

ORDINANCE NO. 2013-34

AN ORDINANCE AMENDING CHAPTER 34, ARTICLE II, SECTION 34-61 GROWTH PERMITTED; CONTROL AND MAINTENANCE; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. That Chapter 34, Article II, Section 34-61 of the Wayne Municipal Code is amended to read as follows:

Sec. 34-61. Growth permitted; control and maintenance

- (a) It shall be the duty of each owner, **owner's** agent, **and** occupant ~~or person in possession, charge or control~~ of any lot, tract or parcel of land in the city to cut and remove from such lot, tract, or parcel of land, together with half of the abutting streets or alleys, ~~all weeds and other rank vegetation 12 inches in height or greater~~ **excessive growth of weeds, grasses or worthless vegetation.** Such ~~weeds and other rank growth of vegetation~~ **growth** shall be cut as close to the ground level as possible and shall be maintained as close to the ground level as possible throughout the period of May 1 to October 15 of each year. Growing or permitting the growing of weeds, **grasses, or vegetation** ~~or other rank growth of vegetation~~ in violation of this subsection is a nuisance and is prohibited.
- (b) It shall be unlawful for any owner, **owner's** agent **or** occupant ~~or person in possession, charge or control~~ of any premises described in subsection (a) of this section to allow to grow or to maintain any weeds, ~~or other rank growth of~~ **grasses, or worthless vegetation 12 inches in height or greater.** ~~so as to be injurious to the public health, declared to be noxious by the state, conducive to fires or combustion, or creating a nuisance.~~
- (c) The **City Administrator or his or her designee** ~~superintendent of public works~~ shall cause to be published in a legal newspaper of general circulation throughout the city for one time at least ten days before May 1, and on any other date designated by resolution of the council, a general notice to owners, **owner's** agents, **or** occupants ~~or persons in possession, charge or control~~ of real estate within the city to cut and remove **excessive weeds, grasses and worthless vegetation 12 inches in height or greater and other rank growth of vegetation** from such premises. The notice shall specify that the weeds and other rank growth of vegetation shall be cut as close to the ground level as possible throughout the period of May 1 to October 15.
- (d) The **City Administrator or his or her designee** ~~public works superintendent~~ is authorized and empowered to notify, in writing, the owner, **or owner's** agent, **and** occupant ~~or person in possession, charge or control~~ of any such lot, place or area within the city to cut, destroy and remove any such weeds, **grasses or worthless vegetation 12 inches in height or greater** ~~or deleterious unhealthful growths, or other noxious matter, found growing, lying or~~ located on such property.

- (e) ~~Such notice shall be by United States mail, postage prepaid, addressed to such owner, agent, occupant or person at his last known address, or shall be served personally, given by first class mail, and shall be conspicuously marked as to its importance.~~ **Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the City to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the City Clerk. A hearing on the appeal shall be held within 14 days after the filing of the appeal and shall be conducted by the City Administrator. The City Administrator shall render a decision on the appeal within five business days after the conclusion of the hearing. If the appeal fails, the City may have such work done.**
- (f) **If the owner or occupant of the lot or piece of ground does not request a hearing with the City, or upon the failure, neglect or refusal of any such owner, owner's agent, or occupant or person in possession so notified to cut, destroy and remove such weeds, grasses or worthless vegetation 12 inches in height or greater or deleterious unhealthful growths, or other noxious matter, growing, lying or located upon such property, within five days after receipt, personal service of written notice provided for in subsection (d) of this section, the City may have such work done. or within seven days after the mailing date of such notice, the public works superintendent is authorized and empowered to pay for the cutting, destroying and removal of such weeds, grass or deleterious unhealthful growths or other noxious matter, or to order the removal by the city.** The costs **and expenses of any such work shall be paid by the owner.** ~~of any such cutting, destroying or removing shall be at the expense of the owner, agent, occupant, or person in possession, charge or control of such property.~~
- (g) If the costs **and expenses mentioned in subsection (f) of this section are of cutting, destroying or removing weeds, and other rank growth of vegetation and costs of removing any refuse, debris or other obstructions to permit such cutting** unpaid for two months **after such work is done, the City may either (i) levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed or (ii) recover in a civil action the costs and expenses of the work upon the lot or piece of ground. the city clerk shall certify to the county treasurer the amount of such expense; and such expense shall become a lien on the property upon which the removal measures were taken as a special assessment levied on the date of such measures. The county treasurer shall add such expense to and it shall become and form a part of the taxes on such land and shall bear interest at the same rate as taxes. Nothing contained in this section shall be construed to limit satisfaction of the obligation imposed by this section in whole or in part by tax foreclosure. The expense may be collected by suit instituted for the purpose as a debt due the city or by any other or additional remedy otherwise available. Amounts collected under this section shall be paid over to the city treasurer.**

Section 2. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 3. This Ordinance shall be in full force and effect on September 6, 2013.

PASSED AND APPROVED this 3rd day of September, 2013.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk