

CHAPTER 91: NUISANCES

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GENERALLY

§ 91.01 NUISANCES AFFECTING HEALTH.

(A) *Nuisances generally.* The following are declared to be nuisances affecting health:

(1) All decayed or unwholesome food offered for sale to the public, or offered to the public at no charge;

- (2) All diseased animals running at large;
- (3) All ponds or pools of stagnant water;
- (4) Carcasses of dead animals not buried or destroyed within 24 hours after death;
- (5) Accumulations, wheresoever they may occur, of manure, rubbish, garbage, refuse, and human and industrial, noxious or offensive waste, except the normal storage on a farm of manure for agricultural purposes;
- (6) Privy vaults or garbage cans which are not fly-tight, that is, privy vaults or garbage cans which do not prevent the entry of flies, insects, and rodents;
- (7) The pollution of any well, cistern, spring, underground water stream, lake, canal, or body of water by sewage or industrial wastes, or other substances harmful to human beings;
- (8) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities, or the presence of any gas, vapor, fumes, smoke, dust, or any other toxic substance on, in, or emitted from the equipment of any premises in quantities sufficient to be toxic, harmful, or injurious to the health of any employee or to any premises, occupant, or to any other person;
- (9) Common drinking cups, roller towels, combs, brushes, or eating utensils in public or semi-public places where not properly sanitized after use;
- (10) Any vehicle used for septic tank cleaning which does not meet the requirements of this chapter;
- (11) Any vehicle used for garbage or rubbish disposal which is not equipped with a watertight metal body and provided with a tight metal cover or covers and so constructed as to prevent any of the contents from leaking, spilling, falling, or blowing out of such vehicle at any time, except while being loaded or not completely secured and covered so as to prevent offensive odors from escaping therefrom or exposing any part of the contents at any time;
- (12) Any and all infestations of flies, fleas, roaches, lice, ticks, rats, mice, fly maggots, mosquito larvae, and hookworm larvae;
- (13) The keeping of animals and fowls in any area within the city not zoned for agricultural uses except pet cats and dogs, animals in public or licensed zoos, and farm animals in laboratories;
- (14) Unlicensed dumps, and licensed dumps not operated or maintained in compliance with the ordinances of the city and the statutes of the state;
- (15) No person shall discharge or cause to be discharged into a stormwater system any waste materials, liquids, vapor, fat, gasoline, benzene, naphtha, oil or petroleum product, mud, straw, lawn clippings, tree limbs or branches, metal or plastic objects, rags, garbage, or any other substance which

is capable of causing an obstruction to the flow of the storm system or interfere with the proper operation of the system, or which will pollute the natural creeks or waterways; and

(16) All other acts, practices, conduct, business, occupation callings, trades, uses of property, and all other things detrimental or certain to be detrimental to the health of the inhabitants of the city.

(B) *Unlawful to cause, maintain within city or one-half mile thereof.* It is unlawful for any owner, lessee, or occupant, or any agent, servant, representative, or employee of any such owner, lessee, or occupant, having control of any occupied lot or land or any part thereof in the city, or within one-half mile of the corporate limits of the city, to cause, permit, or maintain a nuisance on any such lot or land. Additionally, it is unlawful for any person or his or her agent, servant, representative, or employee to cause, or maintain a nuisance on the land or property of another, with or without permission. Each day that a nuisance shall be maintained is a separate offense.

(C) *Authority to abate emergency cases.* In cases where it reasonably appears that there is an immediate danger to the health, safety, or welfare of the public due to the existence of a nuisance, the Mayor or his or her designate shall have the authority to order the Chief of Police or Health Officer or other city official to immediately abate the nuisance in an appropriate manner.

(D) *Abatement; procedure generally.* Whenever the Board of Aldermen receives notification that a nuisance may exist, it shall proceed as follows, except as may be otherwise provided herein.

(1) It shall investigate the same. The Board may order any person who has caused or is maintaining the nuisance to appear before the Board at such time and place as the Board may direct to show cause, if any, why that person should not abate the nuisance. Every person required to appear before the Board shall have at least ten days' notice thereof.

