant to this article. Such failure shall be subject to the procedure and charges set forth in sections 14-52, 14-53, and 14-54, and shall be subject to the penalties provided generally for offenses in this Code.

[\(Ord. No. 2-2015, § 1, 2-4-15\)](#)

Sec. 14-57. - Director authorized to inspect.

The city manager or the city manager's designee is hereby authorized, with reasonable cause, to enter in and upon private property within the city to inspect any trees, shrubs, plants, trash, rubbish, or parts thereof, and to inspect any dead plant materials, or parts thereof, to ascertain the condition of such trees, shrubs, plants, rubbish and trash, and dead plant materials or parts thereof, to determine whether or not there exists a nuisance, as declared in this article.

[\(Ord. No. 2-2015, § 1, 2-4-15\)](#)

Secs. 14-58—14-70. - Reserved.