

INTRODUCED: September 14, 2015

AN ORDINANCE No. 2015-191

As Amended

To amend City Code §§ ~~[38-154]~~ 11-105, concerning weeds and other vegetation, ~~[38-155]~~ 11-107, concerning violations and notice, and ~~[38-156]~~ 11-108, concerning abatement by the City, and to amend Appendix A of the City Code by adding therein a new fee for City Code § ~~[38-156(b)]~~ 11-108(b) for the purpose of imposing one notice per growing season, designating the amount of administrative charges for abatement by the City, imposing civil penalties for violation or such sections, and requiring the Director of Planning and Development Review to prepare and deliver to the City Council and the Chief Administrative Officer a report concerning the costs incurred, charged to property owners and paid to the City associated with the City's efforts to abate violations of such sections.

Patron – Mr. Agelasto

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: SEPT 28 2015 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That sections ~~[38-154, 38-155 and 38-156]~~ 11-105, 11-107, and 11-108 of the Code of the City Richmond [~~(2004)~~] (2015) be and are hereby **amended** and reordained as follows:

Sec. ~~[38-154]~~ 11-105. Weeds and other vegetation.

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: JAN 11 2016 REJECTED: _____ STRICKEN: _____

(a) It shall be [~~a misdemeanor~~] unlawful for any person who owns or occupies property within the city to permit any grass, plant, bushes, weeds or any other vegetation 12 inches high or over, other than trees, shrubbery, agricultural plants, garden vegetables, flowers or ornamental plants, to exist on such property.

(b) It shall be [~~a misdemeanor~~] unlawful for any person who owns or occupies property within the city to permit the existence on such property of any live or dead hedge, shrub, tree or other vegetation, any part of which extends or protrudes into any street, sidewalk, public right-of-way, grass strip or alley so as to obstruct or impede or threaten the safe and orderly movement of persons or vehicles.

(c) It shall be [~~a misdemeanor~~] unlawful for any person who owns or occupies property within the city to permit any grass, plants, bushes, weeds or any other vegetation 12 inches high or over, other than trees, shrubbery, agricultural plants, garden vegetables, flowers or ornamental plants, to exist on any sidewalk, public right-of-way, or grass strip adjacent to such property or unimproved street or alley (to the centerline of such unimproved street or alley).

(d) It shall be [~~a misdemeanor~~] unlawful for any person who owns or occupies property within the city to fail to remove fallen trees, detached limbs, or branches, the accumulation of which is offensive, unwholesome, and unsightly.

(e) Violations of this section shall be subject to a civil penalty, not to exceed \$50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period. In the event three civil penalties have previously been imposed on the same

defendant for the same or similar violations, not arising from the same set of operative facts, within a 24-month period, then such violations shall be a Class 3 misdemeanor, which shall not also be classified as a civil penalty.

Sec. ~~[38-155]~~ 11-107. Violations and notice.

(a) Each day any violation of section [~~38-151, 38-152 or 38-154~~] 11-102, 11-103, or 11-105 continues after issuance of an initial notice shall constitute a separate offense. Upon conviction, each violation of section [~~38-151, 38-152 or 38-154~~] 11-102, 11-103, or 11-105 shall be punishable as a class 1 misdemeanor.

(b) In addition to any penalties imposed for a violation of section [~~38-151, 38-152 or 38-154~~] 11-102, 11-103, or 11-105, a judge hearing the case shall order the person responsible for such condition to remove, restore, remediate or correct the violation or condition. It shall be unlawful for any person to default in such removal, restoration, remediation or correction after being so ordered, and each day's default shall constitute a violation of and a separate offense under this article.

(c) Any law enforcement officer, fire marshal or any assistant, fire inspector, sworn special police officer, or any other city employee designated by the chief administrative officer is authorized and shall have authority to enforce all sections of this article.

(d) Whenever it shall come to the knowledge of the chief administrative officer, or his or her designee, that there exists upon any land or premises in the city any condition constituting a violation of section [~~38-151, 38-152 or 38-154~~] 11-102, 11-103, or 11-105, such person shall serve, post, mail or deliver a notice to any of the following to cause such condition to be abated from such land or premises within 48 hours of delivery or posting of such notice or in the time limit set forth in the notice:

- (1) The person causing or creating the condition;
- (2) The person allowing the condition to remain or continue;
- (3) The occupant of the land or premises; and/or
- (4) The owner of the land or premises.

Proof of such service, delivery, mailing or posting shall be sufficient evidence of such notice.

One such notice per growing season , defined as the period annually from March 1 to November 30, shall be considered reasonable notice.

(e) Notwithstanding subsection (d) of this section, if the chief administrative officer or any person specified in subsection (c) of this section determines that the condition constitutes an imminent, substantial or compelling threat to the public health or to the environment, the condition may be ordered abated without ever giving the notice required in this section.

(f) When any person is in possession of any property or has charge thereof within the city as executor, administrator, trustee, guardian, or agent, such person shall be deemed to be the owner of such property for the purposes of this article and shall be bound to obey all orders and notices of the chief administrative officer in regard to nuisances; sanitation; violations of section ~~[38-151, 38-152 or 38-154]~~ 11-102, 11-103, or 11-105; or other matters, so far as they may affect such property, in the same manner, and be subject to the same penalties and fines as if such person were actually the owner of such property.

Sec. ~~[38-156]~~ 11-108. Abatement by city.

(a) If a condition in violation of section ~~[38-151, 38-152 or 38-154]~~ 11-102, 11-103, or 11-105 remains upon a land or premises after the expiration of the time specified in a notice of violation, the chief administrative officer, or his or her designee, may issue a notice of abatement

to such person identified in the notice of violation informing the person that the chief administrative officer will cause the cited condition to be abated at the expense of such person.

(b) An administrative fee shall be assessed in each case. The expense of abatement and the administrative fee shall be chargeable against such person identified in the notice of abatement.

(c) The notice of abatement may either be served, mailed or delivered to such person or posted on the land or premises where the nuisance is located. Proof of such service, delivery, mailing or posting shall be sufficient evidence of the service of notice.

(d) Notwithstanding the notice requirements of this section, if the chief administrative officer, or his or her designee, determines that the condition constitutes an imminent, substantial or compelling threat to the public health or to the environment, the notice requirement may be dispensed with.

(e) Notwithstanding subsections (a) through (d) of this section, the notice of violation specified in section ~~[38-155]~~ 11-107 and the notice of abatement specified in this section can be combined in one document and issued as provided in this article.

(f) If the abatement is undertaken by the city pursuant to this section, the expense of the abatement and the administrative fee shall constitute a lien on real property of the owner and shall be reported to the finance director who shall collect the expense and fee in the manner in which city taxes levied upon real estate are authorized to be collected.

(g) Abatement by the city shall be exclusive of and in addition to any criminal penalty which may be imposed.

(h) The ~~[director of planning and development review]~~ chief administrative officer or the designee thereof shall by no later than December 1 of each year submit a report to the city

council ~~[and the chief administrative officer]~~ concerning information on city vegetation abatement programs, including the number of properties abated, the total cost to the City for such abatement, the number of properties on which liens were imposed in accordance with this section, the total dollar amount of such liens, and the abatement costs collected.

§ 2. That Appendix A of the Code of the City of Richmond [~~(2004)~~] (2015) be and is hereby amended and reordained by **adding therein a new** fee for section [~~38-156(b)~~] 11-108(b) of the Code of the City of Richmond [~~(2004)~~] (2015) as follows:

<i>Code Section</i>	<i>Description</i>	<i>Fee</i>
[38-156(b)] <u>11-108(b)</u>	Administrative fee for abatement of violations of City Code §§ [38-151, 38-152 and 38-154] <u>11-102, 11-103, and 11-105</u>	\$150.00

§ 3. This ordinance shall be in force and effect upon adoption.



Richmond City Council

The Voice of the People

Richmond, Virginia

Office of the Council Chief of Staff

Ordinance/Resolution Request

TO Allen Jackson, Richmond City Attorney
Richmond Office of the City Attorney

THROUGH Lou Brown Ali *LB*
Council Chief of Staff

FROM William E. Echelberger, Jr, Council Budget Analyst *WE*

COPY Mr. Parker C. Agelasto, 5th District Representative
Haskell Brown, Deputy City Attorney
Vincent Jones, Council Deputy Chief of Staff *V. Jones*
Ida I. Jones, 5th District Council Liaison

RECEIVED

DATE August 12, 2015

AUG 14 2015

PAGE/s 1 of 5

OFFICE OF CITY ATTORNEY

TITLE Nuisance Abatement

This is a request for the drafting of an **Ordinance** ☒ **Resolution** ☐

REQUESTING COUNCILMEMBER/PATRON

Mr. Parker C. Agelasto, 5th District
Representative

SUGGESTED STANDING COMMITTEE

Land Use, Housing, and Transportation

ORDINANCE/RESOLUTION SUMMARY

The Patron requests an ordinance to:

1. Allow the City to abate a violation of the following sections of the City after one notice, and expiration of the prescribed time allowed for its abatement:
 - a. Code §38-151 – Unlawful Dumping – One notice per twelve month period.
 - b. Code §38-152 – Unlawful Accumulation – One notice per twelve month period..
 - c. Code §38-154 – Weeds and other vegetation – One notice per one notice per growing season.
 - d. Code §38-154.1 – Unlawful Nuisances – One notice per twelve month period.
 - e. The City shall send one notice at the beginning of each subsequent year that its abatement activities will continue. The property owner may request the City stop such abatement activity in writing. To be granted, such request must include a commitment to maintain the property in the future.
2. Such notice shall consist of:
 - a. A notice posted on the property, or hand delivered to the responsible party.
 - b. A copy of such notice sent by first class mail to the address of record on file with the City Assessor.

- c. The notice shall contain
 - 1) The location of the nuisance.
 - 2) A description of what constitutes the nuisance.
 - 3) A statement of acts necessary to abate the nuisance.
 - 4) A deadline reasonable under the circumstances, by which the nuisance shall be abated.
 - 5) A statement that if the nuisance is not abated as directed and no request for extension is made within the prescribed time, the City will abate such nuisance and assess the cost thereof against such person.
3. For purposes of §38-154 – Weeds and other vegetation, define the growing season as running from March 1 to November 30 of a calendar year.
4. In addition to the recovery of actual costs, provide for an administrative charge of \$150 per required abatement action.
5. Provide for civil penalties of:
 - a. \$100 for the first violation, or violations arising from the same set of operative facts.
 - b. \$200 for the second violation, or violations arising from the same set of operative facts.
 - c. \$500 for subsequent violations not arising from the same set of operative facts within 12 months of the first violation.
 - d. Total civil penalties in a 12 month period shall not exceed \$3,000.
6. In the event that three or more violations occur within a twelve month period, such violations shall constitute a Class 1 Misdemeanor, with penalties in lieu of the civil penalties.
7. Require an annual report to the Chief Administrative Officer, with a copy to City Council, itemizing the costs, billings, and revenues of the abatement program.

BACKGROUND

Summary: Section §38-154. of the Richmond City Code – Weeds and other vegetation sets out the standard that owners of property in the City shall maintain specified vegetation, including grass, at no more than 12 inches in height. Section 38-155 of the City Code sets out the requirements for providing notice to a property owner, when a violation is deemed to have occurred, and §38-156 provides for abatement of the condition by the City, after a notice of failure to abate the condition is provided.

Overview

The City's weed abatement program generated billings of \$428,353 in FY 2013 and \$453,376 in FY 2014. Although the actual bill is based on property size, the average in FY 2013 was \$280.15 and for FY 2014 the average was \$281.08.

Program staff estimate that the number of properties that required abatement action represented approximately 25 percent of the properties for which notices of a violation were issued. As such, approximately 6,300 notices are issued annually, resulting in an average of 1,571 abatement actions.

Notice to Abate

The City of Richmond requires two notices per violation. Section 38-155 requires an initial notice of the violation and correction within 48 hours. If the condition is not corrected the City may issue a notice of abatement, and proceed with the necessary corrective action. In practice these two notices are provided concurrently: 1) the initial notice is posted on the property, and 2) the second notice is mailed to the last known address of the responsible party.

Most localities in Virginia require one notice per violation. Two localities, the Cities of

Fredericksburg and Hampton allow for abatement of the violation after expiration of the prescribe time allowed for its abatement in the original notice to the property owner. There is no requirement for a second notice that the property owner has failed to abate the condition, and subsequent abatement by the City does not require an additional notice during that growing period.

The City of Portsmouth allows for the City to abate the violation without further notice after two notices have been sent. In this case the City retains the right to abate violations for one year, without further notification. In subsequent years, the City is required to send one notice at the beginning of each subsequent year that its abatement activities will continue. The property owner may request the City stop such abatement activity in writing. Portsmouth also requires an annual report on the amount collected in connection with the abatement of nuisances by the City.

Retention of the current practice will provide for added assurance that the property owner, or other responsible party has been notified of the need to correct the violation. Current practice should be reflected in the City Code, to require that the first notice be posted on the property, or hand delivered, and a copy delivered by mail.

Notices Required by Local Ordinance			
	1 Notice Per Event	2 Notices Per Event	1 Notice Per Season
Henrico	✓		
Chesterfield	✓		
Alexandria	✓		
Arlington	✓		
Fairfax	✓		
Fredericksburg			✓
Hampton			✓
Newport News	✓		
Norfolk		✓	
Portsmouth	✓		2
Charlottesville	✓		
Richmond		✓	1

Notes:

- 1) One notice posted/hand delivered, another mailed concurrently
- 2) Two notices per year deemed sufficient.