(2) Such notice shall be signed by the Health Officer or Chief of Police and shall be served upon that person by delivering a copy thereof to the person, or by leaving a copy at his or her residence with some member of the family or household over 15 years of age, or upon any corporation by delivering the copy thereof to the President or to any other officer at any business office of the corporation within the city. If the notice cannot be given for the reason that the person named in the notice or his or her agent cannot be found in the city, of which fact the return upon such notice of the officer serving the same shall be conclusive evidence, such notice shall be published in a daily newspaper for three consecutive days, if a daily, or once if a weekly paper, giving at least ten days' notice from the final publication date of the time fixed for the parties to appear before the Board.

(3) If after hearing all the evidence the Board of Aldermen may determine that a nuisance exists, it may direct the Health Officer or Chief of Police, or other city official to order the person to abate the nuisance within 20 days or within such other time as the Board may deem reasonable. Such order shall be served in the manner provided in this section for service of the order to show cause. The order may further provide that the appropriate city official be directed to abate the nuisance if the order is not obeyed within the time period set by the Board, and that a special tax bill be issued for the costs of abating the nuisance.

(4) If the order has not been obeyed within the time period set by the Board, the appropriate city official shall proceed to abate the nuisance in the manner provided by the order of the Board, and the cost of same, if ordered by the Board, may be assessed as a special tax against the property so improved or upon which such work was done; and, if so ordered, the City Clerk shall cause a special tax bill therefor against the owner thereof when known, and if not known then against the unknown persons, and the certified bills of such assessment shall describe therein the property upon which the work was done.

(5) The bills for the above work shall be recorded and shall be collected and paid as provided for the collection of other special tax bills for the repairing of sidewalks or grading or paving of streets and shall be a lien on the property.

(6) The cost of abating nuisances on private property shall be levied and assessed on each lot in proportion to the amount of work done and material used in abating the nuisance located on each such lot.

(Prior Code, § 215.010) Penalty, see § 91.99

§ 91.02 ANIMAL WASTE PROHIBITED ON PUBLIC AND PRIVATE PROPERTY; EXCEPTION.

Any person in physical possession and control of any animal shall remove excreta or other solid waste deposited by the animal in any public or private area not designated to receive such wastes, including, but not limited to, streets, sidewalks, parking lots, public parks or recreation areas, and private property. The provisions of this section shall not apply to a guide dog accompanying any blind person.

(Prior Code, § 215.020)

ABANDONED PROPERTY

§ 91.15 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED PROPERTY. Any unattended motor vehicle, trailer, all-terrain vehicle, outboard motor, or vessel removed or subject to removal from public or private property as provided in this subchapter, whether or not operational.

PERSON. Any natural person, corporation, or other legal entity.

RIGHT-OF-WAY. The entire width of land between the boundary lines of a public road or state highway, including any roadway. .

ROADWAY. The portion of a public road or state highway ordinarily used for vehicular travel, exclusive of the berm or shoulder.

TOWING COMPANY. Any person or entity which tows, removes, or stores abandoned property. (Ord. 304, passed 8-1-2000)

Statutory reference:

Similar provisions, see RSMo. § 304.010

§ 91.16 ABANDONED VEHICLES PROHIBITED.

No person shall abandon any motor vehicle on the right-of-way of any public road or state highway or on any private real property owned by another without his or her consent. (Ord. 304, passed 8-1-2000) Penalty, see § 91.99

Statutory reference:

Similar provisions, see RSMo. § 577.080.

§ 91.17 OPEN STORAGE OF INOPERABLE VEHICLES OR PUBLIC SAFETY HAZARDS PROHIBITED.

The open storage of inoperable vehicles or other vehicles deemed by the city to constitute a public safety hazard is prohibited. Nothing in this section shall apply to a vehicle which is completely enclosed within a locked building or locked fenced area and not visible from adjacent public or private property, nor to any vehicle upon the property of a business licensed as salvage, swap, junk dealer, towing, or storage facility so long as the business is operated in compliance with its business license and the property is in compliance with applicable zoning ordinances.

