

Chapter 26

VEGETATION

Cross References — Garbage and trash, §§ 11-1 et seq.; Health, §§ 12-1 et seq.; Building inspector/code enforcement officer — authorized to enforce ch. 26, § 2-209.

ARTICLE I In General

SECTION 26-1. Hedges Adjacent to Public Ways to be Trimmed. [Rev. Ord. No. 28, §§ 1,2, 10-21-1912]

- A. Every person owning a hedge fence, composed of any kind of bushes or plants, and being along or adjacent to any public street, alley, avenue or public thoroughfare within the City is hereby required to cut or trim such hedge to the height of not more than four (4) feet from the ground, and shall trim all branches or roots so that they shall not extend over or onto the line of any such street, alley, avenue or public thoroughfare in the City. Any such hedge or bushes causing an obstruction to the view of persons operating motor vehicles is prohibited.
- B. Any person failing to comply with the provisions of this Section within ten (10) days from the date of the service of notice on such owner shall be deemed guilty of a misdemeanor. Such notice shall be served by the City Marshal by order of the City Council.

SECTION 26-2. through SECTION 26-12. (Reserved)

ARTICLE II Weeds¹

SECTION 26-13. Certain Weeds and Other Vegetation Declared a Nuisance; Duty of Property Owners to Cut and Remove. [Ord. of 8-5-1963, § 1; Ord. No. 2006-24 § 1, 6-13-2006]

Weeds, grass and other vegetation which are allowed to grow and stand upon any lot, adjoining right-of-way or tract of ground within the City, or having been cut and permitted to remain where cut in a decaying condition upon such lot, right-of-way or tract, are hereby deemed and declared to be a menace to the health and a public nuisance, and the owners, occupants, lessee and agents of the owners or occupants of such lots, rights-of-way or tracts are hereby required to keep such weeds, grass and other vegetation cut to a height not to exceed eight (8) inches and when cut to remove the same.

¹. State Law Reference — Weed control, RSMo. § 263.190.

SECTION 26-14. Violation — Notice to Cut Weeds — Abatement by City. [Ord. No. 91-8 § 2, 8-13-1991]

Any person within the City who shall own or occupy property upon which weeds, grass or other such similar ground vegetation as described in Section 26-13 is permitted or allowed to reach a height in excess of eight (8) inches shall be deemed guilty of a nuisance offense in violation of this Code and punishable as prescribed under Section 1-8 of the Municipal Code for the City of Lexington. If such person shall fail to cut or remove such vegetation within ten (10) days of the receipt of a written notice from the City to do so, the City shall also be authorized to abate such nuisance in the manner otherwise provided by Missouri law or the City's ordinances.

SECTION 26-15. (Repealed) [Repealed by Ord. No. 91-8 § 1, 11-13-1991]

SECTION 26-16. Right of Entry of City for Abatement Purposes. [Ord. of 8-5-1963, § 3]

The City shall have full authority to enter upon any premises for the purpose of abating any nuisance created by the unlawful growth or accumulation of weeds, grass or other vegetation.

SECTION 26-17. Expenses Incurred by City to be Billed to Owner. [Ord. of 8-5-1963, § 4]

Any expense incurred by the City in removing weeds, grass and other vegetation from any premises shall be billed to the owner, occupant, or agent of the owner or occupant of such premises and shall constitute a lien on the premises.

**ARTICLE III
Regulation of Debris As a Nuisance**

SECTION 26-18. Debris as a Nuisance. [Ord. No. 2003-01, 1-14-2003]

- A. It is hereby declared to be a public nuisance for any lot or land to have on it debris of any kind. The term "*debris*" may include, but is not limited to:
1. Weed cuttings.
 2. Cut and fallen trees and shrubs.
 3. Overgrown vegetation and noxious weeds which are seven (7) inches or more in height.
 4. Rubbish and trash.
 5. Lumber not piled or stacked twelve (12) inches off the ground.
 6. Rocks or bricks not piled or stacked twelve (12) inches off the ground.
 7. Tin not piled or stacked twelve (12) inches off the ground.
 8. Steel not piled or stacked twelve (12) inches off the ground.
 9. Parts of derelict cars or trucks.

10. Broken furniture.
 11. Any flammable material which may endanger public safety.
 12. Any material which is unhealthy or unsafe.
- B. If the designated officer of the City believes that a nuisance as herein set out exists on any property within the City, such officer shall send to the owner, occupant or person in control of such property an abatement notice which shall contain the following:
1. A description of the location and nature of the alleged nuisance,
 2. A statement of the acts necessary to abate the alleged nuisance,
 3. An order establishing the time for beginning and completing abatement of the alleged nuisance but not longer than seven (7) days from date of notice and requiring that abatement activities continue without unreasonable delay,
 4. Information on the right and manner of requesting a hearing to contest the enforcement official's abatement notice, and
 5. A statement that if the nuisance is not abated as ordered, and if no request for hearing is made within the prescribed time, the City may abate the alleged nuisance and assess the cost against the property owner and the property.
- C. *Service Of Abatement Notice.*
1. The enforcement official shall serve the abatement notice on the property owner by first class mail or by personal service in the same manner as legal process is served under any Missouri Statute or court rule. Mailed notice shall be presumed received three (3) days after it is mailed.
 2. If the enforcement official is unable to obtain service by either of the above methods, service may be obtained by publishing the abatement notice once in a newspaper of general circulation in the City and by posting the abatement notice on the property where the alleged nuisance exists. Notice shall be considered given on the date the notice is published or the notice is posted, whichever is later.
- D. *Request For Hearing.* The owner of property on which the nuisance is alleged to exist may contest the abatement notice by requesting a hearing within seven (7) days of service of the abatement notice. The request for hearing must be either hand delivered to the City or sent to the City by United States mail, facsimile machine or electronic mail. The request for hearing must state an address to which notice of hearing may be sent.
- E. *Notice Of Hearing.* At least ten (10) days' written notice of the hearing shall be given to the property owner except in cases where the public health, safety or interest shall make a shorter time reasonable. Notice shall be hand delivered to the property owner or mailed to the address provided by the property owner in the

request for hearing. Notice shall be presumed received three (3) days after it is mailed.

- F. *Hearing And Decision.* The hearing officer shall conduct the hearing and enter a decision in accordance with the requirements of Chapter 536, RSMo. If the hearing officer determines that a nuisance exists as charged in the abatement notice, the officer may enter an order of abatement directing that the nuisance be abated under such conditions and within such time as the hearing officer deems appropriate under the circumstances.
- G. *Appeal.* An appeal from the decision of the hearing officer may be made to the Circuit Court of Lafayette County in accordance with Chapter 536, RSMo.
- H. In the event the person so notified fails to abate such nuisance as directed in the notice or by a hearing officer and the City is required to remove and abate such nuisance, then the cost of such removal shall be certified to the City Clerk who shall cause the certified cost to be included in a special tax bill or added to the annual estate tax bill, at the collecting official's options, 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 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.
- I. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the required time shall be deemed guilty of a misdemeanor and upon conviction punished by a fine of not more than five hundred dollars (\$500.00). Each day that a violation of this Section shall continue shall constitute a separate offense.