

**CITY OF LAFAYETTE
ORDINANCE NO. 134**

AN ORDINANCE AMENDING CODE TITLE 9
REGULATION OF NUISANCES

WHEREAS, Minnesota Statutes Section 412.221 Subd. 23 provides that the City Council shall have power by ordinance to define nuisances and provide for their prevention or abatement.; and

WHEREAS, the City of Lafayette has established Code Chapter 92, regulating nuisances; and

WHEREAS, City Staff and the City Council have determined that it is necessary to amend the existing process for abatement of nuisances and tall grass and weeds.

NOW, THEREFORE, the City Council of the City of Lafayette, Nicollet County, State of Minnesota, ordains that City Code Title 9 shall be amended as follows:

1. City Code § **92.09** shall be amended to the following:

§ 92.09 ABATEMENT.

(A) Any nuisance defined under sections 92.01 through 92.07, excluding any structure included under the provisions of Minn. Stats. §§ 463.15 through 463.26, may be removed, corrected, or eliminated from private property through summary abatement as set forth in the following subsections:

(1) Whenever the City Clerk or a City peace officer determines that a public nuisance is being maintained or exists on private property in the City, the City Clerk or peace officer shall notify in writing, the record owner and occupant, if any, of the real property of such fact and order the nuisance to be terminated and abated.

(2) The notice shall be served in person or by certified mail. If the property is unoccupied and the location of the owner is unknown, the notice may be served by posting it on the property. The notice shall specify the steps necessary to abate the nuisance. The notice must also provide a reasonable deadline, not exceeding 20 days, for the nuisance to be abated.

(3) If the notice is not complied with, a report shall be submitted to or by the City Clerk, and a hearing by the City Council or an impartial hearing officer shall be set. The owner or occupant shall be provided with at least ten days' notice of the hearing. The hearing notice shall be served on the owner or occupant in the same manner, as provided in subsection (A)(2) of this section. For posted notice of the hearing, 30 days must elapse between the day of posting and the hearing.

(4) At the hearing, the City shall provide the owner or occupant an opportunity to be heard. After hearing the evidence, the Council of hearing officer may issue Findings of Fact and an Order providing for the City to abate the nuisance. The abatement order shall be executed as soon as practicable thereafter under the supervision of a peace officer.

(5) Any abatement order issued by the council may be appealed to the Nicollet County District Court if the appeal is filed within ten days of the Order. Any properly filed appeal shall be limited to the issue of cost recovery by the City.

(6) Any motor vehicle removed from private property shall be impounded and disposed of in accordance with Minnesota Statutes Chapter 168B, as amended. Any other personal property removed from private property, which in the opinion of the supervising peace officer, has more than nominal fair market value, shall be photographed and inventoried, and written notice of the property removed shall be posted on the property. The property may be reclaimed by the record owner of the real property, within 30 days of removal, only after payment of the City's cost of removal and storage fees, which shall be the same as the vehicle impound fee per day. If any property remains unclaimed after 30 days, it may be sold or disposed of by the City without further notice.

(B) Any charges incurred by the City in abating, removing, correcting or eliminating from private property a nuisance as described in Code sections 92.01 through 92.07, may be collected as provided in Minn. Stat. section 429.101 and City Code section 92.10. Such charges may include any actual costs incurred by the City, including, but not limited to, administrative, legal, engineering, and inspection and monitoring expenses, in connection with the abatement of the nuisance.

(C) Emergency Procedure; Summary Enforcement.

(1) In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the City Council may order summary enforcement and abate the nuisance.

(2) To proceed with summary enforcement, a peace officer shall determine that a public nuisance exists or is being maintained on premises in the City and that delay in abatement of the nuisance will unreasonably endanger public health, safety, or welfare. The officer shall attempt to notify in writing the occupant or owner of the premises of the nature of the nuisance and of the City's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement.

(3) The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) of this section, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(D) Immediate abatement. Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

Penalty, see §§ 10.98 and 10.99

2. Add Code §§ **92.35 through 92.43** as follows:

WEEDS

§ 92.35 SHORT TITLE.

This subchapter shall be cited as the “Weed Ordinance.”

§ 92.36 JURISDICTION.

This subchapter shall be in addition to any state statute or regulation or county ordinance presently in effect, subsequently added, amended or repealed.

§ 92.37 DEFINITIONS; EXCLUSIONS.

(A) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DESTRUCTION ORDER. The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the ordinance violation that shall conform to M.S. § 18.83, Subd. 2, as it may be amended from time to time.