(Ord. 304, passed 8-1-2000) Penalty, see § 91.99

Statutory reference:

Similar provisions, see RSMo. § 304.159

§ 91.18 OBSTRUCTING THE FLOW OF TRAFFIC PROHIBITED.

Except in the case of an accident resulting in the injury or death of any person, the driver of a vehicle which for any reason obstructs the regular flow of traffic on the roadway of any public road or state highway shall make every reasonable effort to move the vehicle or have it moved so as not to block the regular flow of traffic.

(Ord. 304, passed 8-1-2000) Penalty, see § 91.99

Statutory reference:

Similar provisions, see RSMo. § 304.151

§ 91.19 TOWING OF ABANDONED PROPERTY ON PUBLIC REAL PROPERTY.

(A) Any law enforcement officer, or an official of the city where the city's real property is concerned, may authorize a towing company to remove to a place of safety:

(1) Any abandoned property on the right-of-way of any state highway, or interstate highway or freeway of the city, left unattended for more than 48 hours; provided that commercial motor vehicles not hauling waste designated as hazardous under 49 U.S.C. § 5103(a) may only be removed under this section to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(2) Any unattended abandoned property illegally left standing upon any highway or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal;

(3) Any abandoned property which has been abandoned under § 91.16 or RSMo. § 577.080;

(4) Any abandoned property which has been reported as stolen or taken without consent of the owner;

(5) Any abandoned property for which the person operating such property is arrested for an alleged offense for which the officer is required to take the person into custody and where such person is unable to arrange for the property's timely removal;

(6) Any abandoned property which, due to any other state law or city ordinance, is subject to towing because of the owner's outstanding traffic or parking violations; and

(7) Any abandoned property left unattended in violation of a state law or city ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard.

(B) When the city's Police Department authorizes a tow pursuant to this section in which the abandoned property is moved from the immediate vicinity, it shall complete a crime inquiry and inspection report.

(C) Any city agency other than the city's Police Department authorizing a tow under this section where property is towed away from the immediate vicinity shall report the tow to the city's Police Department within two hours of the tow, along with a crime inquiry and inspection report.
(Ord. 304, passed 8-1-2000)

Statutory reference:

Similar provisions, see RSMo. §§ 304.155.1 and 304.155.3

§ 91.20 TOWING OF ABANDONED PROPERTY ON PRIVATE REAL PROPERTY.

(A) *Generally.* The city, including the city's Police Department, may tow motor vehicles from real property which are deemed a public safety hazard pursuant to § 91.17, or are derelict junk, scrapped, disassembled, or otherwise harmful to the public health. The city shall perform such tow pursuant to the terms of § 91.21. When a city agency other than the Police Department authorizes a tow under this division (A), it shall report the tow to the Police Department within two hours with a crime inquiry and inspection report.

(B) *Towing authorized by city's Police Department.* If a person abandons property on any real property owned by another without the consent of the owner or person in possession of the real property, at the request of the person in possession of the real property, any city police officer may authorize a towing company to remove such abandoned property from the property in the following circumstances:

(1) The abandoned property is left unattended for more than 48 hours; or

(2) In the judgment of a Police Officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.

(C) *Towing authorized by real property owner, lessee, or property or security manager.*

(1) The owner of real property or lessee in lawful possession of the real property or the property or security manager of the real property may authorize a towing company to remove abandoned property or property parked in a restricted or assigned area without authorization by a law enforcement officer only when the owner, lessee, or property or security manager of the real property is present. A property or security manager must be a full-time employee of a business entity. An authorization to tow pursuant to this division (C) may be made only under any of the following circumstances.

(a) *Sign.* There is displayed, in plain view at all entrances to the property, a sign not less than 17 by 22 inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that unauthorized abandoned property or property parked in a restricted or assigned area will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage, and containing the telephone number of the local traffic law enforcement agency where information can be obtained or a 24 hour staffed emergency information telephone number by which the owner of the abandoned property or property parked in a restricted or assigned area may call to receive information regarding the location of such owner's property.

(b) *Unattended on owner-occupied residential property.* The abandoned property is left unattended on owner-occupied residential property with four residential units or less and the owner, lessee, or agent of the real property in lawful possession has notified the city's Police Department, and ten hours have elapsed since that notification.

