

ORDINANCE NO. 16,346

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by adding Sections 42-567, 42-568, 42-569, 42-570, 42-571, and 42-572, relating to the enforcement of nuisance vegetation management.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, heretofore amended, is hereby amended, by adding Sections 42-567, 42-568, 42-569, 42-570, 42-571, and 42-572, as follows:

ARTICLE XII. NUISANCE VEGETATION MANAGEMENT

Sec. 42-567. Definitions.

The definitions found in sections 42-28, 42-451 and 42-477 shall apply to the provisions of this article, provided, however, that the following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building shall mean any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property, but not including signs, general advertising signs, or wireless telecommunication towers.

City shall mean the City of Des Moines, Iowa.

Code, unless the context clearly requires otherwise, shall mean and refer to the Municipal Code of the City of Des Moines as amended from time to time.

Conservation Easement means an easement in, servitude upon, restriction upon the use of, or other interest in land owned by another, created for any of the purposes set forth in section 457A.1 of the State Code of Iowa.

Developed Lot is any parcel of real property within the corporate limits of the City upon which there is any type of Building, whether partial or complete, or upon which any preliminary grading or excavation for purposes of Development has occurred. A parcel of land shall not be considered developed and utilized solely because of the preparation, approval, and recordation of a plat; the installation of streets; or the installation of utility lines.

Development shall have the same meaning as provided in Section 135-12.6 of this Code.

Farmland means a parcel of land, not less than five contiguous acres in area, suitable and actively used for the production of Farm Products.

Farm Products shall have the same meaning as defined in Iowa Code section 352.2(7) or any successor provision thereto.

Flower Garden is a Garden or part of a Garden where plants that flower are purposely-planted, grown, and displayed.

Forest shall have the same meaning as defined in Iowa Code section 161A.42 or any successor provision thereto.

Garden is a plot of ground where plants other than lawn grasses are intentionally cultivated.

Hazard is any weed, grasses, or other herbaceous vegetation which interferes with: (1) any sidewalk or the traveled portion of any roadway or alley; or (2) with visibility at any intersection, or traffic control light or device; or (3) constitutes a reasonable health, safety, or fire hazard; or (4) otherwise endangers life or property.

Native Vegetation means any indigenous plant species originally found in the state's prairies, excluding any Noxious Weeds.

Natural Area is an area of Forest, Wetlands, Waterways, or areas certified as wildlife habitat.

Noxious Weeds mean the same as the definition provided by Iowa Code section 317.1A or the Iowa Administrative Code, or any successor statute or regulation thereto, as amended.

Property Owner is the legal title-holder to any parcel of land. Property Owner shall also mean and include any contract purchaser(s) of any parcel of land.

Purposely-planted means a plant that was intentionally planted by a human in a certain space with the intent to cultivate such plant in such space.

Undeveloped Area is any real property within the city limits that is not a Developed Lot.

Vacant Lot shall mean any property of less than one acre in size that has not been improved by the installation of a building, home, or other structural improvements or that was previously improved by the installation of a building, home, or other structural improvement but all such improvements have been removed from the property.

Vegetable Garden is a Garden where fruits, vegetables, and herbs are purposely-planted and grown for personal or household use.

Waterway means water occurring in any river, stream, or creek having definite banks and bed with visible evidence of the flow of water.

Weed(s) means: (1) any plant which is not intentionally cultivated or maintained and is unsightly; or (2) any undesirable or noxious plant as defined in Iowa Code Chapter 317 and any related regulations found in the Iowa Administrative Code; or (4) any plant which constitutes a hazard.

Intentionally cultivated or maintained means the plant is routinely cared for by any person to foster the plant's growth or cared for to prevent overgrowth, disease, or decay. Intentionally cultivated or maintained includes planting, watering, fertilizing, trimming, cutting, or pruning.

Weed Official is the Neighborhood Inspections Administrator or designee hereby given the authority to enforce the provisions of this chapter.

Wetlands are an area of two or more acres in a natural condition that is mostly under water or waterlogged during the spring growing season and is characterized by vegetation of hydric soils.

Woody Perennials are plants that live two or more years that create stiff structures above ground that they use through their lives. Woody perennials shall include trees, shrubs, and vines.

Sec. 42-568. Duties of Owners.

- (1) The Property Owner of all Developed Lots within the City shall keep the property free from Weeds.
- (2) Property Owners of Developed Lots may not allow grass on such Lot to exceed ten (10) inches in height.
- (3) Property Owners of Developed Lots may not allow for the uncontrolled growth of vegetation in areas unfit or unreasonable for such growth as determined by the Weed Official.

