

ORDINANCE NO. 2014-06

An Ordinance Relating to the Destruction of Noxious Weeds and the Regulation of Length of Lawn and Grasses

The Common Council of the City of Cedarburg, Wisconsin, hereby ordains as follows:

SECTION 1. Section 8-1-5 of the Municipal Code of the City of Cedarburg is hereby amended as follows:

SEC. 8-1-5 DESTRUCTION OF NOXIOUS WEEDS.

- (a) The City Clerk shall annually on or before May 15 ~~and July 31~~ publish as required by state law a class 2 notice that every person is required by law to destroy all noxious weeds on lands in the City which he owns, occupies or controls. A joint notice with other towns or municipalities may be utilized.
- (b) If the owner or occupant shall neglect to destroy any weeds as required by such notice, then the Weed Commissioner of the City shall give five (5) days' written notice by mail to the owner or occupant of any lands upon which the weeds shall be growing to the effect that the said Weed Commissioner after the expiration of the five (5) day period will proceed to destroy or cause to be destroyed all such weeds growing upon said lands and that the cost thereof will be assessed as a tax upon the lands upon which such weeds are located under the provisions of Sec. ~~66.96~~ 66.0407 of the Wisconsin Statutes. In case the owner or occupant shall further neglect to comply within such five (5) day notice, then the Weed Commissioner shall destroy such weeds or cause them to be destroyed in the manner deemed to be the most economical method and the expense thereof, including the cost of billing and other necessary administrative expenses, shall be charged against such lots and be collected as a special tax thereon.
- (c) As provided for in Sec. ~~66.96(2)~~ 66.0407(1)(a), Wis. Stats., the City shall require that all noxious weeds shall be destroyed ~~prior to the time which such plants would mature to the bloom or flower state~~ at a time and in a manner as will effectually prevent the weed plants from maturing to the bloom or flower stage. The growth of noxious weeds ~~in excess of eight (8) inches in height from the ground surface~~ shall be prohibited within the City corporate limits. Noxious weeds shall include any weed, grass or similar plant growth which, if allowed to pollinate, would cause or produce hayfever in human beings or would cause a skin rash through contact with the skin. Noxious weeds, as defined in this Section ~~and in Section 8-1-7~~, shall include but not be limited to the following weeds and those designated as noxious weeds in the Wisconsin Statutes:

Cirsium Arvense (Canada Thistle)
Ambrosia artemisiifolia (Common Ragweed)
Ambrosia trifida (Great Ragweed)
Euphorbia esula (Leafy Spurge)
Convolvulus arvensis (Creeping Jenny) (Field Bind Weed)
Tragopogon dubius (Goat's Beard)
Rhus radicans (Poison Ivy)

Cirsium vulgaries (Bull Thistle)
Pastinaca sativa (Wild Parsnip)
Arctium minus (Burdock)
Xanthium strumarium (Cocklebur)
Amaranthus retroflexus (Pigweed)
Chenopodium album (Common Lambsquarter)
Rumex Crispus (Curled Dock)
Cannabis sativa (Hemp)
Plantago lanceolata (English Plantain)
Alliarita Petiolata (Garlic Mustard)

Noxious grasses, as defined in this Section ~~and in Section 8-1-7~~, shall include but not be limited to the following:

Agrostia alba (Redtop)
Dactylis glomerata (Orchard)
Phleum pratensis (Timothy)
~~Poa pratensis (Kentucky Blue)~~
Sorghum halepense (Johnson)
Setaria (Foxtail)

Noxious weeds are also the following plants and other rank growth:

Ragweed
Thistles
Smartweed
Dandelions (over 10 inches in height)
~~Milkweed (over 10 inches in height)~~

State Law Reference: Sec. ~~66.96~~ 66.0407, Wis. Stats.

SECTION 2. Section 8-1-7 of the Municipal Code of the City of Cedarburg is hereby amended as follows:

SEC. 8-1-7 REGULATION OF LENGTH OF LAWN AND GRASSES.