(c) *Unattended on other private real property.* The abandoned property is left unattended on private real property, and the owner, lessee, or agent of the real property in lawful possession of real property has notified the city's Police Department, and 96 hours have elapsed since that notification.

(2) Pursuant to this section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a city police officer shall at that time complete an abandoned property report, which shall be considered a legal declaration subject to criminal penalty pursuant to RSMo. § 575.060. The report shall be in the form designed, printed, and distributed by the state's Director of Revenue and shall contain the following:

- (a) The year, model, make, and abandoned property identification number of the property, and the owner and any lienholders, if known;
- (b) A description of any damage to the abandoned property noted by owner, lessee, or property or security manager in possession of the real property;
- (c) The license plate or registration number and the state of issuance, if available;
- (d) The physical location of the property and the reason for requesting the property to be towed;
- (e) The date the report is completed;
- (f) The printed name, address, and telephone number of the owner, lessee, or property or security manager in possession of the real property;
- (g) The towing company's name and address;
- (h) The signature of the towing operator;
- (i) The signature of the owner, lessee, or property or security manager attesting to the facts that the property has been abandoned for the time required by this section and that all statements on the report are true and correct to the best of the person's knowledge and belief and that the person is subject to the penalties for making false statements;
- (j) Space for the name of the law enforcement agency notified of the abandoned property and for the signature of the law enforcement official receiving the report; and
- (k) Any additional information the state's Director of Revenue deems appropriate.

(3) Any towing company which tows abandoned property without authorization from the city's Police Department pursuant to division (B) above shall deliver a copy of the abandoned property report to the city's Police Department. The copy may be produced and sent by facsimile machine or other device which produces a near exact likeness of the print and signatures required, but only if the city's Police Department has the technological capability of receiving such copy and has registered the towing company for such purpose. The report shall be delivered within two hours if the tow was made from a signed location pursuant to division (C)(1)(a) above, otherwise the report shall be delivered within 24 hours.

(4) The city's Police Department, after receiving such abandoned property report, shall record the date on which the abandoned property report is filed with the Police Department and shall promptly make an inquiry into the national crime information center (NCIC) and any statewide law enforcement computer system to determine if the abandoned property has been reported as stolen. The Police Department shall enter the information pertaining to the towed property into the statewide law enforcement computer system and a police officer shall sign the abandoned property report and provide the towing company with a signed copy.

(5) The city's Police Department, after receiving notification that abandoned property has been towed by a towing company, shall search the records of the state's Department of Revenue and provide the towing company with the latest owner and lienholder information on the abandoned property. If the abandoned property is not claimed within ten working days, the towing company shall send a copy of the abandoned property report signed by a law enforcement officer to the Department of Revenue.

(6) No owner, lessee, or property or security manager of real property shall knowingly authorize the removal of abandoned property in violation of this section.

(7) Any owner of any private real property causing the removal of abandoned property from that real property shall state the grounds for the removal of the abandoned property if requested by the registered owner of that abandoned property. Any towing company that lawfully removes abandoned property from private property with the written authorization of the property owner or the property owner's agent who is present at the time of removal shall not be held responsible in any situation relating to the validity of the removal. Any towing company that removes abandoned property at the direction of the landowner shall be responsible for:

(a) Any damage caused by the towing company to the property in the transit and subsequent storage of the property; and

(b) The removal of property other than the property specified by the owner of the private real property from which the abandoned property was removed.

(D) *Damage to property.* The owner of abandoned property removed from private real property may recover for any damage to the property resulting from any act of any person causing the removal of, or removing, the abandoned property.

(E) *Real property owner liability.* Any owner of any private real property causing the removal of abandoned property parked on that property is liable to the owner of the abandoned property for double the storage or towing charges whenever there has been a failure to comply with the requirements of this subchapter.

(F) *Written authorization required; delegation of authority to tow.*

(1) Except for the removal of abandoned property authorized by the city's Police Department pursuant to this section, a towing company shall not remove or commence the removal of abandoned

property from private real property without first obtaining written authorization from the real property owner. All written authorizations shall be maintained for at least one year by the towing company.