Program staff estimate that moving to a protocol that requires one notice per growing season would result in a first year increase of 100 percent in the number of abatement actions. In the second and subsequent years abatement actions would decline to 50 percent of the previous levels. For Richmond this would mean:

	Abatement Actions
FY 2013 Actual	1,529
FY 2014 Actual	1,613
FY 2015 (Trend)	1,700
Year 1	3,400
Year 2	850

Cost

The City of Richmond currently assesses an administrative fee of \$100 plus the actual costs per abatement action. The assessment of an administrative fee is provided for in §38-156 of the City Code, however the amount of the fee is not established in that section.

Other localities also allow for assessment of "costs and expenses." In some cases an administrative fee is expressly set out in the locality's ordinance. For example, Chesterfield County authorizes an administrative fee of \$35; Fredericksburg charges 15% of the costs, Hampton, Newport News assesses a service charge of \$150, Charlottesville assess an administrative handling charge of \$75.

Penalties

The City of Richmond currently classifies violations of in §38-154. Weeds and Other Vegetation as a Class 1 Misdemeanor. Several other localities also treat violations of their grass cutting ordinance as a misdemeanor:

Chesterfield	3 or more separate violations in 24 months classed as a Class 3 misdemeanor.
Hampton	\$100 to \$1,000 per violation.
Norfolk	Class 2 Misdemeanor
Charlottesville	Class 1 Misdemeanor

Other localities assess civil penalties for violations. These penalties vary by locality and by number of occurrences in a twelve month period. Examples include:

Note:

	1st	2nd	Subsequent	Period
Chesterfield				
General	\$ 100	\$ 100	\$ 100	
Subdivisions, etc	\$ 50	\$ 200	\$ 200	12 months ¹
Alexandria	\$ 100	\$ 150	\$ 150	6 Months
Arlington	\$ 100	\$ 250	\$ 500	6 Months
Fairfax	\$ 100	\$ 100	\$ 100	
Fredericksburg	\$ 50	\$ 200	\$ 200	12 Months

1) 3 or more separate violations in 24 months classed as a Class 3 misdemeanor.

Reporting

Only the City of Portsmouth specifically requires an annual report on the funds collected from the abatement program. Informed evaluation of the program and alternatives for improvements require accurate and timely information. As such, any annual report should include information on program direct and administrative costs, billings, payments, past due amounts, and the amount resulting in property liens.

Fiscal Impact:

If the City moves to one notice per growing season, program costs will increase significantly in the first calendar year, which will cover FY 16 and FY 17. The total increase is projected to be approximately \$310,000 for the cost of contracted mowing services. This should be slightly weighted toward the first half of the growing season, which will fall in the last quarter of FY 2016. This cost will hypothetically be covered by the charge for the actual contracted cutting service and the administrative fee. In year two of the new program (calendar 2017 and later) and subsequent years abatement actions are estimated to decline to 50 percent of the previous levels with corresponding program cost savings. Available records do not allow for projections of actual revenues collected under the current program, therefore, a projection of net costs cannot be made.

FISCAL IMPACT STATEMENT

Fiscal Impact Yes ☒ No ☐

Budget Amendment Required Yes ☒ No ☐

Estimated Cost or Revenue Impact

The proposed ordinance will result in an increase of approximately \$310,000 for the cost of contracted mowing services. This should be slightly weighted toward the first half of the growing season, which will fall in the last quarter of FY 2016. Costs in subsequent years (calendar 2017 and later) will likely be reduced by 50 percent of the previous levels.

Attachment/s Yes ☒ No ☐

Richmond City Council Ordinance/Resolution Request Form/updated 10.5.2012 /jss

ARTICLE IV. - REFUSE, LITTER AND WEED CONTROL

FOOTNOTE(S):

--- (4) ---

Cross reference— Solid waste, ch. 86.

Sec. 38-151. - Unlawful dumping.

- (a) It shall be unlawful for any person to dump or otherwise dispose of trash, garbage, refuse, litter, junk, demolition materials, hazardous wastes or other offensive, unwholesome, unsightly, unsanitary or unhealthy substances on public property, including in any waters within the city, a public highway, drainage ditch, culvert, pipe, storm drain, right-of-way, property adjacent to such highway or right-of-way, or on private property, without the written consent of the owner thereof or the owner's agent.
- (b) Any person convicted of violating this section shall be guilty of a class 1 misdemeanor and shall be punished by a fine of not more than \$2,500.00 or confinement in jail for not more than 12 months or both such fine and imprisonment.

(Code 1993, § 19-51)

Sec. 38-152. - Unlawful accumulation.

It shall be unlawful for any person who owns or occupies property within the city to permit the accumulation of trash, garbage, refuse, litter, junk, demolition materials or other offensive, unwholesome, unsightly, unsanitary or unhealthy substances on such property or on any alley, sidewalk, public right-of-way, grass strips, or street abutting such property.

(Code 1993, § 19-52)

Sec. 38-153. - Exceptions.

Sections 38-151 and 38-152 shall not apply to the following:

- (1) Legally authorized junk dealers or persons legally authorized to repair, rebuild, recondition or salvage.
- (2) A landfill operated by the city.
- (3) A legally authorized private landfill.
- (4) Trash, garbage, refuse, litter and other similar substances, both commercial and noncommercial, while in containers approved by the director of public works or bulk items, the collection of which has been prearranged with the director of public works.
- (5) Trash, garbage, refuse, litter and other similar substances while stored in containers approved by the director of public works, but not for collection by the city.

(Code 1993, § 19-53)

Sec. 38-154. - Weeds and other vegetation.

- (a) It shall be a misdemeanor for any person who owns or occupies property within the city to permit any grass, plant, bushes, weeds or any other vegetation 12 inches high or over, other than trees, shrubbery, agricultural plants, garden vegetables, flowers or ornamental plants, to exist on such

property.

- (b) It shall be a misdemeanor for any person who owns or occupies property within the city to permit the existence on such property of any live or dead hedge, shrub, tree or other vegetation, any part of which extends or protrudes into any street, sidewalk, public right-of-way, grass strip or alley so as to obstruct or impede or threaten the safe and orderly movement of persons or vehicles.
- (c) It shall be a misdemeanor for any person who owns or occupies property within the city to permit any grass, plants, bushes, weeds or any other vegetation 12 inches high or over, other than trees, shrubbery, agricultural plants, garden vegetables, flowers or ornamental plants, to exist on any sidewalk, public right-of-way, or grass strip adjacent to such property or unimproved street or alley (to the centerline of such unimproved street or alley).
- (d) It shall be a misdemeanor for any person who owns or occupies property within the city to fail to remove fallen trees, detached limbs, or branches, the accumulation of which is offensive, unwholesome, and unsightly.

(Code 1993, § 19-54)

Sec. 38-154.1. - Unlawful nuisances.

- (a) The following conditions, when allowed to exist on property, are hereby declared to be nuisances:
 - (1) Infestation by bats, rodents, insects, arachnids, or vermin, including, but not limited to, rats, mice, bees, flies, fleas, cockroaches, bed bugs, spiders, ants, silverfish, termites, and powder-post beetles;
 - (2) Accumulation of animals, including, but not limited to, dogs and cats; fowl; and other birds in a manner that creates conditions which are unsanitary or injurious or threatens the health or safety of the public;
 - (3) Trees or parts thereof in danger of falling onto buildings, structures, vehicles or any public right-of-way;
 - (4) Garbage, as defined by section 86-1 of this Code, which is not contained in a watertight container with a lid that conforms to the requirements of section 54-86 of this Code;
 - (5) Accumulation of stagnant water leading to the breeding of mosquitoes;
 - (6) Vehicle tires that have been removed from the rim; and
 - (7) Any other condition that threatens the health or safety of the public.
- (b) It shall be unlawful for any person who owns or occupies property within the city to permit a nuisance as set forth in subsection (a) of this section to exist on such property.

(Ord. No. 2012-209-209, § 1, 12-10-2012)

Sec. 38-155. - Violations and notice.

- (a) Each day any violation of section 38-151, 38-152 or 38-154 continues after issuance of an initial notice shall constitute a separate offense. Upon conviction, each violation of section 38-151, 38-152 or 38-154 shall be punishable as a class 1 misdemeanor.
- (b) In addition to any penalties imposed for a violation of section 38-151, 38-152 or 38-154, a judge hearing the case shall order the person responsible for such condition to remove, restore, remediate or correct the violation or condition. It shall be unlawful for any person to default in such removal, restoration, remediation or correction after being so ordered, and each day's default shall constitute a violation of and a separate offense under this article.
- (c)

Any law enforcement officer, fire marshal or any assistant, fire inspector, sworn special police officer, or any other city employee designated by the chief administrative officer is authorized and shall have authority to enforce all sections of this article.

- (d) Whenever it shall come to the knowledge of the chief administrative officer, or his or her designee, that there exists upon any land or premises in the city any condition constituting a violation of section 38-151, 38-152 or 38-154, such person shall serve, post, mail or deliver a notice to any of the following to cause such condition to be abated from such land or premises within 48 hours of delivery or posting of such notice or in the time limit set forth in the notice:
- (1) The person causing or creating the condition;
 - (2) The person allowing the condition to remain or continue;
 - (3) The occupant of the land or premises; and/or
 - (4) The owner of the land or premises.

Proof of such service, delivery, mailing or posting shall be sufficient evidence of such notice.

- (e) Notwithstanding subsection (d) of this section, if the chief administrative officer or any person specified in subsection (c) of this section determines that the condition constitutes an imminent, substantial or compelling threat to the public health or to the environment, the condition may be ordered abated without ever giving the notice required in this section.
- (f) When any person is in possession of any property or has charge thereof within the city as executor, administrator, trustee, guardian, or agent, such person shall be deemed to be the owner of such property for the purposes of this article and shall be bound to obey all orders and notices of the chief administrative officer in regard to nuisances; sanitation; violations of section 38-151, 38-152 or 38-154; or other matters, so far as they may affect such property, in the same manner, and be subject to the same penalties and fines as if such person were actually the owner of such property.

(Code 1993, § 19-55.1; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 38-156. - Abatement by city.

- (a) If a condition in violation of section 38-151, 38-152 or 38-154 remains upon a land or premises after the expiration of the time specified in a notice of violation, the chief administrative officer, or his or her designee, may issue a notice of abatement to such person identified in the notice of violation informing the person that the chief administrative officer will cause the cited condition to be abated at the expense of such person.
- (b) An administrative fee shall be assessed in each case. The expense of abatement and the administrative fee shall be chargeable against such person identified in the notice of abatement.
- (c) The notice of abatement may either be served, mailed or delivered to such person or posted on the land or premises where the nuisance is located. Proof of such service, delivery, mailing or posting shall be sufficient evidence of the service of notice.
- (d) Notwithstanding the notice requirements of this section, if the chief administrative officer, or his or her designee, determines that the condition constitutes an imminent, substantial or compelling threat to the public health or to the environment, the notice requirement may be dispensed with.
- (e) Notwithstanding subsections (a) through (d) of this section, the notice of violation specified in section 38-155 and the notice of abatement specified in this section can be combined in one document and issued as provided in this article.
- (f)

If the abatement is undertaken by the city pursuant to this section, the expense of the abatement and the administrative fee shall constitute a lien on real property of the owner and shall be reported to the finance director who shall collect the expense and fee in the manner in which city taxes levied upon real estate are authorized to be collected.

- (g) Abatement by the city shall be exclusive of and in addition to any criminal penalty which may be imposed.

(Code 1993, § 19-56.1; Ord. No. 2004-360-330, § 1, 12-13-2004)

Sec. 38-157. - Injunction.

Nothing contained in this article shall preclude the city at any time from applying to a court of competent jurisdiction for an injunction to abate the violation of any provision of sections 38-151, 38-152, and 38-154 or to otherwise maintain an action to compel a responsible party to abate, raze or remove a public nuisance under authority of state law.

(Code 1993, § 19-57)

State Law References: Similar provisions, Code of Virginia, §§ 15.2-900, 48-5.

Sec. 10-137. - Cutting of weeds and grass required.

- (a) It shall be unlawful for any owner of any vacant developed or undeveloped property, including such property upon which buildings or other improvements are located, within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial or industrial use, to permit weeds of more than 12 inches in height within 250 feet of property developed for residential use.
- (b) The owner of occupied residential real property shall cut the grass or lawn area of less than one-half acre on such property when growth of such grass or lawn area exceeds 12 inches in height.

(Code 1980, § 11-16; Code 1995, § 10-153)

State law reference— Authority to prohibit weeds, Code of Virginia, § 15.2-901, authority for subsection (b), Code of Virginia, § 15.2-1215.

Sec. 10-138. - Report of violation.

Any person aggrieved by the presence of weeds or grass in violation of section 10-137 may report such presence to the director of community revitalization.

(Code 1980, § 11-17; Code 1995, § 10-154; Ord. No. 942, § 1, 4-10-1997)

Sec. 10-139. - Inspection of site of violation; notice to cut.

