

ORDINANCE NO. 1054

AN ORDINANCE OF THE CITY OF WILLISTON AMENDING DIVISION 4 OF CHAPTER 5 OF THE WILLISTON CODE OF ORDINANCES GOVERNING THE WEED AND MOWING CONTROL PROGRAM.

WHEREAS, the City of Williston previously enacted Ordinances 634 and 882 which, among other things, provided and amended an ordinance on the establishment of a weed and mowing control program, and

WHEREAS, it is the intent of the City of Williston to establish new guidelines and procedures outlining the weed and mowing control program due to difficulty in enforcement of the current program; and

WHEREAS, it be declared that noxious weeds and tall grasses exceeding eight (8) inches in height growing within the limits of the city are hereby declared to be a public nuisance and it shall be the duty of every person owning, occupying, or in charge of any premises, lot or parcel of land in the city to keep that premises, parcel or lot, including the adjacent rights-of-way, free from noxious weeds and tall grasses by cutting, eradicating, or controlling them at all times during the growing season. Medians separating street sections shall not be included in the requirements of this article.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF WILLISTON, NORTH DAKOTA:

Article IV of Chapter 5 of the Williston Code of Ordinances is hereby amended to read as follows:

Section 5-282. Weed and mowing control program established.

N.D.C.C. § 4.1-47-17 authorizes the board of city commissioners to establish a noxious weed control program overseen by an appointed city weed board. The city has also determined that control of tall grasses is necessary for the health and safety of city residents.

There is hereby established a program for the control of weeds and mowing of grasses within the jurisdictional limits of the city. The control program, as established, may operate in conjunction with any other control authority or officer.

Further, a city weed board is hereby established. The weed board shall consist of three members appointed by the board of city commissioners that are qualified electors residing within the city. Terms for all members of the board are for four years or until a successor is appointed and qualified. Terms of appointment shall be staggered so as to allow no more than two to expire each year. Terms of office shall begin on January 1. Board members shall assume office at the first regular board meeting following the beginning of their term or at the first regular board meeting following their appointment if filling a vacancy. The board officers shall consist of a chairman, vice chairman, secretary and treasurer. The secretary and treasurer need not be voting members of the board. The weed control officer may serve as a voting member of the board if the weed control officer is qualified to do so.

The weed board shall hear any appeal of a notice from the weed control officer. Timing of the hearing and hearing procedures shall be determined by the weed board. Any decision rendered by the weed board may be appealed to the board of city commissioners.

The city shall also designate a weed control officer. The weed control officer shall execute the duties and meet the requirements outlined herein and in N.D.C.C. § 4.1-47-24.

Section 5-283. Definitions.

As used in this article:

Control means to prevent the spread of any noxious weed, designated by the weed and mowing control officer, by seed or any other propagating part, and mowing of grasses in excess of eight (8) inches.

Control authority means the weed and mowing control officer and such officer's assistants, and the board of city commissioners.

City weed and mowing board means members of the board of city commissioners, acting as such.

Eradicate or *eradication* means to destroy a plant so that it is not viable.

Landowner means any owner of federal, state, municipal or private land, under statutory authority or otherwise, but does not include a lessee, renter, tenant, operator or an owner of any easement or right-of-way.

Noxious weed means any plant propagated by either seed or vegetative parts which is determined by the weed and mowing control officer after consulting with the state cooperative extension service, or the city weed and mowing board after consulting with the county extension agent, to be injurious to public health, land or other property. It includes all weeds defined by state law as "noxious weeds."

Operator means the person chiefly responsible for or in possession of the land, whether for self-benefit, or for the benefit of the landowner or another.

Person means any individual, partnership, firm, corporation, company, society, association, the state, or any department, agency or subdivision thereof, or any other entity which occupies or owns land or which causes noxious weed seeds or propagating parts to be disseminated or transported in North Dakota.

Tall grasses means all varieties of grasses and all weeds that are not defined by state law of the weed board as noxious weeds and are in excess of eight (8) inches in height.

Weed and mowing control officer means the person or persons appointed or designated by the board of city commissioners to be responsible for the operation and enforcement of this article within the city.

Section 5-284. Control and eradication of noxious weeds and mowing of grasses.

Noxious weeds and tall grasses exceeding eight (8) inches in height growing within the limits of the city are hereby declared to be a public nuisance and it shall be the duty of every person in charge of or in possession of land in this city, whether as landowner, lessee, renter or tenant, to eradicate or to control the spread of noxious weeds on those lands, including the adjacent rights-of-way, by mowing grasses in excess of eight (8) inches. Medians separating street sections shall not be included in the requirements of this article.

Section 5-285. Powers and duties of weed board and the weed control officer.

(a) The weed board shall exercise the powers and duties authorized by the N.D.C.C. including:

- (1) Meet at least once each year.
- (2) Establish the time and place of regular board meetings.
- (3) Call special meetings as needed.

