

## Chapter 11 Inspection and Cleaning

### **10-11-1 Abatement of weeds, garbage, refuse, and unsightly objects -- Selection of service provider.**

- (1) A municipal legislative body may:
  - (a) designate and regulate the abatement of:
    - (i) the growth and spread of injurious and noxious weeds;
    - (ii) garbage and refuse;
    - (iii) a public nuisance; or
    - (iv) an illegal object or structure; and
  - (b) appoint a municipal inspector for the purpose of carrying out and in accordance with the provisions of this chapter.
- (2) A municipal legislative body may not:
  - (a) prohibit an owner or occupant of real property within the municipality's jurisdiction, including an owner or occupant who receives a notice in accordance with Section 10-11-2, from selecting a person, as defined in Section 10-1-104, to provide an abatement service for injurious and noxious weeds, garbage and refuse, a public nuisance, or an illegal object or structure; or
  - (b) require that an owner or occupant described in Subsection (2)(a) use the services of the municipal inspector or any assistance employed by the municipal inspector described in Section 10-11-3 to provide an abatement service described in Subsection (2)(a).
- (3) A municipality may require that an owner or occupant described in Subsection (2)(a) use the abatement services, as described in Section 10-11-3, of the municipal inspector or any assistance employed by the municipal inspector if:
  - (a) the municipality adopts an ordinance providing a reasonable period of time for an owner or occupant to abate the owner's or occupant's property after receiving a notice described in Section 10-11-2; and
  - (b) the owner or occupant fails to abate the property within the reasonable period of time and in accordance with the notice.

Amended by Chapter 144, 2011 General Session

Amended by Chapter 144, 2011 General Session, (Coordination Clause)

Amended by Chapter 172, 2011 General Session

### **10-11-2 Inspection of property -- Notice.**

- (1)
  - (a) If a municipality adopts an ordinance describing the duties of a municipal inspector appointed under Section 10-11-1, the ordinance:
    - (i) may, subject to Subsection (1)(b), direct the inspector to examine and investigate real property for:
      - (A) the growth and spread of injurious and noxious weeds;
      - (B) garbage and refuse;
      - (C) a public nuisance; or
      - (D) an illegal object or structure; and

- (ii) if an inspector conducts an examination and investigation under Subsection (1)(a), shall direct the inspector to deliver written notice of the examination and investigation in accordance with Subsection (2).
  - (b) An ordinance described in Subsection (1)(a) may not direct an inspector or authorize a municipality to abate conditions solely associated with the interior of a structure, unless required for the demolition and removal of the structure.
- (2)
- (a)
    - (i) The municipal inspector shall serve written notice to a property owner of record according to the records of the county recorder in accordance with Subsection (2)(b).
    - (ii) The municipal inspector may serve written notice in accordance with Subsection (2)(b) to a non-owner occupant of the property or another person responsible for the property who is not the owner of record, including a manager or agent of the owner, if:
      - (A) the property owner is not an occupant of the property; and
      - (B) the municipality in which the property is located has adopted an ordinance imposing a duty to maintain the property on an occupant who is not the property owner of record or a person other than the property owner of record who is responsible for the property.
  - (b) The municipal inspector may serve the written notice:
    - (i) in person or by mail to the property owner of record as described in Subsection (2)(a)(i), if mailed to the last-known address of the owner according to the records of the county recorder; or
    - (ii) in person or by mail to a non-owner occupant or another person responsible for the property who is not the owner of record as described in Subsection (2)(a)(ii), if mailed to the property address.
  - (c) In the written notice described in Subsection (2)(a), the municipal inspector shall:
    - (i) identify the property owner of record according to the records of the county recorder;
    - (ii) describe the property and the nature and results of the examination and investigation conducted in accordance with Subsection (1)(a); and
    - (iii) require the property owner, occupant, or, if applicable, another person responsible for the property to:
      - (A) eradicate or destroy and remove any identified item examined and investigated under Subsection (1)(a); and
      - (B) comply with Subsection (2)(c)(iii)(A) in a time period designated by the municipal inspector but no less than 10 days after the day on which notice is delivered in person or post-marked.
  - (d) For a notice of injurious and noxious weeds described in Subsection (2)(a), the municipal inspector is not required to make more than one notice for each annual season of weed growth for weeds growing on a property.
  - (e) The municipal inspector shall serve the notice required under Subsection (2)(a)(i) under penalty of perjury.

