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GOVERNMENT CODE - GOV

TITLE 4. GOVERNMENT OF CITIES [34000 - 45345] (Title 4 added by Stats. 1949, Ch. 79.)

DIVISION 3. OFFICERS [36501 - 41805] (Division 3 added by Stats. 1949, Ch. 79.)

PART 2. LEGISLATIVE BODY [36801 - 40592] (Part 2 added by Stats. 1949, Ch. 79.)

CHAPTER 13. Weed and Rubbish Abatement [39501 - 39588] (Chapter 13 added by Stats. 1949, Ch. 79.)

ARTICLE 2. Alternative Procedures [39560 - 39588] (Heading of Article 2 renumbered from Article 3 by Stats. 1955, Ch. 624.)

39560. (a) "Superintendent" means street superintendent, the superintendent's assistants and deputies, or other public officer designated by the legislative body to perform the duties imposed by this article upon the superintendent.

(b) "Weeds" means weeds which when mature bear wingy or downy seeds, which will attain such a large growth as to become a fire menace when dry, or which are otherwise noxious or dangerous.

(c) "Street" includes public street, alley, lane, court, or other place.

(d) "In front of which the nuisance exists" includes to the rear of or abutting the property upon which the nuisance exists.

(Amended by Stats. 2018, Ch. 467, Sec. 32. (SB 1498) Effective January 1, 2019.)

39561. The legislative body may declare by resolution as public nuisances, and abate:

(a) All weeds growing upon the streets, sidewalks, or private property in the city.

(b) All rubbish, refuse, and dirt upon parkways, sidewalks, or private property in the city.

(Added by Stats. 1949, Ch. 79.)

39561.5. "Weeds," as used in this article, includes any of the following:

(a) Weeds which bear seeds of a downy or wingy nature.

(b) Sagebrush, chaparral, and any other brush or weeds which attain such large growth as to become, when dry, a fire menace to adjacent improved property.

(c) Weeds which are otherwise noxious or dangerous.

(d) Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health.

(e) Dry grass, stubble, brush, litter, or other flammable material which endangers the public safety by creating a fire hazard.

(Added by Stats. 1963, Ch. 90.)

39562. The resolution shall:

(a) Refer to the street by its commonly known name.

(b) Describe the property upon which or in front of which the nuisance exists by giving its lot and block number according to the official or city assessment map.

(Added by Stats. 1949, Ch. 79.)

39562.1. At the time it adopts the resolution as provided for by Sections 39561 and 39562, the legislative body may also find and declare that weeds on specified parcels of property are seasonal and recurrent nuisances.

Such seasonal and recurrent nuisances shall be abated in accordance with the provisions of this article, provided, that upon the second and any subsequent occurrence of such nuisance on the same parcel or parcels within the same calendar year, no further hearings need be held and it shall be sufficient to mail a post card notice to the owners of the property as they and their addresses appear upon the current assessment roll.

The notice shall refer to and describe the property and shall state that noxious or dangerous weeds of a seasonal and recurrent nature are growing on or in front of the property, and that the same constitute a public nuisance which must be abated by the removal of said noxious or dangerous weeds, and that otherwise they will be removed and the nuisance will be abated by the city authorities, in which case the cost of such removal shall be assessed upon the parcel and lands from which or in front of which such weeds are removed and that upon confirmation such cost will constitute a lien upon such parcel or lands until paid.

(Added by Stats. 1968, Ch. 127.)

39562.2. In any case where cities are authorized to abate weeds pursuant to the provisions of this chapter and where the legislative body finds and declares that weeds on specified parcels of property are seasonal and recurrent nuisances as provided in Section 39562.1, the legislative body may provide for the preventive abatement of such seasonal and recurrent nuisance as provided in this section.

The notice required by Section 39562.1 shall, in addition to containing all other required matters, state that the efficient and economical control of such seasonal and recurrent nuisance requires preventive chemical control of such weeds, weed seeds and weed seedlings and that the city may require preventive chemical control of such nuisance.

In the event the city is once required to abate such nuisance the city may, in addition, before and during the next following germinating season of such weeds, provide for the preventive abatement of such nuisance by using chemical control of such weeds.

(Added by Stats. 1970, Ch. 577.)

39563. Any number of streets, sidewalks, or parcels of private property may be included in one resolution.

(Added by Stats. 1949, Ch. 79.)

39564. After passage of the resolution, the superintendent shall cause notices to be conspicuously posted on or in front of the property on or in front of which the nuisance exists. The superintendent shall post:

- (a) One notice to each separately owned parcel of property of not over fifty feet frontage.
- (b) Not more than two notices to any parcel of one hundred feet frontage or less.
- (c) Notices at not more than one hundred feet apart if the frontage of a parcel is greater than one hundred feet.

