

- Time period for starting process: Begins when petition for title to property is filed with the district court and owner and respondents have been provided notice by certified mail
- Time period for completing process: Varies depending on whether the matter is contested and whether the court's decision is appealed
- Cost: Varies, but can include a lien search, court filing fee, certified mail cost, other attorney or guardian ad litem, asbestos/environmental abatement, actual demolition work and any tax certificate holders investment. In some cases, courts have required a city to pay just compensation for the property, less prior enforcement and abatement costs incurred by the city.

X **Condemnation & Acquisition of Title to Nuisance Residential Property**

Section 364.12A allows cities to acquire title to nuisance residential property through condemnation “for the public purpose of disposing of the property under Section 364.7 by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.” Early in the process it is wise for the city to obtain an administrative search warrant (as detailed in the administrative process) to enter the property and conduct an investigation of the nuisances. The city official conducting the search should note all nuisance violations and take photos to record the condition of the property (this can also help an appraiser establish a property value).

It is then recommended to issue the property owner a municipal infraction citation if the court has not previously found the property to be a nuisance. This helps establish in court that the property is a public nuisance and a court order declaring such also supports the city's assertion that condemnation is required. Issuing a citation and court order also provides evidence that the property owner was duly notified and given an opportunity to a hearing on the matter.

The council should then approve a resolution finding the property to be a public nuisance and that it is in the public's interest for the city to acquire the property under Section 364.12A for the public purpose of disposing it and conveying it to a private party for rehabilitation or for demolition and construction of housing. A copy of the proposed resolution with a cover letter may also be sent to the property owner informing the owner of the date and time of the council meeting where the resolution will be discussed. This provides the owner additional notice and opportunity to be heard.

The city must first offer to purchase the property for its fair market value as determined by appraisal. If the offer is not accepted, the city may initiate eminent domain proceedings under Chapter 6B of the *Code* by serving notice of condemnation upon the property owner and all lien and encumbrance holders. A compensation commission must meet to determine the fair market value of the property and make an award of just compensation to the property owner and other interest holders.

- Time period for starting process: Varies depending on time to complete an appraisal and make initial purchase offer as well as time for compensation commission to meet and determine fair market value, which can be four to six weeks
- Time period for completing process: The city has the right to possession upon payment of award of the compensation commission; however, the process to determine just compensation may continue if the award is appealed to court. The city becomes the title holder once all appeals have been exhausted.

- Cost: The city must pay just compensation for the award as set by the compensation committee or as determined by the court if there is an appeal. In addition, the city would need to pay for its appraisal of the property, its attorney fees and cost of the eminent domain proceedings before the compensation commission. If the award of the compensation commission is 110 percent or more of the city's final offer, the city is required to pay the property owner's reasonable attorney fees and cost of the property owner's appraisal. If the award of the compensation commission is appealed and the award is increased by the court, the city must also pay attorney fees incurred by the property owner for the appeal.
 - o The City must convey the property to a private individual for rehabilitation or for demolition and construction of housing. If the property later sells for more than the city's costs, the difference goes to the previous owner.

Section 3: Programs, Resources and Other Considerations

Other Nuisances and Land Use Concerns

It is common for city ordinances to regulate general property nuisances, such as overgrown grass and weeds, junk vehicles and unsafe buildings. However, there are some types of nuisances that may require their own section in the city code due to the unique issues they present. The following are some examples of nuisances that may require additional regulation in city ordinances.

Business Nuisances

As with all properties, businesses fall under a city's nuisance code as well as property maintenance and zoning codes. In this sense, any business must maintain its property as required by city code. In addition, some cities have found the need to specify different standards for business properties due to the impact they have on the community.

City code sections that directly affect business properties typically state a violation occurs if the business, or operation thereof, endangers the public health or safety or the health or safety of persons residing or working on the premises or in the surrounding area. This may include activities such as disturbing the peace, illegal drug activity, public drunkenness, harassment of passersby, assaults, excessive noise, illegal parking, citations, arrests and other illegal activities. It may also address how the building is used and prohibit businesses from creating noxious exhalations, offensive smells or other issues that result in a threat to public health and safety.

When a business commits a violation of a city's nuisance code, the city may use any available process to rectify the issue. It is likely that the city would pursue either an administrative process by issuing an order to abate the nuisance or issue a municipal infraction along with an order to abate.

In either case, the city will need to notify the property owner of the nuisance violation and order the nuisance to be abated. Depending on the nature of the nuisance, the city may need to collect more evidence than a traditional case. Digital photographs, high definition video or statements from surrounding property owners may all be necessary to provide an accurate depiction of the nuisance. Like all nuisance proceedings, city officials must be aware that the property owner can appeal the city's action and be prepared for the matter to go to court.