

ORDINANCE NO. 046-12

**AN ORDINANCE AMENDING CHAPTER 21 (HEALTH REGULATIONS) OF THE MUNICIPAL CODE OF THE CITY OF CEDAR RAPIDS, IOWA, BY REPEALING SECTION 21.13 (WEEDS) THEREFROM AND ENACTING A NEW SECTION 21.13 IN LIEU THEREOF.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR RAPIDS, IOWA, as follows:

Section 1. That Section 21.13 (Weeds) of Chapter 21 (Health Regulations) of the Municipal Code, City of Cedar Rapids, be and the same is hereby repealed, and the following new section enacted as a substitute:

**21.13 - WEEDS**

**(a) Definitions.**

1. Chemical control: The application of herbicide (weed killer) in strict accordance with the directions on the product and the regulations of the Code of Iowa and the Iowa Administrative Code, as amended.
2. Developed area: An area, except for one designated as an agricultural district, under one of the city's zoning districts upon which there exists one or more houses, businesses or industrial plants.
3. Farmland: An area of land suitable for the production of farm products, those being plants or animals or the by-products thereof which supply people with food, feed, fiber, or fur, which is entirely, actively, and currently being used to produce such products.
4. Forest cover: Land, which is predominantly wooded.
5. Hazard: Any weed, grasses or other herbaceous vegetation which interferes with any sidewalk or the traveled portion of any roadway or alley or with visibility at any intersection, or traffic control light or site or constitutes a reasonable health, safety or fire hazard or otherwise endangers life or property.
6. Natural area: An area of forest cover, wetlands, waterways, and areas certified as wildlife habitat.
7. Noxious weeds: Noxious weeds as defined by the Code of Iowa or the Iowa Administrative Code, as amended.
8. Parking: The property between a property owner's lot or property line and the curb, or the traveled portion of the public street, or the centerline of the public right of way depending on the absence of a curb or traveled portion.
9. Property owner: Contract purchaser, if there is one of record, otherwise the record holder of legal title.

10. Urban street: The area from curb to curb, or in the absence of curbing, the traveled portion of the street, of a public highway, street, road, lane, alley, or similar public way within the jurisdiction of the city which is generally used for vehicular traffic.
  11. Weed official: The City Street Director or designee hereby given the authority to enforce the provisions of this chapter.
  12. Wetlands: An area of one acre or more that is mostly under water or waterlogged during the spring growing season.
- (b) **Maintenance of Parking and Private Property.** All property owners shall maintain their property and the abutting parking according to the following standards:
1. In developed areas and other areas, which lie within one hundred feet of a developed area or urban street, except for those otherwise hereinafter regulated, all vines, brush, bushes, nonpurposefully planted trees less than 3 inches in diameter and noxious weeds as defined by the State Code, (Chapter 317) or other growth, which constitute a health, safety or fire hazard shall be cut or destroyed by the property owners or occupants in possession or control of lands, including railroad lands within the City of Cedar Rapids, Iowa to a height comparable to or lower than the groundcover in the surrounding area or when such growth exceeds one foot in height.
  2. In areas of forest cover, all vines, brush, bushes, nonpurposefully planted trees less than 3 inches in diameter and noxious weeds as defined by the State Code, (Chapter 317) or other growth, which constitute a health, safety or fire hazard between the established tree line and the abutting developed area or urban street shall be cut or destroyed by the property owners or occupants in possession or control of lands to a height comparable to or lower than the groundcover in the surrounding area or when such growth exceeds one foot in height.
  3. All weeds, vines, brush, bushes, nonpurposefully planted trees less than 3 inches in diameter and noxious weeds as defined by the State Code, (Chapter 317) or other growth, which constitutes a health, safety or fire hazard, which occurs within the public right of way of an urban street, including any drainage ditch located therein, shall be cut or destroyed by the property owners or occupants in possession or control of the abutting lands to a height comparable to or lower than the groundcover in the surrounding area or when such growth exceeds one foot in height.
  4. Natural areas, farmland, and publicly owned open spaces may exceed the standards established by this chapter, except that any growth of all weeds, vines, brush, bushes, nonpurposefully planted trees less than 3 inches in diameter and noxious weeds as defined by the State Code, (Chapter 317) or other growth, which constitute a health, safety or fire hazard shall be cut or destroyed when such growth exceeds 2 feet in height.
  5. In other areas of the city, all weeds, vines, brush, bushes, nonpurposefully planted trees less than 3 inches in diameter and noxious weeds as defined by the State Code, (Chapter 317) or other growth, which constitute a health, safety or fire hazard shall be cut or destroyed when such growth exceeds 2 feet in height.
  6. In the event such weeds, vines, brush, bushes, nonpurposefully planted trees less than 3 inches, and noxious weeds as defined by the State Code, cannot be destroyed by the usual and ordinary methods because of the terrain or rough surface of the property, then the weed official may direct the grading or otherwise leveling of said property, such that a proper destruction of said weeds, vines, brush, or other growth

