ORDINANCE NO. 6356

AN ORDINANCE TO AMEND TITLE 4 "HEALTH AND SANITATION" OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY AMENDING "CHAPTER 4.19 – WEED NUISANCES."

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

SECTION 1. That Title 4 "Health and Sanitation" Chapter 4.19 "Weed Nuisances" of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended to read as follows:

4.19.010 - Owner to cut weed nuisance.

(a) Owners or occupants of all lots and parcels of ground within the city shall immediately cut or otherwise destroy all weeds on their respective lots or parcels of ground which would constitute a nuisance as defined in Section 1.97.030 of this code.
(b) Upon the failure of the owner or occupant to cut or otherwise destroy weeds which constitute a nuisance, it shall be the duty of the administrative authority to cause the same to be done.
(c) The administrative authority is authorized to designate an independent contractor retained by the city to perform the duties, or any of the duties, required by this chapter.

4.19.020 - Notice to property owner.

At least seven days prior to the abatement of the growth as authorized by this chapter, the administrative authority shall give notice of the proposed action in one of the following manners:

(1) By publication in a daily newspaper of general circulation in the city, notifying such property owners that unless such weeds, vines, brush, bushes, nonpurposefully planted trees less than three inches in diameter and noxious weeds as defined by the State Code, or other growths are cut or destroyed before the dates stated in the notice, the city will cut or destroy such weeds, vines, brush, bushes, nonpurposefully planted trees less than three inches in diameter, and noxious weeds as defined by the State Code, or other growths and assess the cost thereof to the owner of the lot or parcel of ground. The city clerk shall cause the notice to be published.
(2) By causing a dated and signed placard to be posted in a conspicuous place on each parcel of property found to be in violation of this chapter, the placard to state that the parcel is in violation of this chapter, and that failure of the owner to abate the growths within seven days of the date stated on the placard will result in the city abating the weeds and assessing the actual costs and an administrative fee against the property; and
(3) By regular mail to the owner of the property as shown by the records of the county auditor, the notice to state that the referred parcel of land is in violation of this chapter, and that failure of the owner to abate the growth within seven days of the date of the notice will result in the city abating the weeds and assessing the actual costs and an administrative fee against the property.

4.19.030 - Payment or assessment of costs.

(a) Upon completion of the abatement of a weed nuisance under the authority of this chapter, the property owner shall be charged a fee to cover the costs of abatement. The fee shall be as set forth in the current schedule of fees as adopted by the city council. The fee shall include the actual cost paid to the contractor plus an administrative fee for assigning and overseeing the work.
(b) The administrative authority shall demand payment of such fee from the property owner by mailing a statement of the fee to the last-known address of the owner and/or person in possession by ordinary mail. Such statement shall be due and payable upon mailing, and shall be delinquent if not paid within ten (10) days of mailing.
(c) Any fees for the abatement of a weed nuisance which are delinquent may be assessed against the property for collection in the same manner as a property tax, pursuant to the provisions of Section 364.12 of the Code of Iowa. An additional administrative fee shall be added to each delinquent account if it is certified for collection by the county auditor. The additional administrative fee shall be as set forth in the current schedule of fees as adopted by the city council.

4.19.040 - Duty.

It is the duty of property owners and persons in possession of real property which abuts public right-of-way to maintain all property outside the lot and property lines and inside the curb lines upon the public streets and to the center of alleyways, and to keep such property free from weed nuisances.

4.19.050 - Exceptions.

(a) The following shall be exceptions to Section 4.19.010:

(1) Vegetable Garden. Purposefully planted vegetable gardens shall be permitted to exceed eighteen (18) inches in height if they are maintained free from weeds.

(2) Flower Garden. Purposefully planted flower gardens shall include ornamental grasses as well as natural grasses, shall be permitted to exceed eighteen (18) inches in height if they are maintained free from weeds.

(3) Wood Perennials. Purposefully planted wood perennials shall be permitted to exceed eighteen (18) inches in height if they are planted and maintained in compliance with Chapter 10.52 and Title 15 of this code.

(4) Weeds and other growth shall be permitted to exceed eighteen (18) inches in height upon those properties or portions of properties within the city upon which development has never occurred, which due to terrain and the natural growth of trees are not amenable to weed control by any practical means, and which are not located in such proximity to developed areas that uncontrolled weed growth thereon will not constitute a nuisance or hazard to developed areas.
(b) This section shall not be construed so as to permit the growing of noxious weeds as defined in Chapter 317 of the Code of Iowa.

(5) Vegetative growth necessary to combat soil erosion on an active construction site may be permitted to exceed 18 inches on a temporary basis. A construction site shall not be considered active unless there is a current building permit or no work has been performed in the past 60 days.

4.19.060 - Unlawful.

It is unlawful for any owner or person in possession of any lot, place, area or tract of ground situated within the city of Council Bluffs, to permit a weed nuisance to exist thereon or upon any abutting public right-of-way identified in Section 4.19.040.

4.19.070 - Penalty.

Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95, in lieu of criminal prosecution. At the discretion of the city attorney, the provisions of this chapter may be enforced through the provisions of Chapter 8.56 of this code.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND October 22, 2018.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk

First Consideration: 10-8-18
Second Consideration: 10-22-18
Public Hearing: N/A
Third Consideration: _____