(2) General authorization to remove or commence removal of abandoned property at the towing company's discretion shall not be delegated to a towing company or its affiliates except in the case of abandoned property unlawfully parked within 15 feet of a fire hydrant or in a fire lane designated by a Fire Department or the State Fire Marshal.

(G) *Towing company liability.* Any towing company, or any affiliate of a towing company, which removes, or commences removal of, abandoned property from private property without first obtaining written authorization from the property owner or lessee, or any employee or agent thereof, who is present at the time of removal or commencement of the removal, except as permitted in division (F) above, is liable to the owner of the property for four times the amount of the towing and storage charges, in addition to any applicable ordinance violation penalty, for a violation of this section.

Statutory reference:

Similar provisions, see RSMo. §§ 304.157.1, 304.157.2, 304.157.4 to 304.157.9, 304.158.2 to 304.158.4, 304.158.8, and 304.158.9

(Ord. 304, passed 8-1-2000) Penalty, see § 91.99

§ 91.21 GENERAL PROVISIONS AND PROCEDURES.

(A) *Payment of charges.* The owner of abandoned property removed as provided in this subchapter shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in § 91.22.

(B) *Crime inquiry and inspection report.*

(1) Upon the towing of any abandoned property pursuant to § 91.19 or under authority of a law enforcement officer or local governmental agency pursuant to § 91.20, the city's Police Department, where it authorized such towing or was properly notified by another governmental agency of such towing, shall promptly make an inquiry with the national crime information center (NCIC) and any statewide law enforcement computer system to determine if the abandoned property has been reported as stolen and shall enter the information pertaining to the towed property into the statewide law enforcement computer system.

(2) If the abandoned property is not claimed within ten working days of the towing, the city's Police Department shall submit a crime inquiry and inspection report to the state's Director of Revenue. The city's Police Department shall also provide one copy of the report to the storage facility and one copy to the towing company. A towing company in possession of abandoned property after ten working days shall report such fact to the city's Police Department. The crime inquiry and inspection report shall be designed by the Director of Revenue and shall include the following:

(a) The year, model, make, and property identification number of the property and the owner and any lienholders, if known;

(b) A description of any damage to the property noted by the law enforcement officer authorizing the tow;

(c) The license plate or registration number and the state of issuance, if available;

(d) The storage location of the towed property;

(e) The name, telephone number, and address of the towing company;

(f) The date, place, and reason for the towing of the abandoned property;

(g) The date of the inquiry of the national crime information center, any statewide law enforcement computer system, and any other similar system which has titling and registration information to determine if the abandoned property had been stolen. This information shall be entered only by the city's Police Department.

(h) The signature and printed name of the law enforcement officer authorizing the tow and the towing operator; and

(i) Any additional information the state's Director of Revenue deems appropriate.

(C) *Reclaiming property.* The owner of such abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.

(D) *Lienholder repossession.* If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor, or vessel without the knowledge or cooperation of the owner, then the reposessor shall notify the city's Police Department within two hours of the repossession and shall further provide the Police Department with any additional information the Police Department deems appropriate. The city's Police Department shall make an inquiry with the national crime information center and the statewide law enforcement computer system and shall enter the repossessed vehicle into the statewide law enforcement computer system.

(E) *Notice to owner/tow lien claim.* Any towing company which comes into possession of abandoned property pursuant to this subchapter and who claims a lien for recovering, towing, or storing abandoned property shall give notice to the title owner and to all persons claiming a lien thereon, as disclosed by the records of the state's Department of Revenue or of a corresponding agency in any other state. The towing company shall notify the owner and any lienholder within ten business days of the date of mailing indicated on the notice

(F) *Petition in Circuit Court.* The owner of the abandoned property removed pursuant to this subchapter or any person claiming a lien, other than the towing company, within ten days after the receipt of notification from the towing company pursuant to division (E) above, may file a petition in the Associate Circuit Court in the county where the abandoned property is stored to determine if the

abandoned property was wrongfully taken or withheld from the owner. The petition shall name the towing company among the defendants. The petition may also name the agency ordering the tow or the owner, lessee, or agent of the real property from which the abandoned property was removed. The state's Director of Revenue shall not be a party to such petition but a copy of the petition shall be served on the Director of Revenue.

