

Sec. 70-6. - Abatement of nuisances, notice and procedure.

- (a) Except as otherwise specified within this chapter, in all cases where a nuisance shall be found to exist, notice of the nuisance together with a demand directing the removal or discontinuance of the nuisance, shall be served by the city upon any and all persons responsible for causing, permitting, maintaining or abating the nuisance. Service shall be upon the individual in person or by leaving a copy of the notice:
 - (1) At such person's residence, with an individual eighteen (18) years of age or older being a member of the family or cohabitant; or
 - (2) At such person's place of business with an employee of the business;
 - (3) If personal service cannot be effected, notice shall be given by posting the premises, if possible, or if not possible, by posting such notice at the City of Lafayette Municipal Building (City Hall). A copy of the notice shall also be mailed to such person's last known address.
 - (4) If service of the notice is to any person other than the property owner, or if the property is posted, a copy of the notice shall be mailed via United States mail to the owner of record.
- (b) The notice shall advise of the nature of the nuisance and demand elimination or discontinuance thereof within seventy-two (72) hours, or such other period of time, as may be stated therein from the time of service. The notice shall also advise that if elimination or discontinuance is not so accomplished, within the stated time, the city may proceed to abate the same charging the expenses thereof to the person(s) refusing to eliminate or discontinue the nuisance and/or may proceed with civil or criminal proceedings.
- (c) Service of the notice and demand shall be a prerequisite to the commencement of civil or criminal proceedings by the city, except for situations involving emergency abatement. The fact that the person or entity against whom legal action is initiated does not actually receive such notice shall not preclude such litigation, provided the city has acted in good faith and in a manner reasonably calculated to give notice to the owner, occupant, person having control or agent thereof.
- (d) When a nuisance has not been voluntarily abated within the time specified in the notice and demand to abate, the city may, pursuant to the municipal court rules of procedure, bring a civil action in the municipal court to have the nuisance declared as such by the court and for an order enjoining the nuisance or authorizing its restraint, removal, termination of abatement by the owner or the person who caused the nuisance or the person who allowed the nuisance to be caused or to continue.
- (e) The action to declare and abate a nuisance shall be brought by the city by the filing of a complaint which shall be verified or supported by an affidavit. The summons shall be issued and served in accordance with the municipal court rules of procedure. Trial shall be to the court and the city shall have the burden of proving, by a preponderance of the evidence, that a nuisance exists or occurred on/or within the property identified in the complaint.
 - (1) The defendants to an action commenced under this chapter, and the person liable for and subject to the remedies may include any person owning or claiming any ownership or leasehold interest in the subject property, all tenants and occupants of the subject property, all managers and agents for any person claiming an ownership or leasehold interest in such property, any person committing, conducting, promoting, facilitating or aiding in the commission of a nuisance and anyone necessary to carry into effect the court's orders. None of these parties shall be deemed necessary or indispensable parties. Any person holding any legal or equitable interest in the property who has not been named as a party-defendant may intervene as a party-defendant. No other person may intervene.
 - (2) A notice of appearance shall be served with the summons and complaint. The appearance date shall be not less than fourteen (14) days from the date of service of

the summons. The trial shall be held upon the appearance date, unless the court grants for a period not to exceed ten (10) days, a continuance for good cause shown.

- (3) The respondent shall file a response on or before the appearance date set forth in the notice of appearance.
- (4) Upon the date and at the time set for appearance and trial, if the respondent has filed no response and fails to appear and if the city shows that proper service was made on the respondent at least fourteen (14) days prior to the appearance date, the court may grant such orders as are requested by the city; except that, the court shall order that enforcement by the city be stayed for ten (10) days and that a copy of the court's order be mailed to the respondent's last known address. Failure to appear on any other date set for trial shall be grounds for entering a default and judgment thereon against a non-appearing party. For good cause shown, and prior to enforcement, the court may set aside an entry of default and the judgment entered thereon.
- (5) The judgment of the municipal court may be appealed to the Boulder County District Court.

(Ord. No. 2008-31, § 1, 10-7-08)