can be accomplished. These costs to grade or otherwise level said property will be billed or assessed as provided in this chapter.

7. In the event the city destroys such weeds, vines, brush, bushes, nonpurposefully planted trees less than 3 inches in diameter or other growth, any loss or damage to crops growing on the property, or other damage caused to the property shall be borne by the owners or occupants of said property and not by the City of Cedar Rapids or its employees or agents.
  8. These requirements as outlined above for the maintenance of parking and private property are in effect no later than May 1st of each year, and thereafter, through and including October 15th of each year.
  9. The property owner shall keep the abutting parking in repair, free of holes, excavations, protrusions, or other obstacles, which could cause injury to the public.
  10. If the weed official determines that a clear and compelling emergency exists, the weed official may cause the necessary maintenance required under this chapter to be done immediately without prior notification the property owner. The cost for the maintenance of the emergency may be assessed as provided with this code.
- (c) **Annual Notice of Proposed Abatement of Growth.** The Public Works Director or his or her designee shall give notice by publication prior to the 15th of April in a daily newspaper of general circulation of the city, notifying property owners or occupants in possession or control of lands, including railroad lands within the City of Cedar Rapids, Iowa, of the duty to maintain all weeds, vines, brush, bushes, nonpurposefully planted trees less than 3 inches in diameter and noxious weeds as defined by the State Code (364), or other growths as required under this chapter. The notice will further state that the city will cut or destroy such weeds, vines, brush, bushes, nonpurposefully planted trees less than 3 inches in diameter, and noxious weeds as defined by the State Code, or other growths, and bill or assess the cost thereof to the property owner or occupant in possession or control of lands, including railroad lands within the City of Cedar Rapids, Iowa and that the costs will be assessed against the property in accordance with this chapter.
- (d) **Failure to Comply.** In the event any property owner, or occupant in possession or control of lands, including railroad lands within the City of Cedar Rapids, Iowa, fails to cut or destroy such weeds, vines, brush, bushes, nonpurposefully planted trees less than 3 inches in diameter and noxious weeds as defined by the State Code or other growth as above described, the weed official shall destroy such weeds, vines, brush, bushes, nonpurposefully planted trees less than 3 inches in diameter and noxious weeds as defined by the State Code or other growth as above described by cutting or such other method including chemical control, as may be necessary to make such destruction.
- (e) **Weed Abatement Costs.**
1. In addition to any other remedy allowed by law, the weed official may notify, in writing, the property owner, or occupant in possession or control of any land in the city upon which weeds exist in violation of this chapter. Such written notice may be by regular mail. Such written notice need only be given once per calendar year. Such notice shall include the following:
    - a. That the property owner or occupant in possession or control of the land is in violation of the city weed control ordinance;
    - b. That the property owner or occupant in possession or control of the land is ordered to cut weeds within 4 days of the date of the letter;