Upon receipt of a report as referred to in section 10-138, the director of community revitalization shall cause the site of the reported violation to be inspected pursuant to applicable constitutional and statutory provisions. When the director of community revitalization has determined from such reports and inspections or otherwise that a violation in fact exists, he shall notify the owner of the land upon which the violation exists to cut or cause to be cut the weeds or grass complained of within such reasonable time as is specified in the notice. Such notice shall be in writing, shall be delivered by hand or mailed to the last known address of the owner and of the principal occupant if different from the owner, and shall be complied with by such owner.

(Code 1980, § 11-18; Code 1995, § 10-155; Ord. No. 942, § 1, 4-10-1997)

Sec. 10-140. - Performance of work by county; collection of costs.

If such weeds or grass are not cut within the required time as provided for in the notice under section 10-139, the director of community revitalization shall cause such weeds or grass to be cut and the cost and expense thereof to be assessed against the owner of such property. The assessment shall be collected by the county as taxes and levies are collected. Every charge for cutting grass on property which the owner of any property shall have been assessed and which remains unpaid shall constitute a lien against such property on a parity with liens for unpaid taxes.

(Code 1980, § 11-19; Code 1995, § 10-156; Ord. No. 915, § 1, 4-24-1996; Ord. No. 942, § 1, 4-10-1997)

State law reference— Assessment and collection of charges, Code of Virginia, §§ 15.2-901(B), 15.2-1215.

Sec. 11-32. - Unlawful conditions of weeds, grass, shrubbery, trees and other vegetation generally.

(a) *Occupied property.* This paragraph shall not apply to land zoned for or in an active farming operation.

- (1) No owner of occupied residential real property shall permit to remain on such property or any part thereof a grass or lawn area of less than one-half-acre when growth on such grass or lawn area exceeds 12 inches in height.
- (2) No owner of any occupied developed or undeveloped property, including property upon which buildings or other improvements are located, within the boundaries of platted subdivisions or any other areas zoned for residential, office, commercial, or industrial use shall permit to remain thereon, any grass, weeds, or other uncontrolled vegetation in excess of 18 inches in height unless located in areas within the property that are used for pastures, under cultivation, forested, subject to utility transmission easements, or where the vegetative growth is regulated under state or federal laws or programs.

(b) *Vacant property.* This paragraph does not apply to land zoned for or in an active farming operation. No owner of any vacant developed or undeveloped property, including property upon which buildings or other improvements are located, within the boundaries of platted subdivisions or any other areas zoned for residential, office, commercial, or industrial use shall permit to remain thereon, any grass, weeds, or other uncontrolled vegetation in excess of 18 inches in height unless located in areas within the property that are used for pastures, under cultivation, forested, subject to utility transmission easements, or where the vegetative growth is regulated under state or federal laws or programs.

(c) *Occupied and vacant property.* No owner of any lot or parcel of land shall permit to grow or remain thereon any hedge, shrub, tree or other vegetation, the limbs, branches or other parts of which overhang, extend or protrude into any street, sidewalk or public alley in a manner which obstructs or impedes the safe and orderly movement of persons or vehicles thereon, or, in the case of trees, when the dead limbs or branches thereof are likely to fall into or across such street or sidewalk, thereby endangering such persons and vehicles.

(d) *Disposal of vegetation.* Upon remedying any unlawful condition hereunder, the owner shall dispose of such vegetation in a manner that eliminates any potential fire hazard.

(e) *County's authority to act.* Whenever the county administrator, or an official designated by him, has determined by reports, inspections or otherwise, that any unlawful condition exists hereunder, he shall notify the owner of the land upon which the violation exists to cut or cause to be cut the grass, weeds, or other uncontrolled vegetation within such reasonable time as is specified in the notice. Such notice shall be in writing, shall be delivered by hand or mailed to the last known address of the owner and shall be complied with by the owner.

If such grass, weeds, or other uncontrolled vegetation are not cut within the required time, a county official designated by the county administrator shall cause them to be cut, and the costs and expenses thereof, including an administrative handling charge of \$35.00, shall be billed to the property owner and, if not paid, shall be added to and collected in the same manner as the real estate tax on such property. The county administrator or his designee shall certify the costs and expenses to the treasurer of the county, who shall collect such amount; if such amount shall remain unpaid for a period of 60 days, then the treasurer shall certify such charges as being unpaid to the clerk of the circuit court of the county, who shall maintain a record book of such delinquent costs and expenses in the records of the clerk's office.

- (f) *Lien on property.* In addition to any authority the treasurer has to place a lien through the tax collection process, costs and expenses incurred by the county to correct violations of subsections (a)(2) or (b) shall be assessed against the owner and any lien holder of the property and, if they remain unpaid, shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes, and shall be enforceable in the same manner as provided in Code of Virginia, tit. 58.1, ch. 39, arts. 3 and 4 (§§ 58.1-3940—58.1-3974), as amended. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the person who was owner of the property at the time the liens were imposed.
- (g) *Penalties.*
- (1) *Violations of subsection (a)(2) or (b).* Violations of subsection (a)(2) or (b) shall be subject to a civil penalty of \$50.00 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall be \$200.00. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000.00 in a 12-month period. In addition, these violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.
- (2) *Violations of subsection (a)(1), (c) and (d).* Any violation of subsection (a)(1), (c), and (d) shall be punishable by a civil penalty not to exceed \$100.00.

(Code 1978, § 10-19.1; Ord. of 6-12-96, § 1; Ord. of 7-23-97, § 1; Ord. of 8-27-03, § 1; Ord. of 12-13-06(1), § 1; Ord. of 8-27-14)

State law reference— Authorized by Code of Virginia, §§ 15.2-901, 15.2-1215, and 15.2-2009.

CHAPTER 9 - Weed Control

Sec. 5-9-1 - Definition.

The word "weeds" as used in this chapter shall be held to include grass, weeds, bushes and any other vegetation other than trees, ornamental shrubbery, flowers and garden vegetables properly tended. (Ord. No. 2698, 6/12/82, Sec. 2)

Sec. 5-9-2 - Weeds on any property—public nuisance.

Weeds on any property located within the city that are in excess of 12 inches in height are found to be a danger to the public health and are hereby declared to constitute a public nuisance. (Ord. No. 2698, 6/12/82, Sec. 2)

Sec. 5-9-3 - Same—duty of owner to cut.

The owners of property located within the city shall cut the weeds that are in excess of 12 inches in height on such property. The owners of property shall also cut weeds in excess of 12 inches along public sidewalks, curb lines and within tree wells which are within 12 feet of the owner's front property line. (Ord. No. 2698, 6/12/82, Sec. 2; Ord. No. 2878, 11/12/83, Sec. 1)

Sec. 5-9-4 - Same—notice to owner to cut.

The director of the bureau of code enforcement or his duly authorized agent may give notice in writing to the owner of land in the city upon which there are weeds in excess of 12 inches in height that such weeds must be cut within 10 days from the receipt of the notice or the city will cut the weeds, bill the owner for the costs and collect the costs like taxes in the event of nonpayment by the owner. Mailing to the last known post office address shall constitute sufficient service upon owners who cannot be found after a reasonably diligent search or who are nonresidents. (Ord. No. 2698, 6/12/82, Sec. 2; Ord. No. 3849, 3/23/96, Sec. 2)

Sec. 5-9-5 - Same—cutting by city; billing and collection of charges; unpaid bill a lien.

Whenever the owner of real property refuses, neglects or fails to cut weeds after being notified in the manner prescribed by section 5-9-4 above, the weeds may be cut by the city. The expense thereof shall be forthwith computed, and a bill for such expense shall be prepared by the department of finance and mailed to the owner at his last known post office address within a reasonable time after the cutting. In the event the city does not receive payment of the bill within 30 days after mailing, the director of finance shall proceed to collect the expense and may do so in the same manner as city taxes are collected. Every expense with which the owner of any real property shall have been assessed and which remains unpaid shall constitute a lien against the owner's property. (Ord. No. 2698, 6/12/82, Sec. 2; Ord. No. 3849, 3/23/96, Sec. 2)

Sec. 5-9-6 - Same—failure to cut weeds after receipt of notice.

An owner of real property who has received written notice in the manner prescribed by section 5-9-4 that weeds on the owner's property, or along public sidewalks or curblines and within 12 feet of the owner's front property line, are in excess of 12 inches shall cut all such weeds within the time period set out in the notice, and the failure to do so shall constitute a violation of this section. Said violation shall be a class four civil violation which shall be enforced through the levying of a civil penalty pursuant to section

1-1-11 of this code; provided, that the penalty for the first violation occurring in any six-month period shall be \$100, for a second violation occurring in any six-month period the penalty shall be \$250, and for each additional violation occurring in any six-month period the penalty shall be \$500. (Ord. No. 2878, 11/12/83, Sec. 2; Ord. No. 3849, 3/23/96, Sec. 2)

Building Arlington

Arlington County Code – Article II. Condition of Private Property

The purpose of Code Enforcement is to protect the public health, safety and welfare in existing buildings used for dwelling purposes. We seek to comply and enforce sections of the County's Zoning Ordinance pertaining to Condition of Private Property.

This section below allows users of this Code to quickly and accurately determine how Article II, Condition of Private Property directly affects the residents and have been considered for codification in each supplement.

§10-12. Definitions.

§10-13. Duty of Property Owner to Cut Grass, Woods, Maintain Lawns, Etc.

§10-14. Duty of Either the Property Owner, Occupant or Both to the Property Maintain Property.

§10-15. Duty of Each Property Owner or Occupant of Property to Cut Back Obstructing Vegetation.

§10-16. Duty of Either Property Owner, Occupant or Both to Keep the Property Free from Rat Harborage.

§10-17. Notice of Violation.

§10-18. Failure to Perform Duties Relating to Property upon Violation Notice from the County Manager.

§10-19. Right to Property Owner or Occupant to Appeal Violation Notice.

§10-20. Reserved.

§10-21. Penalties for Failure to Comply with this Article.

§10-22. Duty of Property Owner to Remove Stored, Wrecked, Abandoned or Inoperative Vehicles.

Condition of Private Property

*Editors Note: Portions of Art II. were adopted or amended on May 27, 1950, Jun3 17, 1961 and Sept. 21, 1968. See the County Board minutes for details.

§10-12. Definitions.

The following words and terms, when used in this article, shall have the following meanings unless the context clearly indicates otherwise:

"Danger or hazard to public health or safety" means a condition, as determined by the County Manager or his designee, in which it is reasonably certain or foreseeable that the healthful or sanitary condition or safety of the general body of people in the County is being or will be reduced or that the healthful or sanitary conditions or safety of persons whom it is in the general County interest to protect is being reduced. Dangers to health or safety may way or other public lands, and conditions which may cause disease (including allergic reactions), harbor vermin and other animals, provide shelter or cover for unlawful activities, or be a source for the spread of litter or weeds to the property of others.

"Infestation" means the presence within or around property of any rats.

"Inoperative motor vehicle, trailer or semitrailer" means any motor vehicle which is not in operating condition or which, for a period of ninety (90 days or longer, has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle. An inoperative vehicle shall also be considered a vehicle with an observable condition which indicates a state such that it is economically impractical to make such vehicle operative within a reasonable period of time, or which constitutes a health, fire or safety hazard.

"Occupant" means any person who has possessory rights or exercises the right to possession of any dwelling unit or rooming unit and who has the right to control or exercises control over the physical conditions of such dwelling unity or rooming unity.

"Owner" means any person who, alone or jointly, or severally with others:

- (1) Shall hold legal title to the property provided that each title may be less than a fee simple; or
- (2) Shall have charge, care, or control of property, dwelling or dwelling unit, as owner, lessee, agent executor, administrator, trustee, or guardian.

City of Fredericksburg, VA
Wednesday, July 22, 2015

Chapter 59. Nuisances

Article I. In General

§ 59-1. Definitions.

[Ord. No. 11-35, 1-10-2012; Ord. No. 12-29, 11-27-2012]

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ABATEMENT COSTS

The City's cost of labor, equipment and supplies for, or the contract price of and any charges to the City with respect to, the abatement of a nuisance upon a property or premises.

AFFIDAVIT

A sworn written statement prepared by the City Manager in accordance with Article III of this chapter.

CONTROLLED SUBSTANCE

Has the same meaning as provided in Code of Virginia, § 54.1-3401.

CORRECTIVE ACTION

For purposes of Article III means the taking of steps which are reasonably expected to be effective to abate drug blight on real property, such as removal, repair or securing of any building, wall or other structure.

DISCHARGE

[Added 2-10-2015 by Ord. No. 15-02]

- A. (verb) To dispose of, deposit, spill, pour, inject, dump, leak, drain, or place by any means;
- B. (noun) Any substance which is discharged.

DRUG BLIGHT

A condition existing on real property which tends to endanger the public health or safety of residents of the City, caused by the regular presence on the property of persons under the influence of controlled substances or the regular use of the property for the purpose of illegally possessing, manufacturing or distributing controlled substances.

ILLICIT DISCHARGE

Any discharge into the City's storm sewer system that is not entirely stormwater, except discharges:
[Added 2-10-2015 by Ord. No. 15-02]

- A. Under a NPDES or VPDES permit;
- B. From firefighting; and
- C. Discharges exempted in § 59-401.

MUNICIPAL SEPARATE STORM SEWER SYSTEM

The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying stormwater, and that is not part of the sanitary sewer system.

[Added 2-10-2015 by Ord. No. 15-02]

NUISANCE

The doing of any act or the omission to perform any duty, or the permitting of any condition or thing to exist that endangers life or health, obstructs or interferes with the reasonable or comfortable use of public or private property, tends to depreciate the value of the property of others, or in any way renders other persons insecure in the life or the use of property. Wherever the term nuisance is used in this chapter, it shall be deemed to mean a public nuisance.