Repealed and Re-enacted by Chapter 172, 2011 General Session

**10-11-3 Neglect of property owners -- Removal by municipality -- Costs of removal -- Notice -- File action or lien -- Property owner objection.**

(1)

- (a) If an owner of, occupant of, or other person responsible for real property described in the notice delivered in accordance with Section 10-11-2 fails to comply with Section 10-11-2, a municipal inspector may:
  - (i) at the expense of the municipality, employ necessary assistance to enter the property and destroy or remove an item identified in a written notice described in Section 10-11-2; and
  - (ii)
    - (A) prepare an itemized statement in accordance with Subsection (1)(b); and
    - (B) mail to the owner of record according to the records of the county recorder a copy of the statement demanding payment within 30 days after the day on which the statement is post-marked.
- (b) The statement described in Subsection (1)(a)(ii)(A) shall:
  - (i) include:
    - (A) the address of the property described in Subsection (1)(a);
    - (B) an itemized list of and demand for payment for all expenses, including administrative expenses, incurred by the municipality under Subsection (1)(a)(i); and
    - (C) the address of the municipal treasurer where payment may be made for the expenses; and
  - (ii) notify the property owner:
    - (A) that failure to pay the expenses described in Subsection (1)(b)(i)(B) may result in a lien on the property in accordance with Section 10-11-4;
    - (B) that the owner may file a written objection to all or part of the statement within 20 days after the day of the statement post-mark; and
    - (C) where the owner may file the objection, including the municipal office and address.
- (c) A statement mailed in accordance with Subsection (1)(a) is delivered when mailed by certified mail addressed to the property owner's of record last-known address according to the records of the county recorder.
- (d)
  - (i) A municipality may file a notice of a lien, including a copy of the statement described in Subsection (1)(a)(ii)(A) or a summary of the statement, in the records of the county recorder of the county in which the property is located.
  - (ii) If a municipality files a notice of a lien indicating that the municipality intends to certify the unpaid costs and expenses in accordance with Subsection (2)(a)(ii) and Section 10-11-4, the municipality shall file for record in the county recorder's office a release of the lien after all amounts owing are paid.
- (2)
  - (a) If an owner fails to file a timely written objection as described in Subsection (1)(b)(ii)(B) or to pay the amount set forth in the statement under Subsection (1)(b)(i)(B), the municipality may:
    - (i) file an action in district court; or
    - (ii) certify the past due costs and expenses to the county treasurer of the county in which the property is located in accordance with Section 10-11-4.
  - (b) If a municipality pursues collection of the costs in accordance with Subsection (2)(a)(i) or (4)(a), the municipality may:
    - (i) sue for and receive judgment for all removal and destruction costs, including administrative costs, and reasonable attorney fees, interest, and court costs; and
    - (ii) execute on the judgment in the manner provided by law.
- (3)
  - (a) If a property owner files an objection in accordance with Subsection (1)(b)(ii), the municipality shall:

- (i) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act; and
- (ii) mail or deliver notice of the hearing date and time to the property owner.
- (b) At the hearing described in Subsection (3)(a)(i), the municipality shall review and determine the actual cost of abatement, if any, incurred under Subsection (1)(a)(i).
- (c) The property owner shall pay any actual cost due after a decision by the municipality at the hearing described in Subsection (3)(a)(i) to the municipal treasurer within 30 days after the day on which the hearing is held.
- (4) If the property owner fails to pay in accordance with Subsection (3)(c), the municipality may:
  - (a) file an action in district court for the actual cost determined under Subsection (3)(b); or
  - (b) certify the past due costs and expenses to the county treasurer of the county in which the property is located in accordance with Section 10-11-4.
- (5) This section does not affect or limit:
  - (a) a municipal governing body's power to pass an ordinance as described in Section 10-3-702; or
  - (b) a criminal or civil penalty imposed by a municipality in accordance with Section 10-3-703.

Amended by Chapter 172, 2011 General Session

**10-11-4 Costs of removal to be included in tax notice.**

- (1) A municipality may certify to the treasurer of the county in which a property described in Section 10-11-3 is located, the unpaid costs and expenses that the municipality has incurred under Section 10-11-3 with regard to the property.
- (2) If the municipality certifies with the treasurer of the county any costs or expenses incurred for a property under Section 10-11-3, the treasurer shall enter the amount of the costs and expenses on the assessment and tax rolls of the county in the column prepared for that purpose.
- (3) If current tax notices have been mailed, the treasurer of the county may carry the costs and expenses described in Subsection (2) on the assessment and tax rolls to the following year.
- (4) After entry by the treasurer of the county, the amount entered:
  - (a) shall have the force and effect of a valid judgment of the district court;
  - (b) is a lien upon the property; and
  - (c) shall be collected by the treasurer of the county in which the property is located at the time of the payment of general taxes.
- (5) Upon payment of the costs and expenses:
  - (a) the judgement is satisfied;
  - (b) the lien is released from the property; and
  - (c) receipt shall be acknowledged upon the general tax receipt issued by the treasurer.
- (6) This section does not apply to any public building, public structure, or public improvement.

Amended by Chapter 172, 2011 General Session