(G) *Notice to owner.*

(1) Notice as to the removal of any abandoned property pursuant to this subchapter shall be made in writing within five working days to the registered owner and any lienholder of the fact of the removal, the grounds for the removal, and the place to which the property has been removed by either:

(a) The public agency authorizing the removal; or

(b) The towing company, where authorization was made by an owner or lessee of real property.

(2) If the abandoned property is stored in any storage facility, a copy of the notice shall be given to the operator of the facility. The notice provided for in this section shall include the amount of mileage if available shown on the abandoned property at the time of removal.

(H) *Tow truck requirements.* Any towing company which tows abandoned property for hire shall have the towing company's name, city, and state clearly printed in letters at least three inches in height on the sides of the truck, wrecker, or other vehicle used in the towing.

(I) *Storage facilities.* Persons operating or in charge of any storage facility where the abandoned property is stored pursuant to this subchapter shall accept cash for payment of towing and storage by a registered owner or the owner's agent claiming the abandoned property.

Statutory reference:

Similar provisions, see RSMo. §§ 304.135.5, 304.135.6, 304.155.11, 304.158.1, 304.158.5, and 304.158.7

(Ord. 304, passed 8-1-2000)

§ 91.22 MAXIMUM CHARGES.

(A) A towing company may only assess reasonable storage charges for abandoned property towed without the consent of the owner. Reasonable storage charges shall not exceed the charges for vehicles which have been towed with the consent of the owner on a negotiated basis. Storage charges may be assessed only for the time in which the towing company complies with the procedural requirements of this subchapter.

(B) The Board of Aldermen may from time to time establish maximum reasonable towing, storage, and other charges which can be imposed by towing and storage companies operating within the city, and which are consistent with this subchapter and with RSMo. §§ 304.155 to 304.158. Any violation of said

established maximum charges shall be deemed a violation of this section of the code and shall be punishable pursuant to § 10.99.

(C) A towing company may impose a charge of not more than one-half of the regular towing charge for the towing of abandoned property at the request of the owner of private real property or that owner's agent pursuant to this subchapter if the owner of the abandoned property or the owner's agent returns to the abandoned property before it is removed from the private real property. The regular towing charge may only be imposed after the abandoned property has been removed from the property and is in transit.

Statutory reference:

Similar provisions, see RSMo. §§ 304.156.2, 304.158.6, and 304.158.10

(Ord. 304, passed 8-1-2000)

§ 91.23 SALE OF ABANDONED PROPERTY BY CITY.

When the city has physical possession of the abandoned property, it may sell the abandoned property in accordance with its established provisions and regulations and may transfer ownership by means of a bill of sale signed by the City Clerk and sealed with the official city seal. Such bill of sale shall contain the make and model of the abandoned property, the complete abandoned property identification number, and the odometer reading of the abandoned property, if available, and shall be lawful proof of ownership for any dealer registered under the provisions of RSMo. §§ 301.218 or 301.560, or for any other person. (Ord. 304, passed 8-1-2000)

WEEDS, HIGH GRASS, OR OTHER VEGETATION

§ 91.35 PROPERTY MAINTENANCE.

(A) *Failure to keep weeds, high grass, and other vegetation cut and removed.* All persons owning or occupying any lot or tract of land in the city shall keep the weeds, high grass, and other vegetation growing on such property cut and removed. Whenever such weeds, high grass, or other vegetation shall attain the height of 12 inches, it shall be deemed a public nuisance.

(B) *Unlawful to maintain such nuisance.* It shall be unlawful for any person to create or maintain a nuisance as defined in division (A) above.

(C) *Liability.* Whenever weeds, high grass, or other vegetation, in violation of division (A) above, are allowed to grow on any part of any lot or ground within the city, the owner of the ground, or in case of joint tenancy, tenancy by entireties or tenancy in common, each owner thereof, shall be liable.

