

CITY OF WASHINGTON

PLANNING & DEVELOPMENT DEPARTMENT

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MEMORANDUM

TO: Mayor Manier and City Council
FROM: Jon R. Oliphant, AICP, Planning & Development Director
SUBJECT: First Reading Ordinance – Grass/Weeds Code Enforcement Amendment
DATE: January 10, 2018

Summary: The attached ordinance would allow staff to send one annual notice to property owners upon a grass/weed nuisance violation and clarify the abatement remedies available for nuisance violations. This ordinance would allow staff to more efficiently address grass/weed violations. Staff recommends approval.

Background: City Code currently requires staff to give notice to an owner about the need to come into compliance within seven days of each grass/weed nuisance violation. While there are various reasons for non-compliance by some owners, there are clearly some owners that do not come into compliance until they are given notification of the violation. This takes staff time to have to track those properties that may have a handful of violations each year.

The attached draft amendment from Davis & Campbell would allow staff to send one notice during any calendar year. Following the one calendar year notification, immediate abatement and/or fines can be utilized for any recurring violations. This would only be done for grass/weed violations and not other nuisance code violations.

A first reading ordinance is scheduled for the January 16 City Council meeting with a second reading scheduled for February 5.

ORDINANCE NO. _____

Synopsis: Adoption of this ordinance would clarify the mechanisms available to abate nuisances, and to allow the City to provide only one notice during each calendar year to abate a nuisance for allowing grass, weeds, or other plants other than trees, bushes, flowers, or other ornamental plants to grow to a height in excess of eight (8) inches.

**AN ORDINANCE AMENDING CHAPTER 96 OF THE CODE OF ORDINANCES OF
THE CITY OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS, REGARDING
NUISANCE NOTIFICATION REQUIREMENTS AND CLARIFYING ABATEMENT OF
NUISANCES**

WHEREAS, the Code of Ordinances of the City of Washington (the "Code") provides for the abatement of nuisances; and

WHEREAS, the Code provides for the City to provide notice to the owner or occupant of the premises to abate the nuisance; and

WHEREAS, providing repeat nuisance offenders with notice every time they are found in violation of the Code has placed undue costs, burdens, and expenses on the City; and

WHEREAS, the City Council has determined that it is in the best interest of the City to amend the Code to clarify the mechanisms available to abate nuisances, and to allow the City to provide only one notice during each calendar year to abate a nuisance for allowing grass, weeds, or other plants other than trees, bushes, flowers, or other ornamental plants to grow to a height in excess of eight (8) inches.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF WASHINGTON, ILLINOIS**, as follows:

Section 1. That § 96.05(A)(2) of Chapter 96 of the Code be, and the same hereby is, amended by adding the following paragraph to § 96.05(A)(2) directly following § 96.05(A)(2)(b):

- (c) Notwithstanding the foregoing, only one such notice shall be required to be provided during any calendar year for a nuisance violation arising under § 96.01(6) of the City Code, and additional notice beyond the initial notice shall not be required if the same type of nuisance recurs on the property during that calendar year (a "recurring nuisance violation").

Recurring nuisance violations shall be subject to immediate abatement and/or fines without additional notice to the person responsible for the existence of the nuisance.

Section 2. That § 96.05(C) of Chapter 96 of the Code be, and the same hereby is, amended by deleting said § 96.05(C) in its entirety and substituting in lieu thereof as § 96.05(C) the following:

(C) General abatement remedies; alternative. After the expiration of (7) seven days from the date the notice was mailed, or at any time for a recurring nuisance violation, if the nuisance is not abated or other remedy made as required, the City may ~~choose either one of~~ utilize the following abatement remedies:

- (1) The nuisance may be abated by the City, under the direction of the City Administrator, and the cost of so doing shall be collected from the person who is responsible for the nuisance with a penalty of ten percent (10%) of such costs in an appropriate court of competent jurisdiction; and
- (2) In addition to the other remedies and penalties provided in this chapter, the City Attorney is authorized to file appropriate civil actions for a temporary restraining order, temporary injunction, permanent injunction or for damages, against any person violating this chapter.

Section 3. That § 96.05(E) of Chapter 96 of the Code be, and the same hereby is, amended by deleting said § 96.05(E) in its entirety and substituting in lieu thereof as § 96.05(E) the following:

(E) City abatement of ~~weed~~ nuisances under § 96.01(6). In the event the City chooses to abate a grass, weed, or plant nuisance, the following additional remedies are available to the City:

- (1) Charges. The actual cost incurred by the City for the cutting and removal of grass, weeds, and plants; provided, however, if the City uses its own employees to cut/remove the grass, weeds, or plants, there is hereby established a charge of Fifty Dollars (\$50.00) per hour for ~~the removal of weeds and grasses pursuant to this Chapter~~ such cutting/removal. Whether ~~the~~ such cutting/removal is accomplished by City employees or not, the charge to the property owner or occupant shall not be less than One Hundred Dollars (\$100.00), in any event.
- (2) Lien.
 - (a) Charges for such grass, weed, and plant cutting/removal shall be a lien upon the premises. Within sixty (60) days after such cost and expense is incurred by the City, the City Clerk may file a notice of lien with the Recorder of Deeds of the County. This claim of lien statement shall contain a legal description of the premises, the expenses and costs incurred and the date ~~the weeds were cut~~ of cutting/removal, and a notice that the City claims a lien for this amount.
 - (b) Notice of such lien claim shall be mailed to the owner of the premises if his address is known.
- (3) Foreclosure of lien.

- (a) Property subject to a lien for unpaid ~~weed and grass~~ grass, weed, or plant cutting/removal charges shall be sold for nonpayment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in equity in the name of the City.
- (b) The City Attorney is hereby authorized and directed to institute such proceedings, at the direction of the corporate authorities in the name of the City, in any court having jurisdiction over such matter, against any property for which such bill has remained unpaid for a period of sixty (60) days after the filing of said notice of lien, and for such service a reasonable attorney's fee shall be allowed against the owner of said premises in the foreclosure action.

Section 4. This ordinance shall be in full force and effect upon its passage, approval, and publication as provided by law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Washington, Tazewell County, Illinois, on the _____ day of February, 2018.

Ayes: _____

Nays: _____

Mayor

ATTEST:

City Clerk