- (4) Keep minutes of its meetings and a complete record of all official acts.
 - (5) Implement a program for the control of noxious weeds.
 - (6) Implement a program for the control of tall grasses.
 - (7) Prepare budget recommendations for the use of all moneys received by the city from any source for noxious weed control.
- (b) The weed control officer shall exercise the powers and duties as follows:
- (1) The weed control officer shall cause a notice of the requirements of this article to be published in the official newspaper of the city once within three days of April 15, May 15, June 15, July 15, August 15 and September 15. These publications shall serve as notice to all landowners, occupants, or persons in charge of maintaining any parcel of land within the city limits to comply with the requirements of this article. These publications shall also serve as the official notice to property owners to cut weeds and tall grass. Other methods of notification, such as the media and the city's website, may also be used to notify landowners, occupants, or persons in charge to control tall grass and weeds.
 - (2) Whenever any person owning, occupying or in charge of any premises, lot, or parcel of land within the city, shall fail, neglect, or refuse to mow the property at least once each month by May 1, June 1, July 1, August 1, September 1 and October 1 of each year in accordance with the provisions of this article, the weed control officer shall arrange for the nuisance to be abated.
 - (3) If the weed control officer determines that land within the city jurisdiction contains noxious weeds, the weed control officer may serve upon the landowner written notice, either personally or by certified mail, requiring the landowner to control the noxious weeds within the time period prescribed by the weed control officer in the notice. The notice shall contain at least the following items:
 - a. The minimum remedial requirements.
 - b. The time within which the landowner must meet the minimum remedial requirements.
 - c. That the landowner may be subject to penalties provided under state law and City Code if the landowner fails to comply with the remedial requirements.
 - d. A statement of costs if the landowner fails to control the noxious weeds.
 - e. That the landowner may challenge the notice of the weed control officer by submitting to the city in writing within seven days of the date of the notice a request that the city weed board hold a hearing on the matter in accordance with this article.
 - (4) Should the landowner fail to control the noxious weeds within the time period specified in the notice sent by the weed control officer, the weed control officer may cause the noxious weeds to be controlled in the absence of a written appeal by the landowner or if any appeal has been denied.
 - (5) When the city has affected the eradication, cutting or control of noxious weeds or tall grasses, the actual cost thereof including allowable city administrative expenses and any penalties approved by the city commission, if not paid by the owner, must be charged and assessed against the property upon which the noxious weeds or tall grasses were eradicated, cut or controlled. The weed control officer shall prepare and the weed board

shall approve an assessment list showing the costs against each lot or tract to be assessed. The assessment list shall be forwarded to the board of city commissioners for official action. All procedures under state law for certification, appeal, payment and collection of special assessments shall apply.

- (6) The weed control officer may delegate all or some of the duties required under this section to other city staff. The city may contract with any person or company to perform services for the city in the control of noxious weeds and tall grasses.

Section 5-286. Property owner responsibility.

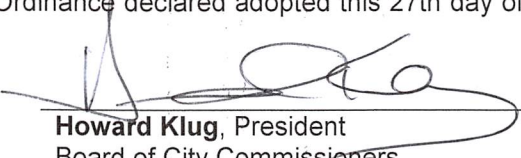
Except as noted below, it is the duty of every person owning, occupying or in charge of any premises, lot or parcel of land to cut, eradicate, or control any noxious weeds or tall grasses to prevent them from becoming a public nuisance, a fire hazard and/or unsightly.

- (1) Steep slopes exceeding 30 degrees (two horizontal feet to one vertical foot) that are difficult or hazardous to mow, as an option, may be planted with selected grass varieties used by the North Dakota Department of Transportation to control erosion. The property owner must apply to the city for a waiver of the grass control requirements for each property where this alternative is to be used. Control of noxious weeds is mandated by state law and no waiver for control of noxious weeds is allowed. A waiver request shall be submitted to the weed control officer or other designated official. The city official shall review the request, inspect the site and either approve or deny the request.
- (2) The city has no jurisdiction over the control of grass and weeds on property or easements owned or controlled by state and federal agencies.
- (3) State law limits city action related to grass and weeds on agriculturally zoned land to the control of noxious weeds.

This ordinance shall be in full force and effect upon its final passage and approval.

Commissioner Cymbaluk moved the adoption of the foregoing Ordinance. The Motion was seconded by Commissioner Brostuen. On roll call vote of the Commissioners vote "AYE": Piesik, Cymbaluk, Brostuen, and Klug, and the following Commissioners vote "NAY": None. Absent and not voting: Bekkedahl.

WHEREUPON, the Motion was passed and the Ordinance declared adopted this 27th day of December, 2016.



Howard Klug, President
Board of City Commissioners

ATTEST:



John Kautzman, City Auditor

First Reading: September 27, 2016
Second Reading: December 27, 2016