(D) *Notice.* The Chief of Police shall give a hearing after ten days' notice thereof, either personally or by United States mail to the owner or owners, or his, her, or their agents, or by posting such notice

on the premises; thereupon, the Chief of Police may declare the weeds, high grass, or other vegetation to be a nuisance and order the same to be abated within five days.

(E) *Disposition*. In case the weeds, high grass, or other vegetation are not cut down and removed within the five days, the Chief of Police shall have the weeds, high grass, or other vegetation cut down and removed, and shall certify the costs of same to the City Clerk.

(F) *Tax bill*. The City Clerk shall cause a special tax bill therefor against the property to be prepared and to be collected by the Collector, with other taxes assessed against the property; and the tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity, and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. Each special tax bill shall be issued by the City Clerk and delivered to the Collector on or before June 1 of each year. Such tax bills if not paid when due shall bear interest at the rate of 8% per annum.
(Prior Code, § 215.040) Penalty, see § 91.99

§ 91.36 WEEDS AND DEBRIS AS A PUBLIC NUISANCE.

(A) *Debris defined*. Any condition on any lot or land that has the presence of debris of any kind which may endanger the public safety or any material which is unhealthy or unsafe is hereby declared to be a public nuisance, subject to abatement. Debris shall include, but is not necessarily limited to, weed cuttings, cut and fallen trees and shrubs, overgrown vegetation, noxious weeds which are seven inches or more in height, rubbish and trash, lumber not piled or stacked 12 inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, and/or any flammable material.

(B) *Notice*. Enforcement of this section shall be the responsibility of the Chief of Police. After inspection of property by the Chief of Police, if the Chief of Police believes the property to be in violation, he or she shall provide notice to the owner of the property by personal service or by certified mail, return receipt requested. The notice shall state:

(1) Within seven days of receipt of the notice (which shall be the date of delivery as to personal service, the date of receipt of certified mail which is not refused, or five days after the date of mailing as to certified mail, return receipt requested, which was refused by the owner), the property owner must begin and continue without unnecessary delay the abatement or removal of the nuisance condition;

(2) The nature of the nuisance;

(3) The notice shall indicate that a hearing may be requested before the Chief of Police or Mayor depending upon availability. It is the responsibility of the owner to schedule the hearing and the hearing must be conducted within seven days of receipt of the notice unless none of the two specified hearing officers are available and under such circumstance, the hearing shall be scheduled with the hearing officer with the quickest availability to conduct the hearing; and

(4) The notice shall indicate that in the event the owner does not request a hearing as provided for herein or begin abatement of the nuisance within seven days of receipt of the notice and continue the abatement without unnecessary delay, that the Chief of Police or other designated officer may cause a condition which constitutes the nuisance to be removed and the cost of such removal shall be certified to the City Clerk, who shall cause the certified costs to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property and the certified costs shall be collected by the City Collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified costs are not paid, the tax bill shall be considered delinquent and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

(C) *Abatement of nuisance by city.* If no hearing is requested by the property owner as provided in this section, or hearing is conducted and the hearing officer finds that a public nuisance under this section does exist and should be abated, or the owner fails to begin within seven days of receipt of notice and continue without unnecessary delay to abate or remove the nuisance, the Chief of Police shall cause the condition which constitutes the nuisance to be removed. If the Chief of Police causes such condition to be removed or abated, the costs of such removal shall be certified to the City Clerk who shall cause the certified costs to be included in a special tax bill or added to the annual real estate tax bill for the property, at the collecting official's option. The certified costs shall be collected by the City Collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified costs are not paid, the tax bill shall be considered delinquent and the collection of delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of issuance shall be deemed a personal debt against the owner and shall also be lien on the property until paid.

(D) *Violation is an offense.* An owner who fails to begin removal of a nuisance within seven days of notice or fails to continue the removal without unnecessary delay as provided for in this section shall be guilty of an offense and may be charged in Municipal Court with the offense of failure to abate a nuisance.

(Prior Code, § 215.045) (Ord. 318, passed 9-6-2003)

§ 91.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person who fails to comply with the requirements of § 91.18 is guilty of an ordinance violation and, upon conviction thereof, shall be punished by a fine of not less than \$10 nor more than \$50.

(Ord. 304, passed 8-1-2000)