OWNER

The owner of record.

PERSON

Any individual, firm, owner, sole proprietorship, partnership, corporation, unincorporated association, executor, administrator, trustee, guardian, agent, occupant or other legal entity.

SANITARY SEWER SYSTEM

The underground conduit that collects and delivers sanitary wastewater to the City's wastewater treatment plant.

[Added 2-10-2015 by Ord. No. 15-02]

STORMWATER

Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from that precipitation.

[Added 2-10-2015 by Ord. No. 15-02]

WEEDS

Includes any plant, grass or other vegetation (herbaceous or woody) over 12 inches in height, excluding trees, ornamental shrubbery, vegetable and flower gardens, purposefully planted and maintained by the property owner or occupant free of weed hazard or nuisance, cultivated crops, or undisturbed woodland not otherwise in violation.

§ 59-2. Illustrative enumeration.

[Ord. No. 11-35, 1-10-2012]

The existence of any of the following activities or conditions are hereby declared to be public nuisances, provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- A. Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things that cause a blighting problem, an obstruction or hindrance to the safe movement of vehicular and pedestrian traffic upon streets, alleys, or sidewalks abutting such property, or constitute a fire hazard, or adversely affect the public health or safety.
- B. Outside storage on a residential property of abandoned, discarded or unused objects or equipment, including but not limited to tires, household furniture, appliances, lawn equipment, tools, motor vehicle parts, mattresses, wood or lumber not neatly stacked or piled, that cause a blighting problem, or constitute a fire hazard, or adversely affect the public health or safety.

- C. Outside storage on a residential property for more than 60 consecutive days of more than five yards of any used or unused building materials which are visible from an adjacent property or road, provided, that nothing herein shall prohibit such storage when done in conjunction with a construction project for which a building permit has been issued and which, in the opinion of the City, is being pursued diligently to completion or, when the proposed construction does not require a building permit, the construction, in the opinion of the City, is being diligently pursued to completion.
- D. Permitting any property, either vacant or developed, to allow weeds to reach a stage of growth so as to provide cover or harborage or potential cover or harborage for rodents or vermin, or to cause a blighting problem, or adversely affect the public health or safety.
- E. Any condition which provides harborage for rats, mice, snakes and other vermin.
- F. The collection of standing or stagnant water where mosquitoes breed or are likely to breed. "Stagnant water" shall mean any water that is absent of flow or filtration by natural or mechanical means.
- G. Any condition or action which unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage area, including, but not limited to, obstructions to line of sight, obstructions of roadside signs, using Federal Highway Administration Safety standards as a guideline.
- H. Any unsecured vacant or abandoned building.

§ 59-3. Prohibition; penalties.

[Ord. No. 11-35, 1-10-2012]

- A. It shall be unlawful for any person to create, cause, permit or maintain a public nuisance. The owner or occupant of each premises shall abate the public nuisance at such time as may be prescribed in the notice.
- B. Each day a public nuisance shall continue after the date set by the City for its abatement shall constitute a separate offense.
- C. Failure to comply with a notice issued pursuant to this article shall be subject to a civil penalty of \$50 for the first violation, or violations arising from the same set of operative facts.
- D. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall be \$200.
- E. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a twelve-month period.
- F. Civil penalties provided herein shall be in addition to liability for the City's costs of abatement.

§ 59-4. Administration and enforcement.

[Ord. No. 11-35, 1-10-2012]

This article shall be enforced and administered by the City Manager, who may designate one or more City departments to carry out this task. The City Manager or designee shall conduct investigations of alleged public nuisances, give the necessary notices to abate public nuisances, make the necessary arrangements to abate public nuisances, prepare the statements of costs and expenses incurred by the City in the abatement of public nuisances and take whatever action is necessary to eliminate the presence of public nuisances within the City. The City Manager may also make arrangements with other individuals and agencies to assist

in the enforcement of the nuisance ordinance. The City Manager is authorized to initiate civil proceedings to enjoin a violation of this article.

§ 59-5. Notice to abate.

[Ord. No. 11-35, 1-10-2012; Ord. No. 12-19, 8-14-2012]

- A. Whenever a nuisance is found to exist within the City, a duly designated officer of the City shall give written notice to the owner or owners, occupant or occupants of the property or premises.
- B. The officer shall provide notice in a manner reasonably calculated, under all the circumstances known to the officer, to apprise the responsible party of the enforcement action. The notice may be delivered by hand-delivery, posting the notice prominently upon the property, or first-class mail to the owner at the owner's address of record, or to the occupant at the address of the premises. Proof of such delivery, posting or mailing shall be sufficient evidence of the service of such notice. One notice per growing season is hereby deemed reasonable notice to owners of property to authorize the City to remove or contract for the removal of any excessive growth of weeds for the entire growing season, from April 1 until November 1 of the same year in which the notice was sent.
- C. The notice shall contain the following:
 - (1) The location of the nuisance.
 - (2) A description of what constitutes the nuisance.
 - (3) A statement of acts necessary to abate the nuisance.
 - (4) A deadline reasonable under the circumstances, by which the nuisance shall be abated.
 - (5) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the City will abate such nuisance and assess the cost thereof against such person.
- D. When, in the opinion of the designated officer, a nuisance constitutes an imminent, substantial or compelling threat to the public health or safety, the notice requirement shall be dispensed with, and the City may abate the nuisance as provided herein.
- E. Upon request, a hearing shall be held before a designated officer of the City other than the officer who initially determined the existence of the nuisance. If, after hearing evidence, the hearing officer finds by a preponderance of the evidence that such nuisance exists, he shall order its abatement; otherwise, he shall dismiss the notice. A hearing must be requested in writing at least 48 hours prior to the date given for the abatement of the nuisance. The hearing shall be held promptly and shall not unreasonably delay the abatement of the nuisance. Attendance at the hearing is the responsibility of the requesting party. The hearing shall be informal, and while each party shall have the opportunity to present pertinent information, the rules of evidence shall not apply. The decision of the designated officer is final.

§ 59-6. Abatement by City.

[Ord. No. 11-35, 1-10-2012]

- A. Upon the failure of the owner or occupant to abate the nuisance, the City shall proceed to abate the nuisance and shall prepare a statement of costs incurred in the abatement thereof. When, in the opinion of the designated officer, a nuisance constitutes an imminent, substantial or compelling threat

to the public health or safety, the officer may have the necessary work done to abate the nuisance whether or not notice to require the owner or occupant of the premises to abate the nuisance has been given.

- B. In order to abate a nuisance, the City may revoke any permit or license issued by the City to the owner or occupant of the offending property and which is required by law to conduct the business or activity which gives rise to the nuisance.

§ 59-7. Collection of costs of abatement; lien.

[Ord. No. 11-35, 1-10-2012]

- A. In the event the City takes steps to abate the nuisance, the City Manager shall assess the costs and expenses thereof, plus 15% to cover administrative costs, to the owner or owners, occupant or occupants of the property.
- B. The City Treasurer shall collect the abatement costs from the owner or owners, occupant or occupants of the property, as provided in § 2-511 of this Code.
- C. Every charge authorized by this section in excess of \$200 which has been assessed against the owner of any such property and which remains unpaid for a period of 30 days shall constitute a lien against such property. Such liens shall have the same priority as other unpaid local taxes and shall be enforceable in the same manner as provided for in Articles 3 and 4 of Chapter 39 of Title 58.1 of the Code of Virginia. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

Sec. 24-37. - Accumulations of trash, garbage, refuse, litter and other like substances and cutting of grass and weeds near residential or commercial structures.

- (a) It shall be unlawful for the owner of any land, or any occupant or other person who is responsible for the maintenance and upkeep of any land, occupied or vacant, including the area adjoining such property extending to the curb line or the paved portion of the roadway and/or the center line of an abutting alley, to permit the accumulation on such land of trash, garbage, refuse, litter and other like substances, except as may be placed there for purposes of collection in accordance with Chapter 32.1 of this Code. In the event the owner, occupant or other person responsible for any land shall fail or refuse to remove any accumulation referred to above, or in the event the land upon which such accumulation is found is unoccupied, the city manager or his designee shall give written notice to the owner of such land to clear off and remove from the land all such trash, garbage, refuse, litter and other like substances, within seven (7) days from the date of such notice. A violation of this subsection shall be punishable by a fine of at least one hundred dollars (\$100.00) but not more than one thousand dollars (\$1,000.00) per violation.
- (b) It shall be unlawful for the owner of any land, or any occupant or other person who is responsible for the maintenance and upkeep of any land, occupied or vacant including the area adjoining such property extending to the curb line or the paved portion of the roadway and or the center line of an abutting alley, to permit grass, weeds and other foreign growth on such property to exceed a height of ten (10) inches, within one hundred fifty (150) feet of any residential or commercial structure, or any structure designed for use in connection therewith.

In the event the owner, occupant or other person responsible for any land shall fail or refuse to , maintain said grass, weeds and other foreign growth, the city manager or his designee shall give written notice to the owner of such land to cut or remove said growth as required by this subsection within seven (7) days from the date of such notice and to so maintain it. One such written notice per growing season (March 1 through November 30) shall satisfy the notice requirement above to authorize the city to remove or contract for the removal of any excessive growth of grass, weeds and other foreign growth for the entire growing season. A violation of this subsection shall be punishable by a fine of at least one hundred dollars (\$100.00) but not more than one thousand dollars (\$1,000.00) per violation.

The requirements of this subsection shall have no application in the following areas of the city:

- (1) Areas required to be vegetated by the Special Public Interest-Chesapeake Bay Preservation District of the Zoning Ordinance of the City of Hampton.
- (2) Vegetated wetlands, as defined in the Wetlands Ordinance (Chapter 41.1 of this Code)
- (3) Coastal primary sand dunes;
- (4) State-designated Wildlife Habitat Areas;
- (5) Banks of detention ponds, streams, and other bodies of water, natural or manmade;
- (6) Banks of drainage easements;
- (7) Woodlands. For the purpose of this exemption, the term "woodlands" shall include productive and nonproductive forest lands and other areas which are used primarily to promote and preserve the growth of trees and seedlings and land covered to the extent that the operation thereon of a tractor with weed cutting apparatus is not practicable; and

- (8) Any other area required to be vegetated by reason of the application of the City Zoning Ordinance, Subdivision Ordinance, Site Plan Ordinance, Stormwater Management Ordinance, or any other ordinance or provision of law.
- (c) Construction sites shall be maintained in such a manner as to contain trash and/or construction-related debris on the buildable portion of the site. The failure of the person responsible for or in charge of construction sites to contain trash and/or construction-related debris shall result in the issuance of a notice to correct the violation within twenty-four (24) hours. Failure to obey the terms of the notice regarding construction trash or debris shall be punishable by a fine of at least one hundred dollars (\$100.00) but not more than one thousand dollars (\$1,000.00) per violation.
- (d) In case the notice referred to in paragraph (a) or (b) above cannot reasonably be served on the owner, or when such notice is mailed to the owner's last known address as shown in the office of the assessor, and such owner fails to comply with such notice within seven (7) days of the date of such notice, the land may be cleared off, cut, or cleaned by the city and the necessary expenses of such clearing, cutting, and removal shall be chargeable to such owner. The city manager shall certify such expenses to the city treasurer. Such expenses, when so certified, together with a one hundred fifty dollar (\$150.00) service charge, shall be collected by the treasurer pursuant to the same procedures and in the same manner as real estate taxes and shall be a real estate tax lien upon such land.
- (e) If a violation of (a), (b) or (c) above is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with this section.
- (Ord. No. 7; Ord. No. 341; Ord. No. 693, 6-24-81; Code 1964, §§ 20-25—20-27; Ord. No. 848, 1-14-87; Ord. No. 1150, 9-13-95; Ord. No. 1181, 4-9-97; Ord. No. 1300, 5-9-01; Ord. No. 1389, 1-26-05; Ord. No. 1466, 3-28-07; Ord. No. 13-0006, 5-8-13, eff. 7-1-13)

Cross reference—Penalty for Class 1 misdemeanor, § 1-11; solid waste, Ch. 32.

State Law reference—Authority for above section, Code of Virginia, §§ 15.2-901, 15.2-1115.

Sec. 13-150. - When prohibited.

- (a) It shall be unlawful for any person responsible for real property within the city, including the area adjoining such property extending to the curb line or paved portion of the roadway, to permit the accumulation of any weeds. Weeds exceeding a height of ten (10) inches on such property within one hundred fifty (150) feet of any building shall be considered detrimental to the health, safety, peace, good order, comfort, convenience, morals or general welfare of the citizens of the city. Weeds exceeding a height of fifteen (15) inches, regardless of their location, shall be presumed to be detrimental to the health, safety, peace, good order, comfort, convenience, morals or general welfare of the citizens of the city.
- (b) This section shall not apply to farm land, unless such farm land is within one hundred (100) feet of a structure of another owner on an adjacent tract or parcel of land.
- (c) Notices of violations of this section shall be mailed by the director to the owner of record of the property at the address maintained by the real estate assessor for the mailing of tax assessments. The notices shall advise the owner of the requirements of this section and that failure to keep the weeds within the height limits established herein shall result in the city having them cut, with the owner being responsible for the costs thereof as provided by sections 13-151 and 13-152. Such notice need only be provided to the owner once annually.