(Amended by Stats. 2018, Ch. 467, Sec. 33. (SB 1498) Effective January 1, 2019.)

39565. The heading of the notices shall be "Notice to destroy weeds and remove rubbish, refuse, and dirt" in letters not less than one inch in height.

(Added by Stats. 1949, Ch. 79.)

39566. The notice shall be substantially in the following form:

NOTICE TO DESTROY WEEDS AND REMOVE RUBBISH, REFUSE, AND DIRT
Notice is hereby given that on the ____ day of ____, 19__, the (name of the legislative body) passed a resolution declaring that noxious or dangerous weeds were growing upon or in front of the property on this street, and that rubbish, refuse, and dirt were upon or in front of property on this street, in ____, and more particularly described in the resolution, and that they constitute a public nuisance which must be abated by the removal of the weeds, rubbish, refuse, and dirt. Otherwise they will be removed and the nuisance abated by the city and the cost of removal assessed upon the land from or in front of which the weeds, rubbish, refuse, and dirt are removed and will constitute a lien upon such land until paid. Reference is hereby made to the resolution for further particulars. A copy of said resolution is on file in the office of the city clerk.
All property owners having any objections to the proposed removal of the weeds, rubbish, refuse, and dirt are hereby notified to attend a meeting of the (name of the legislative body) of (city or town) to be held (give date), when their objections will be heard and given due consideration.
Dated this ____ day of ____, 19__.
Street Superintendent
(City of ____)

(Amended by Stats. 1951, Ch. 794.)

39567. The notices shall be posted at least five days prior to the time for hearing objections by the legislative body.

(Added by Stats. 1949, Ch. 79.)

39567.1. As an alternative to posting notice of the resolution and notice of the meeting when objections will be heard, the legislative body may direct the city clerk to mail written notice of the proposed abatement to all persons owning property described in the resolution. The city clerk shall cause such written notice to be mailed to each person to whom such described property is assessed in the last equalized assessment roll available on the date the resolution was adopted by the legislative body.

In cities where the county assessor performs the functions of city assessor, the county assessor, at the request of the city clerk, shall within 10 days thereafter mail to the city clerk a list of the names and addresses of all of the persons owning property described in the resolution. The address of the owners shown on the assessment roll shall be conclusively deemed to be the proper address for the purpose of mailing such notice. The city shall reimburse the county for the actual cost of furnishing such list and the cost shall be a part of the costs of abatement.

The notices mailed by the city clerk shall be mailed at least five days prior to the time for hearing objections by the legislative body.

The notices mailed by the city clerk shall be substantially in the form provided by Section 39566, except, that notices shall be signed by the city clerk and the heading of the notice need not comply with Section 39565.

(Added by Stats. 1959, Ch. 1889.)

39568. At the time stated in the notices, the legislative body shall hear and consider all objections to the proposed removal of weeds, rubbish, refuse, and dirt. It may continue the hearing from time to time.

(Added by Stats. 1949, Ch. 79.)

39569. By motion or resolution at the conclusion of the hearing the legislative body shall allow or overrule any objections. At that time the legislative body acquires jurisdiction to proceed and perform the work of removal.

(Added by Stats. 1949, Ch. 79.)

39570. The decision of the legislative body is final.

(Added by Stats. 1949, Ch. 79.)

39571. If objections have not been made or after the legislative body has disposed of those made, it shall order the superintendent to abate the nuisance by having the weeds, rubbish, refuse, and dirt removed. The order shall be made by motion or resolution.

(Added by Stats. 1949, Ch. 79.)

39572. The superintendent may enter upon private property to abate the nuisance.

(Added by Stats. 1949, Ch. 79.)

39573. Before the superintendent arrives, any property owner may remove the weeds, rubbish, refuse, and dirt at the owner's own expense. Nevertheless, in any case in which an order to abate is issued, the legislative body by motion or resolution may further order that a special assessment and lien be imposed pursuant to Section 39577. In that case the assessment and lien shall be limited to the costs incurred by the responsible agency in enforcing abatement upon the parcels, including investigation, boundary determination, measurement, clerical, and other related costs.

(Amended by Stats. 2018, Ch. 467, Sec. 34. (SB 1498) Effective January 1, 2019.)

39574. The superintendent shall keep an account of the cost of abatement in front of or on each separate parcel of land where the superintendent performs the work. The superintendent shall submit to the legislative body for confirmation an itemized written report showing the cost of the abatement.

(Amended by Stats. 2018, Ch. 467, Sec. 35. (SB 1498) Effective January 1, 2019.)

