

Executive Summary

To: Brian C. Blad, Mayor; Members of the City Council

From: Mindi Anderson, Code Enforcement Officer

RE: Change to City Ordinance 8.14.130: Abatement of Nuisances

Council may wish to consider revising City Ordinance 8.14 – Nuisances. Particularly revising section 8.14.130 Abatement of Nuisances. A draft ordinance is attached to this Executive Summary for your convenience.

Proposed amendment is based upon review of the current ordinance and the lack thereof with steps that need to be followed before Code Enforcement Officers can abate the Nuisance. Currently, there are no steps outlined in the Nuisance Code that provide direction for the property owner nor the Code Enforcement Officer. These steps are necessary to perform the abatement function to gain compliance with the property.

What can the property owner expect with this change? They will know what to expect if they do not voluntarily comply with the Nuisance Code. They will also know their rights if the property gets to the point of abatement.

Will this cost the city or property owner any additional money? There will be no additional cost to the city nor the property owner. If the property is abated, there will be the \$100 administrative fee for processing an invoice and possibly an assessment collectible against the property. This is outlined in all city code if an abatement takes place.

There will be no additional work for city employees. Abatement will be the final step in the process if all other avenues have failed. An example would be: a property owner has passed away and the property is vacant. In this scenario, there is no individual to issue a civil penalties or a misdemeanor citation. We would need to pursue the abatement process.

8.14.130: ABATEMENT OF NUISANCES:

If, after proper notice, the property has not been brought into compliance, the city is empowered to remove and abate the nuisance at the expense of the responsible party creating, causing, committing or maintaining the same, ~~and to levy a special assessment of the premises whereon the nuisance is situated to defray the cost or to reimburse the city for the cost of abating the same.~~ The city has the authority to employ such labor as is necessary to carry out the provisions of this chapter. ~~If the city must abate the violation, then the responsible party will be required to pay a one hundred dollar (\$100.00) administrative fee in addition to the actual costs incurred through the abatement process. Such administrative fee shall be in effect until October 1, 2014; when henceforth the fee shall be as set by annual fee resolution of the city council. (Ord. 2932, 2014)~~

A. If after fifteen (15) calendar days from the date a written notice is personally delivered to the property owner, or mailed to the property owner's address as shown in current official Bannock County assessor records, no abatement of the nuisance has occurred, the designated enforcement officer shall provide a ten (10) day notice to be delivered to the property owner by certified mail or personal service, which shall indicate the following:

1. That if the property owner fails to abate the nuisance, the city shall take steps to abate the same;

2. That the property owner may contract with the city to abate the nuisance and pay costs of the same;

3. That if the city abates the nuisance all costs and expenses of abatement shall be billed and assessed against the property owner and if unpaid shall become collectable as a special assessment with property taxes; If the city must abate the violation, then the responsible party will be required to pay a one hundred dollar (\$100.00) administrative fee in addition to the actual costs incurred through the abatement process. Such administrative fee is set by annual fee resolution of the city council. (Ord. 2932, 2014)

4. That the property owner has a right to appear before the city council to show cause as to why he or she should not be forced to abate or pay for abatement of the nuisance; furthermore, that if the property owner desires such a hearing, a request for hearing, in writing, shall be given to the designated enforcement officer prior to expiration of the ten (10) day notice, and that abatement by the city will proceed if the property owner has not exercised this option to request a hearing;

5. If said certified notice is returned as undeliverable, or is unclaimed by the property owner, nothing shall preclude the city from exercising its abatement option as specified herein.

B. When the ten (10) day notice has expired without a request for hearing, the mayor's designated enforcement officer is authorized to remove, abate or destroy the nuisance. The designated enforcement officer is authorized to utilize city personnel to abate the nuisance or to contact the mayor or police chief in regard to contracting for an outside party to abate the nuisance.

C. If the city abates any nuisance under the provisions of this chapter a statement of charges billed to the property owner shall be mailed or personally delivered to the property owner.

D. If payment is not received from the property owner within thirty (30) days, the amount billed shall, in accordance with state law, be assessed as a special assessment collectible against the subject property as other state, county and municipal taxes.

E. If the property owner requests a hearing to show cause before the city council, the hearing shall, if feasible, be placed on the agenda of the next regularly scheduled city council meeting. The decision of the city council shall be final. A ten (10) day period shall be given the property owner after the council decision so that the property owner shall have additional opportunity to abate the nuisance or to pursue any legal remedies or defenses at the district court level.