

ORDINANCE NO. 127, 2011  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
ADDING A SECTION IN ARTICLE IV OF CHAPTER 20 OF THE CODE  
OF THE CITY OF FORT COLLINS TO ALLOW FOR AN  
APPEAL PROCESS TO CONTEST THE ASSESSMENT OF COSTS OF  
WEED AND RUBBISH ABATEMENTS AND MAKING EDITORIAL  
CORRECTIONS TO ARTICLE IV

WHEREAS, Section 20-44 of the City Code does not currently allow for an option to appeal the assessment of costs of a weed or rubbish abatement; and

WHEREAS, staff has found over the years that property owners and occupants often wish to challenge the assessment of costs of weed and/or rubbish abatements; and

WHEREAS, City Code Section 20-102(b) allows for a property owner or occupant to contest the assessment of costs for sidewalk snow removal abatements; and

WHEREAS, staff recommends amending Section 20-44 to include an appeal process similar to the appeal process set forth in Section 20-102(b) for sidewalk snow removal abatements; and

WHEREAS, staff recommends amending Section 20-44 to include an appeal process to allow for a property owner or occupant to contest the assessment of costs of a weed or rubbish abatement; and

WHEREAS, staff has identified other minor amendments that should be made to City Code Section 20-44, including updating department titles; and

WHEREAS, the City Council believes that it would be in the best interests of the City to amend the City Code as described herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS Section 20-44 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 20-44. Notice of violation; removal authority and procedure; assessment lien on property.**

(a) The Community Development and Neighborhood Services Director and any officer, as such is defined in § 19-66, are authorized and directed to give notice to any owner and occupant whose property, open area, ditch or right-of-way is being kept or maintained in violation of the provisions of this Article. Such notice may be personally served upon such person or, if not personally served, shall be deposited in the United States mail, addressed to the occupant and owner of record at the address on the assessment roll of the County Assessor or at such other, more recent address as may be available to the City, or with respect to notice to occupants, at the

address of the property so occupied. The notice shall state that, if the property, open area, ditch or right-of-way has not been brought into compliance with this Article on or before five (5) days from the date of such notice, a civil citation will issue and the abatement of the nuisance will be done by the City and any costs of abatement, including the cost of inspection, the cost of any grading or sloping necessary to protect the public safety and other incidental costs in connection therewith and the costs for carrying charges and costs of administration will be charged against the property, open area, ditch or right-of-way, in addition to any other penalty and costs or orders that may be imposed. With respect to rubbish only, the notice shall also state that, if said owner desires a hearing before the Referee to contest the declaration of nuisance and/or the removal, such owner shall request such hearing in writing to the Director of Community Development and Neighborhood Services within five (5) days of mailing of the notice and shall further state that, if a request for such hearing is made, the City will remove the rubbish in accordance with Subsection (b) below and will store the material pending the holding of the hearing and the determination therefrom. The notice shall further state that if no request for such hearing is timely filed, the City will remove the rubbish in accordance with Subsection (b) below and shall destroy or otherwise dispose of the rubbish.

(b) If the property, open area, ditch or right-of-way has not been brought into compliance with this Article within five (5) days from the date of the notice and if the owner has not requested a hearing before the Referee to contest the declaration of nuisance and/or the removal as provided in Subsection (a) above, the removal may be done by the City, either by City personnel or by private contractors, as the Director of Community Development and Neighborhood Services shall determine. In the event of such removal by the City, the cost, including inspection, removal of obstructions, if any, the cost of any grading or sloping necessary to protect the public safety, other incidental costs in connection therewith, and the costs for carrying charges and administration shall be assessed against the offending property, open area, ditch or right-of-way and the owner thereof. With respect to rubbish only, if the owner has requested a hearing pursuant to the provisions of Subsection (a), removal of the rubbish may be accomplished as provided in this Subsection; provided, however, that such material removed shall be stored by the City until such time as the Referee holds the hearing and determines, based upon the evidence presented by the owner and the staff of the City, whether the nuisance should have been declared and the rubbish removed. If the Referee determines that the declaration of nuisance and removal are proper, then the rubbish shall be destroyed or otherwise disposed of by the City, and the additional costs of storage shall be assessed, together with all other costs, as provided above. If the Referee determines that the declaration of nuisance and removal were improper, then the material shall be returned to the owner and no costs shall be assessed.

(c) If the property owner or occupant contests the assessment of costs with regard to weeds and/or rubbish, he or she shall file a written request for review of such assessment of costs with the Director of Community Development

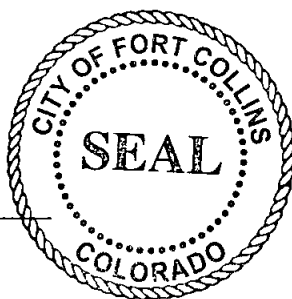
Neighborhood Services, or a written request for a hearing on the same before the Referee, within ten (10) days from the service of notice of assessment.


(d) Any cost assessment shall be a lien in the several amounts assessed against each property, open area, ditch or right-of-way from the date the assessment became due until paid and shall have priority over all other liens, except general taxes and prior special assessment liens. Any such assessment shall be billed by the Director of Community Development and Neighborhood Services, or his or her designee, to the owner by deposit in the United States mail addressed to the owner of record at the address as shown on the tax rolls or such other, more recent address as may be available to the City, and to any agents, representatives or occupants as may be known. If any such assessment is not paid within thirty (30) days after it has been billed, the Financial Officer, or his or her designee, is hereby authorized to thereafter certify to the County Treasurer the list of delinquent assessments so billed, giving the name of the owner as it appears of record, the number of the lot and block and the amount of the assessment plus a ten-percent penalty. The certification shall be the same in substance and form as required for the certification of other taxes. The County Treasurer, upon receipt of such certified list, is hereby authorized to place it upon the tax list for the current year and to collect the assessment in the same manner as general property taxes are collected, together with any charges as may by law be made by the County Treasurer and all laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for unpaid taxes and the redemption thereof, shall apply to and have full force and effect for the collection of all such assessments. Notwithstanding the foregoing, if the offending property, open area, ditch or right-of-way is not subject to taxation, the City may elect alternative means to collect the amounts due pursuant to this Article, including the commencement of an action at law or in equity and, after judgment, pursue such remedies as are provided by law.

Introduced, considered favorably on first reading, and ordered published this 20th day of September, A.D. 2011, and to be presented for final passage on the 4th day of October, A.D. 2011.

ATTEST:

  
Chief Deputy City Clerk



  
Mayor

Passed and adopted on final reading on the 4th day of October, A.D. 2011.

Karen Weikunet  
Mayor

ATTEST:

Rita Knoll Harris  
Chief Deputy City Clerk