39575. A copy of the report shall be posted for at least three days prior to its submission to the legislative body on or near the chamber door of the legislative body, with a notice of the time of submission.

(Added by Stats. 1949, Ch. 79.)

39576. At the time fixed for receiving and considering the report, the legislative body shall hear it with any objections of the property owners liable to be assessed for the abatement. It may modify the report if it is deemed necessary. The legislative body shall then confirm the report by motion or resolution.

(Added by Stats. 1949, Ch. 79.)

39576.5. Abatement of the nuisance may in the discretion of the legislative body be performed by contract awarded by the legislative body on the basis of competitive bids let to the lowest responsible bidder pursuant to Sections 37903, 37904, 37905 and 37931 to 37935 inclusive of this code. In such event the contractor shall keep the account and submit the itemized written report for each separate parcel of land required by Section 39574.

(Added by Stats. 1959, Ch. 1889.)

39577. The cost of abatement in front of or upon each parcel of land and the costs incurred by the responsible agency in enforcing abatement upon the parcels, including investigation, boundary determination, measurement, clerical and other related costs, constitutes a special assessment against that parcel. After the assessment is made and confirmed, a lien attaches on the parcel upon recordation of the order confirming the assessment in the office of the county recorder of the county in which the property is situated, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of such taxes as imposed by Section 39578 would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the costs of abatement and the costs of enforcing abatement, as confirmed, relating to such property shall be transferred to the unsecured roll for collection.

(Amended by Stats. 1982, Ch. 352, Sec. 2.)

39578. Except as provided in Section 39577, after confirmation of the report, a copy shall be given to the county auditor, who shall add the amount of the assessment to the next regular tax bill levied against the parcel for municipal purposes.

(Amended by Stats. 2006, Ch. 643, Sec. 8. Effective January 1, 2007.)

39579. Except as provided in Section 39577, if the county assessor and the tax collector assess property and collect taxes for the city, a certified copy of the report shall be filed with the county auditor on or before August 10th. The descriptions of the parcels reported shall be those used for the same parcels on the county assessor's map books for the current year.

(Amended by Stats. 1975, Ch. 911.)

39580. The county auditor shall enter each assessment on the county tax roll opposite the parcel of land.

(Added by Stats. 1949, Ch. 79.)

39581. The amount of the assessment shall be collected at the time and in the manner of ordinary municipal taxes. If delinquent, the amount is subject to the same penalties and procedure of foreclosure and sale provided for ordinary municipal taxes.

The legislative body may determine that, in lieu of collecting the entire assessment at the time and in the manner of ordinary municipal taxes, such assessments of fifty dollars (\$50) or more may be made in annual installments, in any event not to exceed five, and collected one installment at a time at the times and in the manner of ordinary municipal taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for foreclosure and sale provided for ordinary municipal taxes. The payment of assessments so deferred shall bear interest on the unpaid balance at a rate to be determined by the legislative body, not to exceed 6 percent per annum.

(Amended by Stats. 1980, Ch. 676.)

39582. As an alternative method the county tax collector in his discretion may collect the assessments without reference to the general taxes by issuing separate bills and receipts for the assessments.

(Added by Stats. 1949, Ch. 79.)

39583. Laws relating to the levy, collection, and enforcement of county taxes apply to such special assessment taxes.

(Added by Stats. 1949, Ch. 79.)

39584. The superintendent may receive the amount due on the abatement cost and issue receipts at any time after the confirmation of the report and until 10 days before a copy is given to the county auditor, or, where a certified copy is filed with the county auditor, until August 1st following the confirmation of the report.

(Amended by Stats. 2006, Ch. 643, Sec. 9. Effective January 1, 2007.)

39585. The legislative body may order refunded all or part of a tax paid pursuant to this article if it finds that all or part of the tax has been erroneously levied. A tax or part shall not be refunded unless a claim is filed with the clerk of the legislative body on or before

November 1st after the tax became due and payable. The claim shall be verified by the person who paid the tax or by the person's guardian, conservator, executor, or administrator.

(Amended by Stats. 1979, Ch. 730.)

39586. If the legislative body finds that property damage was caused by the negligence of a city officer or employee in connection with the abatement of a nuisance pursuant to this article, a claim for such damages may be paid from the city general fund. Claims therefor are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of this code.

(Amended by Stats. 1963, Ch. 1715.)

39587. The proceedings provided by this article are an alternative to any procedure established by ordinance pursuant to Article 1 (commencing with Section 39500).

(Amended by Stats. 1985, Ch. 106, Sec. 68.)

39588. The lien of said assessment shall have the priority of the taxes with which it is collected.

(Added by Stats. 1963, Ch. 1465.)