(Ord. No. 5365-99; Ord. No. 5675-01)

Sec. 13-151. - Cutting of grass and weeds by the city—Generally.

Upon the failure, neglect or refusal of any person responsible for real property to keep the grass and weeds cut as required by this code, the codes compliance administrator is authorized to have the cutting or removal performed by city forces or by contract; and the actual cost of such cutting, plus a charge for administrative costs of one hundred fifty dollars (\$150.00) shall be charged to such person to whom the notice was directed.

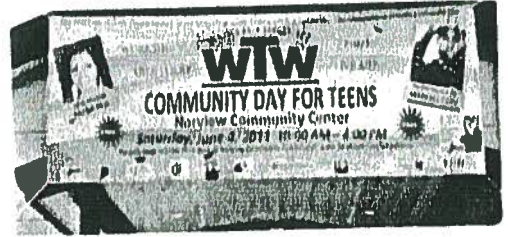
(Ord. No. 5365-99)

Sec. 13-152. - Cutting of grass and weeds by city—Collection of costs.

Whenever the director or his agent has the work done pursuant to section 13-151, he shall determine the costs and expenses of such work.

- (1) When the notice required by the building code was directed to a person other than the owners of the property, the director shall bill the person to whom the notice was directed for the actual cost of such work, plus the charge for administrative costs. If such bill is not paid within thirty (30) days, legal action may be instituted for its collection.
- (2) The director shall certify to the city treasurer the amount of the actual cost of such work, plus the administrative costs; and the city treasurer shall include such total amount in the next regular tax bill for payment, and such amount shall be collected by the treasurer as other taxes and levies are collected. Every charge assessed under this section which remains unpaid shall constitute a lien against such real property.

(Ord. No. 5365-99)



Home - Departments - Public Health - Environmental Health - Codes & Regulations

5 A A

Search

City of Norfolk - Departments



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Fee Chart of Services

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Water & Wastewater

Codes & Regulations

For more information on codes call 757-683-2712.

Socs. 27-4, 27-5. Reserved.

Editor's note--Ord. No. 39,649, § 1, adopted June 22, 1999, repealed provisions formerly codified as §§ 27-4 and 27-5, which provided for inspections by city police and provided that the executor, trustee, agent, etc., will be deemed owner of property for purposes of this chapter, and which derived from Ord. No. 38,340, adopted May 14, 1996.

Sec. 27-6. Notice of Violation.

(a) Whenever it shall come to the knowledge of the director of public health or his designee, or persons specified in section 27-3(c), that there exists upon any land or premises in the city any nuisance, such person shall serve, post, mail or deliver a notice to any of the following to cause such nuisance to be abated from such land or premise within forty-eight (48) hours or in the time limit set forth in the notice:

- (1) The person causing or creating the nuisance;
- (2) The person allowing the nuisance to remain or continue;
- (3) The occupant of the land or premises; and/or
- (4) The owner of the land or premises.

Proof of such service, delivery, mailing or posting shall be sufficient evidence of such service of notice.

(b) Notwithstanding the above, in the event the director of public health or his designee or the person specified in section 27-3(c) determines that the nuisance constitutes an imminent, substantial or compelling threat to the public health or the environment, the notice requirement shall be dispensed with, and the procedure provided in City Code section 27-10 may be utilized.

(c) Any person issued a notice of violation pursuant to this section who shall fail to comply therewith within the time specified shall be guilty of a Class 2 misdemeanor. Any person receiving two or more notices within twelve (12) months of an initial violation notice and who fails to comply with a notice issued pursuant to this section shall be guilty of a Class 1 misdemeanor.

(Ord. No. 39,649, § 2, 6-22-99; Ord. No. 40,134, § 1, 10-10-00)

Sec. 27-7. Executor, trustee, agent, etc., deemed owner of property for purposes of chapter.

When any person is in possession of any property, or has charge thereof, within the city as executor, administrator, trustee, guardian, or agent, such person shall be deemed to be the owner of such property for the purposes of this article and shall be bound to obey all orders of the director of public health, or his designee, in regard to nuisances, sanitation, or other matters, so far as the same may affect such property, in the same manner, and subject to the same penalties and fines, as if such person were actually the owner of such property, and notice to such person shall be deemed to be sufficient.

(Ord. No. 39,649, § 2, 6-22-99)

Sec. 27-8. Notice of abatement by city; abatement by city.

(a) If a nuisance remains upon a land or premises after the expiration of the time specified in a notice of violation, the director of public health, or his designee, may issue a notice of abatement to such person identified in the notice of violation informing said person that the director of public health or his designee will cause the nuisance to be abated at the expense of such person in the time set by the director of health or his designee. An administrative fee shall be assessed in each case as permitted by Virginia Code section 58.1-3958. The expense of abatement and the administrative fee shall be chargeable against such person.

Chapter 27 NUISANCES*

***Charter reference(s)**—Authority of city to compel abatement and removal of nuisances, § 2(16); lien for expenses incurred in abating nuisances, § 89.

Cross reference(s)—Responsibilities of superintendent of solid waste removal as to nuisances on streets and other public places, § 41-3.

State law reference(s)—Authority of city with respect to abatement of nuisances, Code of Virginia, §§ 15.1-14(s), 15.1-867.

ARTICLE I. IN GENERAL

Sec. 27-1. Violations.

Unless otherwise specified, any person violating any provision of this article shall be guilty of a Class 2 misdemeanor. Each day a violation continues shall be deemed a new and separate violation. In addition to any penalties imposed for each violation, a judge hearing the case shall order the person responsible for such condition to remove, restore, remediate or correct the violation or condition, and each day's default in such removal, restoration, remediation or correction after being so ordered shall constitute a violation of and a separate offense under this article.

(Ord. No. 30,649, § 2, 8-22-99)

Sec. 27-2. Definitions.

- (a) For purposes of this article, a "nuisance" is defined as any condition, substance, material or thing which may be annoying, obnoxious, offensive, irritating or detrimental or potentially hazardous or detrimental to the health, safety, comfort and general welfare of the public or the environment, including, but not limited to, refuse, trash, rubbish, debris, junk, garbage, containers, wire, glass, wood, ashwa, animal matter, vegetable matter, human and animal wastes, and odors.
- (b) For purposes of this article, a "person" is defined as any individual, firm, owner, sole proprietorship, partnership, corporation, unincorporated association, governmental body, municipal corporation, executor, administrator, trustee, guardian, agent, occupant or other legal entity.
- (c) For purposes of this article, "vegetable matter" is defined as any grass, weeds, bushes, underbrush, poison ivy, poison oak or any other vegetable matter which has grown to sufficient height and cover or to a height of more than twelve (12) inches or accumulated so as to provide cover or harborage or potential cover or harborage for rodents or vermin.

(Ord. No. 39,649, § 2, 8-22-99)

Sec. 27-3. Enforcement.

- (a) The director of public health or his designee is hereby vested with the authority to require the abatement of any and all conditions in the city which constitute a nuisance or are detrimental to the public health, safety or welfare or the environment.
- (b) It shall be the duty of the director of public health or his designee to have made continuous sanitary inspections of all parts of the city and to cause all nuisances to be abated; and when necessary, to institute legal proceedings therefor and for the recovery of expenses incurred by the city in abating any nuisance.
- (c) Any law enforcement officer, fire marshal or any of his assistants, fire inspectors, or sworn special police officer, is authorized and shall have authority to enforce all provisions of this chapter.

(Ord. No. 39,649, § 2, 8-22-99)

- (b) The notice of abatement may either be served, mailed or delivered to said person, or posted on the land or premises where the nuisance is located. Proof of such service, delivery, mailing or posting shall be sufficient evidence of such service of notice. If the premises where the nuisance is located is vacant, notice of abatement shall be provided in a newspaper of general circulation in the City once at least five (5) days prior to the abatement commencing.
- (c) Notwithstanding the above in the event the director of health or his designee determines that the nuisance constitutes an imminent, substantial or compelling threat to the public health or to the environment the notice requirement herein shall be dispensed with.
- (d) Notwithstanding the above, the notice of violation specified in section 27-6 and the notice of abatement specified in this section can be combined in one document and issued as provided in this article.
- (e) If the abatement is done at the expense of the owner, the expense of the abatement and the administrative fee shall constitute a lien on real property of the owner and shall be reported to the city treasurer who shall collect the same in the manner in which city taxes levied upon real estate are authorized to be collected.
- (f) Abatement by the city shall be exclusive of and in addition to any criminal penalty which may be imposed.

(Ord. No. 39,649, § 2, 8-22-99)

Sec. 27-9. Duty of owner or occupant of abutting land to remove solid waste and to cut grass, weeds and other vegetable matter between sidewalk and curb.

It shall be the duty of the owner or occupant of any land or premises abutting upon any public right of way, including between the sidewalk and curb, whether paved or not, and the duty of the owner of any unoccupied land or premises abutting upon any public right of way, including between the sidewalk and curb, whether paved or not, to remove solid waste (as defined in chapter 14.5 of the City Code), therefrom and to have any grass, weeds and other vegetable matter cut and removed, and at all times to prevent such area from becoming unsightly, impeded, or offensive by reason of failure to remove any such solid waste (as defined in chapter 14.5 of the City Code), or cut any such grass, weeds and vegetable matter. No grass, weeds or other vegetable matter so cut shall be deposited or piled in any gutter or street, or storm water system. The occupant or the owner, or if unoccupied, the owner, of any such land or premises in front of which any such solid waste (as defined in chapter 14.5 of the City Code) or any such grass, weeds or vegetable matter is found contrary to the provisions of this section shall be prima facie the person responsible therefor. Nothing in this section shall be construed as authorizing any person to cut or remove any city tree or bush without first obtaining a permit from the director of neighborhood and leisure services or his designee.

(Ord. No. 39,649, § 2, 8-22-99)

Sec. 27-10. Placarding of structure, building or facility which constitutes imminent, substantial or compelling threat to public health or safety; unlawful to occupy or use once placarded.

In the event the director of public health or his designee determines that the nuisance constitutes an imminent, substantial or compelling threat to the public health or the environment, the director of public health or his designee may placard the structure, building or facility as unfit or unsafe for human occupancy or use. The placard shall be posted at all normal means of egress to the structure, building or facility. As soon as possible after placarding, the director of public health or his designee shall mail or deliver a notice to the owner(s) or occupant(s) of the structure, building or facility informing such person of the reason for placarding and the penalty for occupancy or reuse while placarded. Once the structure, building or facility is placarded, the occupancy or use shall be prohibited. Occupancy in or use of a placarded structure, building or facility shall constitute a class 1 misdemeanor. No reoccupancy or reuse shall occur until the director of public health or his designee approves in writing the reoccupancy or reuse. Removal of a placard without permission of the director of public health or his designee shall constitute a class 1 misdemeanor.

(Ord. No. 40,133, § 1, 10-10-00)

Secs. 27-11–27-13. Reserved.

Editor's note—Ord. No. 39,649, § 1, adopted June 22, 1999, repealed provisions formerly codified as §§ 27-10–27-13, which derived from Ord. No. 38,340, adopted May 14, 1996, and which contained provisions relating to the prevention of breeding of flies; collection of water in which mosquitoes may breed; the filling of cellars and lots and lot drainage; and the cutting and removal of weeds and other vegetable matter on vacant developed and undeveloped property.

Chapter 26 NOISE*

*Editor's note—Section 1 of Ord. No. 38,406, adopted April 30, 1991, amended Ch. 26 to read as set out in §§ 26-1–26-13. Former §§ 26-14, 26-15, 26-31–26-33 and 26-46–26-53 were repealed by § 2 of the ordinance. Prior to amendment, Ch. 26 pertained to similar subject matter and derived from Code 1958, §§ 29-6, 31-48, 31-69–31-72.

Charter reference(s)—Authority of city to prevent unnecessary noise, § 2(16).

Cross reference(s)—Advertising, Ch. 3; animals, Ch. 6; creation of loud, unreasonable, etc., noise by persons aboard boat, § 9-134; use of noise-making devices on vehicles used for sale of ice cream, § 18-166; license tax for sound trucks, § 24-118; motor vehicle code, Ch. 25; prohibited noise-making devices and further limitations on use of vehicle horns, § 25-47; requirements of motor vehicle code relative to vehicle exhaust, § 25-54 et seq.; use of sound-amplifying equipment on

Sec. 26-1. Definitions.

[As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section.]

(a) A-weighted sound level. The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).

(b) Ambient noise. The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far. Ambient noise levels are established by taking a series of observations on the adversely affected property. It is the sound level that is exceeded 90% of the time in this set of observations.

(c) Commercial area. As defined in the zoning ordinance of the City of Norfolk, 1968 (hereinafter "zoning ordinance").

(d) Construction area. Any site preparation, assembly, erection, substantial repair, alteration or similar action for or of public or private rights-of-way, structures, utilities or similar property.

(e) Decibel (dB). A unit for measuring the volume of sound, equal to twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

(f) Emergency means. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

(g) Impulsive sound. Sound of short duration usually less than one second, with an abrupt onset and rapid decay.

(h) Industrial area. As defined by the zoning ordinance.

(i) Muffler or sound dissipating device. A device for abating the sound of escaping gases of an internal combustion engine.

(j) Noise. Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

(k) Noise disturbance. Any sound which (i) endangers or injures the safety or health of humans or animals; or (ii) annoys or disturbs a reasonable person of normal sensitivities; or (iii) endangers or injures personal or real property.

