

**FIRST CLASS CITIES, ABATEMENT OF NUISANCES**  
**Act of Jul. 11, 1923, P.L. 1032, No. 416**  
AN ACT

Cl. 11

Providing for the abatement of nuisances caused by the improper grading or defective paving or encroaching fences in alleys, in cities of the first class; for the establishment of lines and grades for, and the grading, paving, or repaving of, said alleys, and the grading of private alleys hereafter laid out; and for apportioning the cost, and for the filing of liens therefor.

Section 1. Be it enacted, &c., That in cities of the first class when the board of health shall declare any private alley or driveway and/or retaining wall appurtenant thereto, to be a nuisance by reason of improper grading or defective paving of said alley or driveway, and/or retaining wall appurtenant thereto, and shall so certify to the Department of Public Works, the said Department of Public Works is hereby empowered to abate said nuisance upon the neglect or refusal of the registered owners of the property abutting on, or having the use, or actually using, such alley or driveway and/or retaining wall appurtenant thereto to abate said nuisance within sixty days after service of notice, by the said Department of Public Works, upon the said registered owners so to do, as hereinafter provided.

(1 amended Sept. 26, 1951 (1952), P.L.1506, No.373)

Section 2. The said Department of Public Works shall grade, pave, or repave the said alleys or driveways, and construct or repair any retaining walls appurtenant thereto, in accordance with lines and grades established by the surveyor and regulator of the district in which said alleys or driveways and/or retaining walls appurtenant thereto are situate, and the said surveyor and regulator is hereby empowered to establish such lines and grades.

(2 amended May 17, 1939, P.L.151, No.79)

Section 3. Any fence encroaching upon a public or private alley or driveway, and/or retaining wall appurtenant thereto, is hereby declared a nuisance and made unlawful; and the said Department of Public Works is empowered to remove such fence from within the established lines of said alleys or driveways, and/or retaining walls appurtenant thereto, after ten days' notice as set forth in this act. It shall be the duty of the registered owner of the premises on which such fence is erected, or to which it appertains, to remove such encroachment upon being notified. His failure so to do shall constitute a violation of this act.

(3 amended May 17, 1939, P.L.151, No.79)

Section 4. No alley or driveway having an outlet to any public street, public highway, public alley, or to a private alley or driveway which has an outlet to any public street, highway, or alley, shall hereafter be laid out or opened unless it shall be in accordance with lines and grades established by

the surveyor and regulator for the district in which said alley or driveway will be situate.

(4 amended May 17, 1939, P.L.151, No.79)

Section 5. The said Department of Public Works is hereby empowered to charge the cost and expense of the grading, paving, or repaving of said alleys or driveways, and the construction or repair of any retaining walls appurtenant thereto, or part or parts of said alleys or driveways, and/or retaining walls appurtenant thereto, upon the said owners in proportion to the width of their properties abutting thereon, or having the use thereof by deed or otherwise, or actually using the alley or driveway, and/or retaining wall appurtenant thereto, or in any other proportions as may, under the facts and circumstances of the case, be deemed just and proper by the said Department of Public Works and also to charge the cost of the removal of any encroaching fence to the owner of the said fence. Upon the failure to pay any of the said charges, the department shall cause liens to be filed therefor, in the name of the city, in the manner and according to the practice prescribed by law with respect to municipal claims.

(5 amended May 17, 1939, P.L.151, No.79)

Section 6. Notices requiring compliance with this act shall be served upon the registered owner, or his agent, or by posting a copy upon the premises, which notice shall not be removed or defaced while the condition exists. All notices shall be complied with within ten days, and upon failure to comply, said department may contract to have the necessary work done, and the cost thereof shall be made a lien against the property and collectible as now provided by law: Provided, however, That if there shall be no funds at the disposal of the said department for the aforesaid purpose, then the said department may contract to have such work done, and the lien therefor shall be marked to the use of the contractor doing the work and shall be collectible by the said contractor as is now provided by law in similar cases. Said contractor shall have the right to use all the legal processes that cities of the first class now have for the collections of liens, but in no case shall they have recourse to the city.

Section 7. Any person who shall violate any of the provisions of this act, or who shall interfere with any of the employes of the Department of Public Works while enforcing the provisions of this act, shall, for every such offense, upon conviction thereof in a summary proceeding before any magistrate of the said city and county in which the offense was committed, be subject to a fine of not less than \$5.00 or more than \$50.00, or by imprisonment for thirty days, either or both, at the discretion of the court. All fines to be paid into the treasury of the city.