- (a) **Purpose.** This Section is adopted due to the unique nature of the problems associated with lawns, grasses and noxious weeds being allowed to grow to excessive length in the City of Cedarburg.
- (b) **Public Nuisance Declared.** The Common Council finds that lawns, grasses and noxious weeds on lots or parcels of land which exceed eight (8) inches in length adversely affect the public health and safety of the public in that they tend to emit pollen and other discomfoting bits of plants, constitute a fire hazard and a safety hazard in that debris can be hidden in the grass, interferes with the public convenience and adversely affects property values of other land within the City. For that reason, any lawn, grass or weed on a lot or other parcel of land which exceeds eight (8) inches in length is hereby declared to be a public nuisance, ~~except~~ An exception to the height requirement will be allowed for property located in a designated floodplain areas, drainageways and/or wetland areas or

where the lawn, grass or weed is part of a natural lawn approved pursuant to Section 8-1-6 above.

- (c) **Nuisances Prohibited.** No person, firm or corporation shall permit any public nuisance as defined in Subsection (b) above to remain on any premises owned or controlled by him within the City.
- (d) **Inspection.** The Weed Commissioner or his designee shall inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance as defined in Subsection (b) above exists.
- (e) **Abatement of Nuisance.**
 - (1) If the Weed Commissioner shall determine with reasonable certainty that any public nuisance as defined in Subsection (b) above exists, he shall immediately cause written notice to be served that the City proposes to have the lot grass or lawn cut so as to conform with this Section and Section 8-1-5.
 - (2) The notice shall be served at least seven (7) days prior to the date of the City's date of action to have the grass or lawn cut and shall be mailed or served on the owner of the lot or parcel of land or, if he is not known and there is a tenant occupying the property, then to the tenant, of the time and place at which the hearing will be held.
 - (f) **Due Process Hearing.** If the owner believes that his grasses or weeds are not a nuisance, he may request a hearing before the Common Council. The request for said hearing must be made in writing to the City Clerk's office within the seven (7) days set forth in the Weed Commissioner's notice. Upon application for the hearing, the property owner must deposit a \$25.00 bond. If a decision is rendered in the property owner's favor, the \$25.00 will be returned to the property owner. If the property owner fails to appear for the hearing or if the decision is rendered against the property owner, the deposit shall be forfeited and applied to the cost of City personnel abating the nuisance, if necessary. When the owner of the property requests a hearing, a hearing by the Common Council shall be held within ~~seven~~ fourteen (14) days from the date of the owner's request. The City will not mow the property in question until such time as the Council holds the hearing. At the hearing, the owner may appear in person or by his attorney, may present witnesses in his own behalf and may cross-examine witnesses presented by the City as well as subpoena witnesses for his own case. At the close of the hearing, the Common Council shall make its determination in writing specifying its findings, facts, and conclusions. If the Common Council determines that a public nuisance did exist, the Council shall order the Weed Commissioner to mow the property in question unless the property has been mowed by the owner within forty-eight (48) hours of the Common Council's decision. If the owner does not abate the nuisance within the described forty-eight (48) hours, the Weed Commissioner shall cause the same nuisance to be abated and cost in excess of the forfeited fee assessed accordingly.
- (g) **City's Option To Abate Nuisance.** In any case where the owner, occupant or person in charge of the property shall fail to cut his lawn, grass or weeds as set forth above, then, and in that event, the City may elect to cut said lawn, grass or weeds as follows:
 - (1) The written notice required in Subsection (e) shall inform said person that in the event of his failure to abate the nuisance within the prescribed time, the City shall

abate the same and the cost thereof shall be assessed to the property owner as a special charge.

- (2) The City shall cut or cause to be cut all grass and weeds from the subject's property and shall charge the expenses of so doing at a rate as established by resolution by the Common Council. The charges shall be set forth in a statement to the City Clerk who, in turn, shall mail the same to the owner, occupant or person in charge of the subject premises. If said statement is not paid in full within thirty (30) days thereafter, the City Clerk shall enter the charges in the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate, or as provided under Sec. 66.615(3)(f), Wisconsin Statutes.

SECTION 3. This ordinance shall take effect upon its passage and publication as provided by law.

Passed and adopted this 10th day of March 2014.

Chris Reimer, Acting Mayor

Countersigned:

Constance K. McHugh

Approved as to form:

Kaye K. Vance, City Attorney