(l) Noise control officer. Any police officer or health officer of the city responsible for the enforcement of this chapter (hereinafter "officer").

(m) Noise sensitive zone. Any area designated by the city for the purpose of ensuring exceptional quiet. Noise sensitive activities include, but are not limited to, operations of schools, libraries open to the public, churches, hospitals and other health care facilities.

(n) Real property boundary. An imaginary line along the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.

(o) Residential area. As defined in the zoning ordinance.

(p) Sound. An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristics of such sound, including duration, intensity and frequency.

(q) Sound level. The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C as specified in the American National Standards Institute specifications for sound level meters (ASA 47-1983, or a later revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

(r) Sound level meter. An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and any applicable weighting network used to measure sound pressure levels. (Ord. No. 36,406, § 1, 4-30-91)

Sec. 26-2. Violations of chapter generally.

Unless otherwise specified, a violation of any provision of this chapter shall constitute a Class 2 misdemeanor. (Ord. No. 36,406, § 1, 4-30-91)

Sec. 26-3. Sound levels.

It shall be unlawful for any person:

- (a) To create or cause the creation of noise so as to disturb or disrupt the peace and quietude of any person in the city; or
- (b) To operate or permit to be operated any noise source which generates a sound pressure level exceeding the limits set forth in the table entitled "Maximum Sound Pressure Levels" [Table I] when measured outside the real property boundary of the noise source or at any point within any other property affected by the noise; or
- (c) To engage in the following acts, among others, which are declared to be loud, disturbing and unnecessary noise in violation of this section, but such enumeration shall not be deemed to be exclusive:
 - (1) The playing of any television set, radio, tape player, phonograph or any musical instrument in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of reasonable persons.
 - (2) The keeping of any animal which, by causing frequent or long-continued noise, shall disturb the quiet, comfort or repose of the neighborhood to such an extent as to constitute a nuisance.
 - (3) The creation of any excessive noise on any street adjacent to any hospital which unreasonably interferes with the workings of or which disturbs or unduly annoys patients in such hospital.
 - (4) The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
 - (5) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention, by creation of noise, to any performance, show or sale or display of merchandise.
 - (6) The use of air horns, claxons or whistles inside any civic facility prior to, during or after any scheduled event.
 - (7) The unreasonable operation of any motor-driven vehicle upon any property within the city or on its streets, or the unreasonable acceleration of the engine of any vehicle, or the unreasonable sounding, blowing or operation of the horn or other warning device of such vehicle in such a manner as to disturb the peace, quiet and comfort of any neighborhood or of any reasonable person residing in such area.
- (d) When a noise source can be identified and its noise measured in more than one district classification, the limits of the most restrictive classification shall apply, except for the following:
 - (1) Sound created by the operation of mobile power equipment, such as power lawn mowers and chain saws, shall not be regulated, provided the operation of said equipment is limited to the hours of 7:00 a.m. to 9:00 p.m. and such equipment is operated with standard muffler or sound dissipating devices.
 - (2) Sound generated by the construction, repair, maintenance, demolition or alteration of buildings, streets, drives, sewers, utility lines or premises.
 - (3) Sound generated by the operation of any emergency governmental function.
 - (4) Sound generated during any emergency repairs or operations during any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.
 - (5) Where the ambient noise level complained of exceeds the maximum sound pressure levels, the noise complained of shall be permitted to exceed the ambient level by ten (10) decibels. (Ord. No. 36,406, § 1, 4-30-91)

Sec. 26-4. Playing of radios, television sets, musical instruments and similar devices.

Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in such a manner as to create noise disturbance across a real property line boundary or within a noise sensitive zone set forth in Table I, "Maximum Sound

Pressure Levels," shall constitute a violation of this section. Exceptions will be granted for activities open to the public and for which a permit has been issued by the appropriate authority. (Ord. No. 36,406, § 1, 4-30-91)

Sec. 26-5. Loading and unloading.

Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, dumpsters or similar objects between the hours of 10:00 p.m. and 7:00 a.m. the following day, in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone, is prohibited, as set forth in Table I, "Maximum Sound Pressure Levels." (Ord. No. 36,406, § 1, 4-30-91)

Sec. 26-6. Vehicle or motorboat repairs and testing.

Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone is prohibited as set forth in Table I, "Maximum Sound Pressure Levels." (Ord. No. 36,406, § 1, 4-30-91)

Cross reference(s)--Muffling devices for motorboats, § 9-120.

Sec. 26-7. Airport, aircraft, military flight and railway operations.

Nothing in this chapter shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate the movement of aircraft or trains which are, in all respects, conducted in accordance with or pursuant to applicable federal laws and regulations. (Ord. No. 36,406, § 1, 4-30-91)

Sec. 26-8. Places of public entertainment.

Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in any place of public entertainment at a sound level greater than one hundred ten (110) dBA, as read by the slow response on a sound level meter, at any site normally occupied by a customer, unless a conspicuous and legible sign stating "Warning: Sound Levels Within May Cause Permanent Hearing Impairment" is displayed near each public entrance to such place, shall be prohibited. (Ord. No. 36,406, § 1, 4-30-91)

Sec. 26-9. Air conditioning, refrigeration, heating, pumping, filtering equipment.

It shall be unlawful for any person, within the city, to operate any air conditioning, refrigeration or heating equipment for any residence or other structure or to operate any plumbing, filtering or heating equipment for any pool or reservoir in such a manner as to create any noise which would cause the noise level on the premises of any other occupied property or, if a condominium, apartment house, duplex or attached business, within any adjoining unit, to exceed the ambient noise level by more than ten (10) decibels. (Ord. No. 36,406, § 1, 4-30-91)

Sec. 26-10. Maximum sound pressure levels.

TABLE I:

MAXIMUM SOUND PRESSURE LEVELS

TABLE INSET:

Use Category	Sound Level Limit db(A)	
Receiving Land	7:00 a.m - 10:00 p.m	10:00 p.m - 7:00 a.m
Noise sensitive zone	55	50
Residential	57	52
Park and recreational	67	62
Business (commercial)	67	62
Industrial	77	77

(Ord. No. 36,406, § 1, 4-30-91)

Sec. 26-11. Immediate threats to health and welfare.

(a) A noise control officer shall order an immediate halt to any sound which exposes any person to sound levels in excess of those shown below as Table II, "Impulsive Sound Levels."

(b) Any violation of this section shall be deemed a Class 1 misdemeanor.

TABLE II:

IMPULSIVE SOUND LEVELS WHICH POSE AN IMMEDIATE THREAT TO HEALTH AND WELFARE (MEASURED AT 50 FEET OR 15 METERS)

TABLE INSET:

Sound Level Limit (dB)	Number of Repetitions per 24 Hour-Period
135	10
125	100

(Ord. No. 36,406, § 1, 4-30-91)

Sec. 26-12. Violations; additional remedies; injunctions.

As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision of this chapter, which operation or maintenance causes discomfort or annoyance to reasonable persons or which endangers the comfort, repose, health or peace of residents in the area, shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. (Ord. No. 36,406, § 1, 4-30-91)

Sec. 26-13. Noise sensitive zones.

There are hereby created and established "noise sensitive zones" in the city. These zones shall constitute all territory embraced within the distance of three hundred (300) feet of every hospital or other institution for the treatment of sick persons, or like places. Upon application and approval by the director of human services, the traffic engineers shall place or cause to be placed within such zones, on posts or in other conspicuous places within such territories, signs or placards in large red letters displaying the words: "Notice - Quiet Zone." It shall be unlawful for any person to make or cause to be made or permit to be made by any person, animal, vehicle or other object under his/her control any unnecessary noise by fast

driving or riding, ringing of bells, blowing of horns or whistles, open or defective mufflers or other devices or instruments or in any other way within such "quiet zone," thereby disturbing or tending to disturb peace, comfort or quietude. (Ord. No. 38,403, § 1, 4-30-01)

Chapter 43 SWIMMING POOLS*

*Cross reference(s)--Buildings, Ch. 11.1

State law reference(s)--Authority of city to regulate swimming pools, Code of Virginia, §§ 15.1-858, 35.1-9.

ARTICLE I. IN GENERAL

Sec. 43-1. Definitions.

- (a) Generally. For the purposes of this chapter, certain words shall have the meanings ascribed to them by this section.
- (b) Fence means a close-type vertical barrier not less than forty-eight (48) inches in height above the ground surface. A woven steel wire, chain link, picket or solid board type fence or a fence of similar construction, which will prevent the smallest of children from getting through, shall be construed as within this definition.
- (c) Private residential swimming pool means any swimming pool which is used, or intended to be used, as a swimming pool in connection with a single-family residence and which is available only to the family of the householder and his or her private guests.
- (d) Public swimming pool means any swimming pool, other than a private residential swimming pool, intended to be used collectively by numbers of persons for swimming or bathing, operated by any person, as owner, lessee, operator or concessionaire, regardless of whether a fee is charged for such use, and shall include, but not be limited to, a swimming pool owned or operated as a private club or association, civic club or any association, or in conjunction with an apartment house or complex.
- (e) Spray pool means any shallow manmade structure constructed from materials other than natural earth or soil used for spraying humans with water and which has a drainage area designated to remove the water from the shower or spray nozzles at a rate sufficient to prevent the impounding of water.
- (f) Swimming pool or pool means any outdoor or indoor man-made structure constructed from material other than natural earth or soil designed or used to hold water for the purpose of providing a swimming or bathing place for any person or any such structure for the purpose of impounding water therein to a depth of more than two (2) feet; and, unless otherwise specified, such term shall include all appurtenant equipment, structures and facilities for the purpose of providing a swimming or bathing place for any person or persons.
- (g) Wading pool means any manmade structure constructed from material other than natural earth designed or used to hold water for the purposes of providing a wading place, which impounds water to a depth not greater than twenty-four (24) inches. (Ord. No. 29,835, § 1(46.1-3), 2-27-79; Ord. No. 35,501, § 1, 5-9-89)

Sec. 43-2. Purpose and application of chapter.

- (a) This chapter is intended to provide, consistent with and in addition to all applicable laws, regulations governing sanitation and health in the use and operation of swimming pools, as indicated and defined herein, including all appurtenant structures and accessories incident thereto, but excluding private residential swimming pools, except as hereinafter specifically provided, single-occupant tanks and showers used exclusively for therapeutic purposes.
- (b) The provisions and requirements of this chapter shall apply to all public swimming pools, and shall only apply to private residential pools where specifically designated herein, regardless of the date of construction. Reference herein to "any" or "all" swimming pool(s) shall include both public and private residential swimming pools. (Ord. No. 29,835, § 1(46.1-1, 46.1-2), 2-27-79; Ord. No. 35,501, § 1, 5-9-89)

Sec. 43-3. Violations of chapter.

Unless otherwise specifically provided, any person who shall violate any of the provisions of this chapter shall be guilty of a Class 3 misdemeanor. (Ord. No. 29,835, § 1(46.1-11), 2-27-79)

Sec. 43-4. Inspections.

The director of public health or his designated agent shall inspect all swimming pools in the city as frequently as may be necessary to ensure that each swimming pool is maintained in accordance with the applicable provisions of this chapter. Such inspections shall take place during reasonable hours and under such circumstances as to minimize the inconvenience to the owner, lessee, operator or concessionaire of the swimming pool. (Ord. No. 29,835, § 1(46.1-4), 2-27-79)

Sec. 43-5. Orders to correct defective conditions.

Upon inspection, the director of public health shall notify or cause to be notified, in writing, the owner, lessee, operator or concessionaire of any swimming pool to correct, within a reasonable time set by the director, any condition existing in violation of this chapter or of any ordinance or statute concerning the public health, or state board of health rule or regulation, unless such condition so endangers the health of any person so as to require immediate closing of the swimming pool by the director of public health. Failure to comply with an order of the director of public health to correct such a condition shall be cause for closing the swimming pool until such condition is corrected, after notice and opportunity to be heard are given to such person. (Ord. No. 29,835, § 1(46.1-5), 2-27-79)

Sec. 43-6. Closing of dangerous pools.

When any condition exists in any swimming pool that creates an imminent and certain danger to the health of any person, the director of public health shall have the authority to order such swimming pool closed until such condition is corrected. The director of public health shall consider the magnitude of the danger and the cost of complying with the requirements imposed by this chapter in determining whether to order a swimming pool closed. (Ord. No. 29,835, § 1(46.1-4), 2-27-79)

Sec. 43-7. General maintenance and operating requirements.

All swimming pools shall be maintained and operated in a manner which will not create a nuisance or hazard to the public health. Impounded water shall, at all times, be treated in a manner which will prevent the growth of algae and the breeding of mosquitoes or other insects. (Ord. No. 29,835, § 1(46.1-8), 2-27-79)

Secs. 43-8--43-23. Reserved.

ARTICLE II. PUBLIC POOLS

DIVISION 1. GENERALLY

Sec. 43-24. Application of article.

The provisions of this article shall apply to public swimming pools and shall be in addition to other provisions of this chapter

applicable to such pools.

Sec. 43-25. Fencing.

(a) No person shall construct, maintain, use, possess or control any outdoor public swimming pool, without having completely around such pool a fence, as defined in section 43-1(b). Every gate in such fence shall be capable of being securely fastened at a height of not less than four (4) feet above ground level, and it shall be unlawful for any such gate to be allowed to remain unfastened while the pool is not in use. Such fence shall be constructed so as to come within two (2) inches of the ground at the bottom and shall be at least five (5) feet from the edge of the pool at any point.