Sec. 42-569. Exceptions.

The following shall be exceptions to the requirements of Section 42-568:

- (1) Vegetable Garden. Plants located within Vegetable Gardens shall be permitted to exceed ten (10) inches in height if such Gardens are maintained free from Weeds;
- (2) Flower Garden. Plants, including ornamental grasses as well as natural grasses, located within Flower Gardens, shall be permitted to exceed ten (10) inches in height if such Gardens are maintained free from Weeds;
- (3) Woody Perennials. Purposefully-planted Woody Perennials shall be permitted to exceed ten (10) inches in height if they are planted and maintained in compliance with this code of ordinances and all other applicable laws;
- (4) Native Vegetation. Purposefully-planted Native Vegetation shall be permitted to exceed ten (10) inches in height provided they do not constitute a nuisance under this Code;
- (5) Weeds and other growth on any Undeveloped Area shall be permitted to exceed ten (10) inches in height if any of the following apply:
 - a. due to terrain or other factors naturally occurring on the parcel, such parcel is not amenable to weed control by any practical means; or

- b. the Undeveloped Area is not located in such proximity to any Developed Area that uncontrolled Weed growth thereon will constitute a nuisance or hazard to Developed Areas; or
 - c. Such Weed growth or growth of vegetation with a height of more than ten (10) inches is located a distance of one hundred (100) feet or more from any public street, publicly-owned property, or any Developed Area.
- (6) Vegetative growth necessary to combat soil erosion on an active construction site may be permitted to exceed ten (10) inches on a temporary basis at the discretion of the Weed Official. A construction site shall be considered active if there is a current building, grading, or other City-issued permit and work has been performed in the past sixty (60) days;
 - (7) Land owned or managed by the City;
 - (8) Legally recorded and recognized Conservation Easements;
 - (9) Any Farmland located within the City;
 - (10) Any Natural Area located within the City.

This section shall not be construed so as to permit the growing of noxious weeds as defined in Iowa Code Chapter 317

Sec. 42-570. Notice to Property Owner.

At least ten days prior to the abatement of the growth as authorized by this chapter, the Weed Official shall give notice of the proposed action in one of the following manners:

- (1) By publication in a daily newspaper of general circulation in the City, notifying such Property Owners that unless such Weeds, vines, brush, bushes, and Noxious Weeds as defined by the Iowa Code or the City Code, or other growths are cut or destroyed before the dates stated in the notice, the City will cut or destroy such Weeds, vines, brush, bushes, and Noxious Weeds or other growths and assess the cost thereof to the Property Owner(s); or
- (2) By causing a dated and signed placard to be posted in a conspicuous place on each Lot found to be in violation of this chapter, the placard to state that the Lot is in violation of this article, and that failure of the Property Owner to abate the growths within ten days of the date stated on the placard will result in the City abating the violation and assessing the actual costs and an administrative fee against the property; or
- (3) By regular mail and certified mail to the Property Owner(s) as shown by the records of the county assessor, the notice to state that the referred Lot is in violation of this article, and that failure of the Owner to abate the growth within ten days of the date of the notice will result in the City abating the growth and assessing the actual costs and an administrative fee against the property.

The notice provided to the Property Owner shall provide directions to appeal the cited violation.

Sec. 42-571. Failure to Comply.

(1) In the event that Property Owners fail to comply with a notice for violations of this Article, the Weed Official shall have all powers and authority necessary to cause the abatement of the nuisance in accordance with this article. If entry onto real property for the purposes described in this section is refused, an administrative search warrant may be obtained as provided in section 1-19 of this Code. Such work completed by the City or its designee shall be done at the expense of the Property Owner. An invoice for the work and an administrative fee shall be sent to the Owner upon completion of the work.

(2) Should the Property Owner not make payment in full for the costs due following abatement of the violations by the City or the City's designee, the costs due shall be assessed against the Lot and collected in the same manner as a property tax.

Sec. 42-572. Compliance with Other Codes.

Compliance with this code shall not be construed as to allow for violation of other City, State, or Federal laws, ordinances, codes, or regulations.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED: Gary D. Goudelock Jr., Assistant City Attorney

Connie Boesen, Mayor

Attest: I, Laura Baumgartner, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an Ordinance (Roll Call No. 24-0515), passed by the City Council of said City at the meeting held on April 1, 2024 and signed by the Mayor on April 1, 2024 and published and provided by law in the Business Record on April 19, 2024. Authorized by Publication Order No. 12625.

Laura Baumgartner, City Clerk