- c. That if the property owner or occupant in possession or control of the land does not cut the weeds, that the city or its authorized agent will cut the weeds and assess the cost of the cutting, including a reasonable administrative fee, against the owner or occupant in possession or control of the land;
  - d. That the property owner or occupant in possession or control of the land will be given an opportunity to pay the assessment, but if it is not paid, will be assessed against the property for collection in the same manner as property tax;
  - e. That no further notice shall be given prior to removal of weeds during the current calendar year;
  - f. That the property owner or occupant in possession or control of the land may request a hearing before the Cedar Rapids City Council or its designated representative within 4 days of the receipt of notice.
2. Upon completion of the weed abatement, the weed official or the duly designated person shall certify the contracted cost and expenses as provided by law against the property to be paid as required by law and bill the costs plus an administrative fee set by the City Manager to cover the costs for inspection, notice preparation/ mailing, tracking, billing and any required services to execute the abatement thereof to the property owner or occupant in possession or control of lands, including railroad lands within the City of Cedar Rapids, Iowa. On invoices not paid within 30 days, there will be an additional fee for assessment against the property.
  3. The second or subsequent violation of this chapter shall constitute a municipal infraction and shall be cited and punished accordingly. Additionally, violations of this chapter may be subject to the penalties provided for in Section 1.06 of the Cedar Rapids Municipal Code, as amended.
  4. This fee schedule shall be reviewed annually to ensure all costs are recovered. If adjustments are required, City Council may establish a new fee schedule by resolution.
  5. The weed official, or designee, or any authorized assistant, employee, contracting agents, or other representatives, are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying, and/or removing such weeds in a manner not inconsistent with terms of this chapter.
- (f) **Exceptions.** The following shall be exceptions to the provisions of this chapter:
1. Vegetable and/or flower gardens, purposefully planted, shall be permitted if they are maintained in compliance with Chapter 21.13 of this code.
  2. Wood perennials, purposefully planted, shall be permitted if they are planted and maintained in compliance with Sections 21.13 WEEDS, 9.18 PARKING(b), and 9.20(e) TREES IN STREETS of this code.
  3. Prairie grass areas, wild flower planting areas, natural reserve and preserve areas, urban wood lots, wild life refuge and conservation areas, wetlands and natural water way, all as recognized and identified by a governmental agency or a respected private conservation organization.

Section 2. It is the intention of the Council that each section, paragraph, sentence, clause, and provision of this Ordinance is separable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance nor any part thereof other than that affected by such decision.

Section 3. This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Section 4. The changes as provided in this Ordinance shall be made a part of the replacement pages of the Municipal Code, City of Cedar Rapids, Iowa, and made a part of said Code as provided by law.

Section 5. All ordinances or parts of ordinances in conflict with any provision of this Ordinance are hereby repealed.

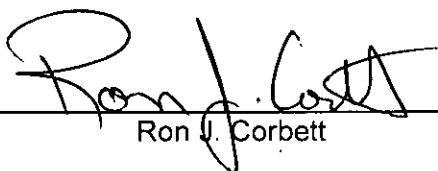
Section 6. Any person, firm or corporation violating any provision, section or paragraph of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof be subject to a fine of at least \$65.00 but not more than \$625.00, or be imprisoned for not more than 30 days, or both. That each day a violation occurs shall constitute a separate offense.

Additionally, violation of any provision, section, or paragraph of this ordinance constitutes a municipal infraction subject to all the penalties and other relief provisions as set forth in Iowa Code Section 364.22 (2008), as amended.

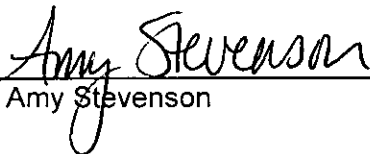
As part of the penalty provision of this Ordinance, Sections 1.06 and 1.12 of the Municipal Code, City of Cedar Rapids, Iowa, are adopted, and shall apply to this Ordinance, and supersede the penalty clause as above provided when this Ordinance is incorporated into and made a part of the Municipal Code, City of Cedar Rapids, Iowa, and such penalty clause is herewith adopted and made applicable to all violations of this Ordinance.

Introduced this 26<sup>th</sup> day of June, 2012.

Passed this 10<sup>th</sup> day of July, 2012.

  
\_\_\_\_\_, Mayor  
Ron J. Corbett

Attest:

  
\_\_\_\_\_, City Clerk  
Amy Stevenson