(b) In lieu of the fence required by subsection (a) above, a natural barrier, hedge, pool cover or other protective device may be used so long as the degree of protection afforded by such device is not less than the protection afforded by a fence, as defined in section 43-1(b).

(c) A violation of this section shall constitute a Class 2 misdemeanor (Ord. No. 29,835, § 1(46.1-3, 46.1-7), 2-27-79)

Sec. 43-26. Water sources.

Water sources for a public swimming pool, other than a municipal supply, shall be subject to approval by the director of public health. (Ord. No. 29,835, § 1(46.1-8), 2-27-79)

Sec. 43-27. Chemical treatment of water--Generally.

(a) The provisions of this section shall apply to public swimming pools.

(b) At all times when the swimming pool is open for use, a minimum of 0.5 ppm (parts per million) free chlorine residual shall be maintained in all parts of the pool.

(c) At all times when the swimming pool is open for use, the pH of the pool water shall be kept between 7.2 and 7.8.

(d) Where cyanuric acid is used as a stabilizing agent of residual chlorine, or if the source of residual chlorine is from a chlorinated cyanurate, a chlorine residual of at least 1.0 ppm shall be maintained with cyanuric acid residual of 25 ppm and at least 1.5 ppm chlorine shall be maintained with cyanuric acid residuals of 50 ppm.

(e) Alum shall not be fed continuously to pool water in sand or anthracite filters. Formation of alum floc shall be achieved separately and applied directly to the filter influent during the filter cycle.

(f) The operator or manager of each public swimming pool shall cause an adequate supply of chemicals for the proper treatment of pool water to be on hand and available for use at all times. (Ord. No. 29,835, § 1(46.1-8), 2-27-79)

Sec. 43-28. Same--Records to be kept.

Any person maintaining a public swimming pool shall maintain records, which shall include the pH level, the free chlorine residual reading and the water clarity reading, taken and recorded at least every two (2) hours while the pool is open for use, and the time of day at which chemicals are added. These records shall be kept on file for a period of one year from the time recorded and shall be open to inspection by the director of public health. (Ord. No. 29,835, § 1(46.1-8), 2-27-79)

Sec. 43-29. Chemical testing equipment.

(a) Each public swimming pool shall be provided with satisfactory equipment for the determination of hydrogen ion concentration (pH) ranging from 6.8 to 8.2. Satisfactory equipment shall be provided for determination of a free chlorine residual content reading from 0.2 to 3.0 ppm. Pools maintained under a stabilizer program shall be provided with satisfactory equipment for determining cyanuric acid content readings ranging from 20 to 100 ppm.

(b) A testing kit for measuring the concentration of cyanuric acid shall be provided at each public swimming pool using cyanuric acid or chlorinated cyanurates. (Ord. No. 29,835, § 1(46.1-8), 2-27-79)

Sec. 43-30. Operation of filters; clarity of water.

The filters at a public swimming pool shall be operated twenty-four (24) hours per day during the season of use of the pool. At all times when the pool is open for use, the water shall be sufficiently clear to permit a six-inch disc, divided into alternate black and white quadrants, when placed on the bottom of the pool at the deepest point, to be clearly visible from the swimming pool deck at all distances up to ten (10) yards in a horizontal direction from the projection of the disc on the swimming pool surface. (Ord. No. 29,835, § 1(46.1-8), 2-27-79)

Sec. 43-31. Filter room placard.

A placard shall be prominently displayed in the filter room of a public swimming pool showing:

- (1) The size of the public swimming pool in square feet.
- (2) The volume of water in gallons.
- (3) Capacity of filters in square feet and gallons per minute.
- (4) Capacity of pumps in gallons per minute at the appropriate head of pressure in feet.
- (5) Head loss at which the filters should be backwashed.
- (6) Complete instructions for operating the recirculation and disinfection equipment.
- (7) The maximum number of swimmers allowed in the pool, as determined pursuant to section 43-32. (Ord. No. 29,835, § 1(46.1-8), 2-27-79)

Sec. 43-32. Maximum number of swimmers.

The maximum number of swimmers or other persons allowed in a public swimming pool at any one time shall be determined by dividing the total square footage of the swimming pool water surface area by twenty-seven (27); provided, however, if the diving area is excluded from the total square footage of swimming pool water surface, twenty-four (24) may be used as the divisor. No person in charge of any public swimming pool shall allow more swimmers or other persons to be in such pool at any one time than the maximum number allowable, as so determined. (Ord. No. 29,835, § 1(46.1-8), 2-27-79)

Sec. 43-33. Use by persons with skin disorders, disease, etc.; spitting, spouting water, etc., prohibited.

(a) The operator of a public swimming pool shall not knowingly allow persons having skin eruptions, abrasions, sore or infected eyes, nasal or ear discharge, a cold or other communicable disease to use such pool. Spitting, spouting water, blowing the nose, urinating or defecating in such pool is prohibited.

(b) The operator of a public swimming pool shall post suitable placards embodying the provisions of this section. (Ord. No. 29,835, § 1(46.1-8), 2-27-79)

Sec. 43-34. Laundering, storing and handling bathing suits and towels furnished users.

Bathing suits and towels furnished to users of a public swimming pool shall be laundered, stored and handled in a sanitary manner and used by only one person. (Ord. No. 29,835, § 1(46.1-9), 2-27-79)

Sec. 43-35. Toilet, lavatory and shower facilities.

(a) Toilet facilities. Toilet facilities, including rooms and fixtures at a public swimming pool shall be kept in clean condition and good repair.

(b) Lavatories. Lavatories at a public swimming pool shall be equipped with adequate liquid or powdered soap from plastic or metal dispensers, and approved hand-drying towels or other devices. Such facilities shall be kept in a clean condition and in good repair. Waste receptacles shall be provided.

(c) Showers. Each shower at a public swimming pool shall be equipped with adequate liquid or powdered soap from a metal or plastic soap dispenser. Every swimmer entering the pool area shall be required to take a shower.

(d) Exceptions. Apartment complexes and other such establishments which provide bathroom facilities in each housing unit and which restrict the use of the swimming pool to occupants and their guests shall be deemed to comply with this section. (Ord. No. 29,835, § 1(46.1-9), 2-27-79)

Sec. 43-36. Animals, fowl and pets prohibited.

Animals, fowl or pets shall not be permitted within a public swimming pool area. This section shall not apply to seeing eye dogs. (Ord. No. 29,835, § 1(46.1-10), 2-27-79)

Cross reference(s)—Animals and fowl, Ch. 6

Secs. 43-37–43-47. Reserved.

DIVISION 2. OPERATING PERMIT

Sec. 43-48. Required.

No person shall open or operate a public swimming pool, unless he has a current permit so to do issued by the director of public health. Such permit is hereinafter referred to in this division as a "pool permit." (Ord. No. 29,835, § 1(46.1-6), 2-27-79)

Sec. 43-49. Application.

Application for a pool permit shall be made in writing on a form prescribed by the director of public health and signed by the applicant, wherein the applicant shall agree to conform to all of health rules and regulations governing swimming pools, and to permit such inspections as the director of public health deems necessary. (Ord. No. 27,835, 1(46.1-6), 2-27-79)

Sec. 43-50. Applicant's qualifications.

Each applicant for a pool permit shall, to the satisfaction of the director of public health, demonstrate basic knowledge of water treatment process in swimming pools, know proper techniques for collection of water samples for bacteriological analysis and be capable of performing the chemical tests necessary to maintain safe water quality at the swimming pool, or have an individual in his employ with such knowledge. Completion of a course approved by the director of public health shall be deemed to comply with the requirements of this section. (Ord. No. 29,835, § 1(46.1-6), 2-27-79)

Sec. 43-51. Fee.

The director of public health is hereby authorized to charge annual fees for the issuance of a pool permit as follows:

- (1) Swimming pool . . . \$ 25.00
- (2) Wading pool . . . 10.00
- (3) Spray pool . . . 5.00

Where any combination of the above pools exists on the same site, the total fee for all such pools shall in no event exceed the fee charged for a single swimming pool permit.

(Ord. No. 29,835, § 1(46.1-6), 2-27-79)

Sec. 43-52. Valid only for specific person and pool.

A pool permit is valid only for the person to whom it is issued and for the swimming pool for which it is obtained. (Ord. No. 29,835, § 1(46.1-6), 2-27-79)

Sec. 43-53. Posting.

Each pool permit shall be placed in a weather proof frame and permanently posted in view at the swimming pool for which it was issued. (Ord. No. 29,835, § 1(46.1-6), 2-27-79)

Sec. 43-54. Term; renewal.

A pool permit shall be valid beginning May first of each year until April thirtieth of the following year. The holder of the permit shall be responsible for renewing it each year, on or before the expiration date. (Ord. No. 29,835, § 1(46.1-6), 2-27-79)



ARTICLE II. - ABATEMENT GENERALLY

FOOTNOTE(S):

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State Law reference— Abatement generally, Code of Virginia, §§ 15.2-900, 15.2-901, 15.2-905, 15.2-907.

Sec. 23-4. - Lien for abatement expenses incurred by city.

There shall be a lien on any real estate for the amount of expense incurred by the city in abating any nuisance thereon after notice to the owner as provided by ordinance. Such lien shall rank on a parity with liens for unpaid local taxes. Such lien shall not be good against a purchaser of such real estate for value without notice until the lien is docketed as required by section 23-5.

(Code 1973, § 39-16; Code 1988, § 23-4; Ord. No. 1992-50, § 1, 6-23-1992; Ord. No. 2001-31, § 1, 7-10-2001)

Sec. 23-5. - Docket book.

The city treasurer shall keep in his office a book entitled "Nuisance Abatement Lien Docket Book" in which shall be docketed the expense incurred by the city in abating any nuisance pursuant to any provision of this Code or other ordinance of the city. Such expense shall be indexed in the name of the person owning the real estate on which the nuisance existed at the time the expense was incurred and shall be cross indexed in the land book in the name of such owner.

(Code 1973, § 39-16; Code 1988, § 23-5)

Sec. 23-6. - Interest on liens docketed.

If a lien is docketed pursuant to section 23-5, interest shall be assessed thereon at the rate and in the manner set forth in section 35-5 of this Code, as amended, with such interest to accrue upon the principal amount of such lien only, together with such other charges as are prescribed for the abatement of the nuisance involved.

(Code 1973, § 39-16; Code 1988, § 23-6; Ord. No. 1990-38, § 1, 5-15-1990)

Sec. 23-7. - Annual report of money collected in connection with abatement by city.

The treasurer shall annually report to the city manager the amount of money collected in connection with the abatement of nuisances by the city.

(Code 1973, § 39-16; Code 1988, § 23-7; Ord. No. 1998-29, § 1, 5-26-1998)

Sec. 23-8. - Abatement or removal of nuisances, recovery of costs.

(a) In addition to any other remedy provided by law, the city may maintain an action to compel a responsible party to abate, raze or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the city may abate, raze or remove such public nuisance and the city may bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.

(b)

The term "nuisance" shall include, but not be limited to, dangerous or unhealthy substances which have escaped, spilled, been released or which have been allowed to accumulate in or on any place and all unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public. The term "responsible party" shall include, but not be limited to, the owner, occupier or possessor of the premises where the nuisance is located; the owner or agent of the owner of the material which escaped, spilled or was released and the owner or agent of the owner who was transporting or otherwise responsible for such material and whose acts or negligence caused such public nuisance.

(Code 1988, § 23-8; Ord. No. 1990-78, § 23-8, 6-26-1990; Ord. No. 2001-31, § 1, 7-10-2001)

Sec. 23-9. - Enforcement of nuisance abatement liens.

If a lien is docketed pursuant to section 23-5, then the cost of such abatement of nuisance, together with such other charges as are prescribed for the abatement of the nuisance involved and the accrued interest thereon, may be collected in any manner provided by law for the collection of state or local taxes.

(Code 1988, § 23-9; Ord. No. 1990-38, § 2, 5-15-1990)

ARTICLE III. - WEEDS AND DEBRIS; DRUG BLIGHT

FOOTNOTE(S):

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Cross reference— Garbage and refuse, ch. 16; vegetation, ch. 36.

State Law reference— Removal or disposal of trash, cutting of grass and weeds, Code of Virginia, § 15.2-901.

Sec. 23-26. - Prohibition; declaration of nuisance; abatement generally.

- (a) It shall be unlawful and shall constitute a nuisance for the owner or occupant of any land or lot in the city to permit any grass or weeds to grow upon such land or lot to a height exceeding ten inches within 300 feet of any building or road or to permit any debris to remain at any place upon such land or lot.
- (b) Weeds which have attained a height of ten inches or more shall be presumed to be detrimental to public health and a public nuisance, which presumption may be rebutted by competent evidence.
- (c) It shall be unlawful for the owner or occupant of any land or lot within the city to permit any weeds or debris to remain upon such land or lot in such quantity and condition as to constitute a fire hazard.
- (d) All weeds are hereby declared to be detrimental to public health and a public nuisance and shall be cut or removed from land, alleys, sidewalks and streets whenever it is necessary to do so in order to effectively abate the nuisance.
- (e) All debris is hereby declared to be detrimental to public health and a public nuisance and shall be removed from land, alleys, sidewalks and streets whenever it is necessary to do so in order to effectively abate the nuisance.
- (f) Any drug blight is hereby declared to be detrimental to the public health and safety and a public nuisance and shall be removed from land, alleys, sidewalks and streets or the activity causing the blighting influence discontinued whenever it is necessary to do so in order to effectively abate the nuisance.