MEADOW VEGETATION. Grasses and flowering broad-leaf plants that are native to, or adapted to, the state of Minnesota, and that are commonly found in meadow and prairie plant communities, except weeds as defined herein.

PROPERTY OWNER. The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license or lease.

WEEDS, GRASSES and RANK VEGETATION. Includes but is not limited to the following:

(a) Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip;

(b) Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years;

(c) Bushes of the species of tall, common, or European barberry, further known as

berberis vulgaris or its horticultural varieties;

(d) Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding 6 (six) inches;

(e) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants;

(f) The term **WEEDS** does not include shrubs, trees, cultivated plants or crops.

(g) Any other weed designated by M.S. § 18.77, Subd. 8, or Minn. Rules as they may be amended from time to time, as noxious.

(B) In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

§ 92.38 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.

(A) All property owners shall be responsible for the removal, cutting, or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property, which at the time of notice, is in excess of 12 inches in height.

(B) These provisions shall not apply to an area established with meadow vegetation if:

(1) The prior vegetation is eliminated and the meadow vegetation is planted through transplanting or seed by human or mechanical means; and

(2) A sign is posted on the property in a location likely to be seen by the public, advising that a meadow or prairie is being established. This sign must be no smaller than ten inches square, no larger than one square foot, and no higher than three feet tall.

Penalty, §§ 10.98 and 10.99 (B) and (C)

§ 92.39 FILING COMPLAINT.

Any person, including the city, who believes there is property located within the corporate limits of the city which has growing plant matter in violation of this subchapter shall make a written complaint signed, dated and filed with the City Clerk. If the city makes the complaint, an employee, officer or Council Member of the city shall file the complaint in all respects as set out above.

§ 92.40 NOTICE OF VIOLATIONS.

(A) Upon receiving notice of the probable existence of weeds, grasses, or rank vegetation, as defined by Code Section 92.37, a person designated by the City Council shall make an inspection of the

property. If the person designated by the City Council concludes that there is a probable belief that this subchapter has been violated, the person shall issue a written notification in the form of a “Destruction Order” to the property owner, and the person occupying the property if different from the property owner, as that information is contained within the records of the City Clerk or any other city or county agency. The notice shall be served in writing by certified mail or personal service. The notice shall provide that within seven calendar days after the receipt of the notice that the designated violation shall be removed by the property owner or person occupying the property.

(B) (1) All notices are to be in writing and all filings are to be with the City Clerk.

(2) Certified mailing to the City Clerk or others is deemed filed on the date of posting to the United States Postal Service.

(C) Notices for subsequent violations within the same calendar year may be made by posting upon the property and first-class mail to the address listed in the County property tax records.

§ 92.41 APPEALS.

(A) The property owner may appeal by filing written notice of objections with the City Council within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the City Council. It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants or crops or is not otherwise in violation of this subchapter, and should not be subject to destruction under the subchapter.

(B) An appeal by the property owner shall be brought before the City Council and shall be decided by a majority vote of the Council Members in attendance and being at a regularly scheduled or special meeting of the City Council.

(C) A properly filed appeal for subsequent violations within the same calendar year shall be limited to the issue of cost recovery by the City.

§ 92.42 ABATEMENT BY CITY.

In the event that the property owner shall fail to comply with the “Destruction Order” within seven calendar days and has not filed a notice within 48 hours to the City Clerk of an intent to appeal, the City Council may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means. No person shall enter the property to abate the nuisance, except with the permission of the owner, resident or other person in control of the property.

§ 92.43 LIABILITY.

(A) The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subchapter.

(B) The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorney's fees and interest on any unpaid amounts incurred by the city. If the city uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

(C) All sums payable by the property owner are to be paid to the City Clerk and to be deposited in a general fund as compensation for expenses and costs incurred by the City.

(D) All sums payable by the property owner may be collected as a special assessment as provided by M.S. § 429.101, as it may be amended from time to time.

This Ordinance shall be in full force and effect from and after its passage and adoption and publication as provided in law.

PASSED AND ADOPTED THIS 13th DAY OF SEPTEMBER, 2021.

LAFAYETTE CITY COUNCIL

By
Sandie Peterson, Mayor

ATTEST:
Sandy Burger, City Clerk / Treasurer

AYES: Tauber, Polich, Portner, Reed
Peterson

NAYS: None

PRESENT-NOT VOTING: none

First Reading: 8/10/2021

Second Reading/Adoption: 9/13/2021

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