(Code 1973, §§ 39-1—39-4; Code 1988, §§ 23-1, 23-26; Ord. No. 2001-31, § 2, 7-10-2001)

State Law reference— Abatement, Code of Virginia, §§ 15.2-901, 15.2-907.**Sec. 23-27. - Notice to abate—Required; contents.**

- (a) Whenever the director or his/her designee finds that grass or weeds exist on any land, alley, sidewalk or street, he shall give notice in writing of the existence of the nuisance to the owner or occupant, or both, or lienholder, of the land on which the nuisance exists, or to the owner or occupant, or both, or lienholder, of the land abutting the alley, sidewalk, or street on which the nuisance exists, and shall order the owner or occupant, or both, to cut and, when necessary, remove the grass or weeds within such reasonable time as the director or designee shall specify in the notice; provided, that in no event shall the time allowed be greater than ten days. Two notices issued during a calendar year shall constitute reasonable notice for the calendar year, and no additional notices shall be required. The notice shall provide that, if the grass or weeds are not cut, and/or removed from such land or premises and maintained in accord with this section, the same shall be done by the city or its agent, at the expense of the owner.
- (b) Whenever the director or designee finds that debris exists on any land, alley, sidewalk or street, he shall give notice in writing of the existence of the nuisance to the owner or occupant, or both, or lienholder, of the land on which the nuisance exists, or to the owner or occupant, or both, or lienholder, of the land abutting the alley, sidewalk or street on which the nuisance exists and shall order the owner or occupant, or both, to remove the debris within such reasonable time as the director or designee shall specify in the notice. The notice shall provide that the debris shall be removed from such land or premises within ten days of the same and maintained in accord with this section, or the same shall be done by the city, at the expense of the owner.
- (c) Whenever the director or his designee finds that a drug blight exists on any land, alley, sidewalk or street, he shall give notice in writing of the existence of the drug blight to the owner or occupant, or both, and lienholder, of the land on which the nuisance exists, or to the owner or occupant, or both, and lienholder, of the land abutting the alley, sidewalk or street on which the blighting influence exists and shall order the owner or occupant, or both, to correct the condition within 30 days or provide a timetable acceptable to the director or his designee within 30 days of the date of the notice. Failure to abate or submit an acceptable plan or to carry out the plan submitted will result in the matter being corrected by the city either through the use of city staff or private contractors.
- (d) The notice required to be given under this section shall set forth the location of the land, alley, sidewalk or street on which the nuisance exists.
- (e) The city may, after notice is given as provided in this section maintain the subject property for a period of up to one year from the day following the service of said notice, unless and until notified by the property owner, or someone acting on the owner's behalf, in writing, that the property will be maintained by or for the owner, and the director is satisfied that such maintenance is being carried out satisfactorily. Cessation of maintenance by the owner or by the owner's agent during the period of one year as provided herein shall not be cause for the director to reissue a notice during such period, and the director may begin or resume the maintenance as provided herein. In any event, notice as provided in this section must be given each and every year thereafter, if the director determines that it is necessary to continue such maintenance.

(Code 1973, §§ 39-5, 39-7; Code 1988, § 23-27; Ord. No. 1992-50, § 2, 6-23-1992; Ord. No. 1995-23, §§ 1, 2, 3-28-1995; Ord. No. 2001-31, § 1, 7-10-2001; Ord. No. 2015-07, § 1, 2-10-2015)

Sec. 23-28. - Same—Service.

Except as otherwise provided in section 23-27, service of the notice required to be given under section 23-27 shall be made by mailing the notice to the last known street or post office address of the person or lienholder to whom it is directed or by delivery thereof to such person or lienholder and simultaneously posting the notice on the land or premises on which the nuisance exists or on the land or premises abutting the sidewalk, street, or alley on which the nuisance exists. Proof of so mailing or delivering a notice or the posting of such notice shall be sufficient evidence that the notice was served and the date of mailing or delivery or posting, as the case may be, shall be the date of service.

(Code 1973, § 39-5; Code 1988, § 23-28; Ord. No. 1995-23, § 3, 3-28-1995; Ord. No. 2001-31, § 1, 7-10-2001; Ord. No. 2015-07, § 1, 2-10-2015)

Sec. 23-29. - Extension of time for abatement.

Any person to whom notice is sent pursuant to this article, may request, within the time period set for compliance in the notice, an extension of such time period from the director. Where warranted by extenuating circumstances, the director or his designee may extend the date for compliance for an additional period not exceeding 30 days from the date set for compliance in the original notice.

(Code 1973, § 39-5; Code 1988, § 23-29; Ord. No. 2001-31, § 1, 7-10-2001)

Sec. 23-30. - Abatement by city.

If an owner or occupant fails, refuses or neglects to comply with a notice given pursuant to this article, or if notice is not required as provided in section 23-27(e), regardless if the property is vacant or not, the director or designee shall cause the nuisance to be abated and shall transmit to the city treasurer a statement of all costs incurred thereby, including in such costs a fee or charge as set forth in appendix A to this Code to cover the administrative expense incurred, all of which shall be added to the taxes assessed against the real estate on which the nuisance existed or abutting the alley, sidewalk or street on which the nuisance existed for the ensuing tax year and shall be collected with such taxes by any manner prescribed by law for the collection of city taxes. All such costs shall be docketed as a lien against the real estate in the manner prescribed by section 23-5, which lien shall remain in effect until removed by payment of such costs in full, and which lien shall rank on a parity with liens for unpaid local taxes.

(Code 1973, §§ 39-6, 39-7; Code 1988, § 23-30; Ord. No. 2001-31, § 1, 7-10-2001)

Sec. 23-31. - Exemptions from the provisions of section 23-26(a).

To protect ecological sensitive areas the following properties are hereby exempt from the provisions of section 23-26(a).

- (1) Hoffer Creek Wildlife Preserve.
- (2) All tidal wetlands areas as defined by city codes.
- (3) City owned and maintained parks and preserves.

(Code 1988, § 23-10; Ord. No. 2001-31, § 3, 7-10-2001)

Secs. 23-32—23-45. - Reserved.

Any person to whom notice is sent pursuant to this article, may request, within the time period set for compliance in the notice, an extension of such time period from the director. Where warranted by extenuating circumstances, the director or his designee may extend the date for compliance for an additional period not exceeding 30 days from the date set for compliance in the original notice.

(Code 1973, § 39-5; Code 1988, § 23-29; Ord. No. 2001-31, § 1, 7-10-2001)

Sec. 23-30. - Abatement by city.

If an owner or occupant fails, refuses or neglects to comply with a notice given pursuant to this article, or if notice is not required as provided in section 23-27(e), regardless if the property is vacant or not, the director or designee shall cause the nuisance to be abated and shall transmit to the city treasurer a statement of all costs incurred thereby, including in such costs a fee or charge as set forth in appendix A to this Code to cover the administrative expense incurred, all of which shall be added to the taxes assessed against the real estate on which the nuisance existed or abutting the alley, sidewalk or street on which the nuisance existed for the ensuing tax year and shall be collected with such taxes by any manner prescribed by law for the collection of city taxes. All such costs shall be docketed as a lien against the real estate in the manner prescribed by section 23-5, which lien shall remain in effect until removed by payment of such costs in full, and which lien shall rank on a parity with liens for unpaid local taxes.

(Code 1973, §§ 39-6, 39-7; Code 1988, § 23-30; Ord. No. 2001-31, § 1, 7-10-2001)

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(Code 1988, § 23-10; Ord. No. 2001-31, § 3, 7-10-2001)

Sec. 5-149. - Unlawful growth of weeds and other vegetation.

(a) The following definitions shall apply to these words when used in this section:

- (1) *Director* means the director of neighborhood development services and his designee(s).
- (2) *Owner means:* (i) that person who owns any parcel of real estate, as identified in the real estate tax records in the office of the city assessor; (ii) any person who is the occupant or tenant of any parcel of real estate; (iii) any person having charge of a parcel of real estate as an executor, administrator, trustee, guardian or agent, or (iv) the beneficiary of any easement or right of use of a parcel of real estate.
- (3) *Weeds* means any plant, grass, weed, brush or any other vegetation, herbaceous or woody, other than (i) trees, ornamental shrubbery and vegetable and flower gardens purposefully planted and maintained free of weed hazard or nuisance; (ii) cultivated crops; (iii) public recreational areas or trails intended to be left in their natural state; and (iv) vegetation along natural streams or watercourses when necessary to deter erosion.

(b) A person found guilty of a violation of either of the following provisions shall be punished as provided in section 5-1 of this chapter.

- (1) It shall be unlawful for the owner of any parcel of real estate to allow weeds to reach a height of eighteen (18) or more inches, where such weeds are located: (i) on any developed lot or parcel in the city, or (ii) on that portion of any undeveloped lot or parcel in the city which is within one hundred fifty (150) feet of any building, street, sidewalk or public right-of-way. All weeds existing in violation of this section are hereby declared to constitute a public nuisance.
- (2) It shall be unlawful for the owner of any parcel of real estate to allow thereon any hedge, shrub, tree or other vegetation, the limbs, branches or other parts of which overhang, extend or protrude into any street, sidewalk or public alley in a manner which obstructs or impedes the safe and orderly movement of persons or vehicles thereon, or in the case of trees, when the dead limbs or branches thereof are likely to fall into or across such street or sidewalk thereby endangering such persons and vehicles. Any such hedge(s), shrub(s), tree(s) or other vegetation existing in violation of this section is hereby declared to constitute a public nuisance.

(c) The director shall, upon determining that there exists a condition or growth of vegetation in violation of this section, serve notice on the owner to cause such condition or growth to be cut, removed or otherwise abated. The owner of any parcel of real estate on which there exists a condition or growth of vegetation in violation of this section shall be required to cut, remove, or otherwise abate the nuisance within ten (10) calendar days following the issuance of such notice.

- (1) All notices sent pursuant to this section shall be served to an owner as follows: (i) by hand-delivery to the owner of record, (ii) by regular, first-class mail, to the owner of record at the address listed in the city's real estate tax records, or to any occupant of the property at the address where the violation exists; (iii) to a person who has charge of real estate as an executor, administrator, trustee, guardian or agent, by hand delivery, or by regular mail to the last known address of such person, or (iv) to a person who is the beneficiary of any easement or right of use of a parcel of real estate, by hand delivery, or by regular first-class mail to the person's last known address. If the real estate parcel on which the violation exists is undeveloped or vacant, the notice shall also be posted in a conspicuous place on the property.

(2)

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Such notice shall require the owner to correct the condition within ten (10) days from the date of delivery or mailing of the notice. An affidavit of the director certifying hand-delivery or mailing shall be sufficient evidence of notice to the owner.

- (d) If the condition is not corrected within ten (10) days after the delivery or mailing of the director's notice, the director may cause such condition to be abated. The cost thereof, together with an administrative handling charge of seventy-five dollars (\$75.00) shall be assessed and billed to the property owner, and the director shall prepare an affidavit certifying the costs and expenses incurred by the city. In the event the charges billed to the property owner remain unpaid for more than thirty (30) days, such charges shall constitute a lien against such property enforceable as provided by section 5-4 of the City Code.

(7-16-01(1))

Sec. 5-155. - Duty of owner or occupant to cut grass, weeds and other vegetable matter from property line to the public street right-of-way.

- (a) It shall be the duty of the owner or occupant of any land or premises abutting upon any public street right-of-way, including the sidewalk and between the sidewalk and curb, whether paved or not, and the duty of the owner of any unoccupied land or premises abutting upon any public street right-of-way, including the sidewalk and between the sidewalk and curb, whether paved or not, to have any grass, weeds and other vegetable matter cut and removed, and at all times to prevent such area from becoming unsightly, impeded or offensive by reason of failure to remove any such materials. No grass, weeds or other vegetable matter cut and removed shall be deposited or piled in any gutter, street or stormwater system, but shall be placed in a proper receptacle for collection. The occupant and/or the owner, or if unoccupied, the owner, of land or premises abutting upon a street right-of-way area upon which any grass, weeds or other vegetable matter is found contrary to the provisions of this section shall be prima facie the person responsible. Nothing in this section shall be construed as authorizing any person to cut or remove any city tree or bush without first obtaining a permit from the city.
- (b) Whenever the director, or the official designated by him, has determined by reports, inspections or otherwise, that any condition in violation of this section exists, he shall notify the owner and the occupant to comply with the requirements of this section within such reasonable time as specified in the notice. Such notice shall be in writing and shall be delivered by hand or mailed to the last known address(es) of the owner and the occupant. If, after such notice, the owner and/or occupant fails to abate or obviate the condition(s) in violation of this section, the city may do so and charge and collect the cost thereof from the owner and/or occupant as provided by law for the collection of local taxes.
- (c) The city manager is authorized to promulgate regulations to govern the circumstances under which the owner or occupant of any land or premises may be relieved of the duty imposed by paragraph (a), above, for reasonable cause shown, such as the advanced age, poor health or disability of an owner or occupant, difficult or hazardous topography of a particular street right-of-way area, or other similar circumstances as may be specified within said regulations.

(2-17-04(1), § 1)