

Memorandum #09-04

To: Doug Russell, City Manager
From: Joe Morrow, Building Official
Subject: Consideration of Amendments to the Noxious Vegetation Ordinance #920
Date: January 5, 2009

As requested, staff has prepared an ordinance that in addition to noxious weeds includes other vegetation that has grown to a height of eight (8) inches or more. The draft ordinance was developed using the exiting noxious vegetation ordinance and includes the following changes:

1. Non-woody grasses and plants that are allowed to grow to a height greater than eight (8) inches have been added to the list of noxious vegetation providing that they do not meet the exceptions for crops, pastures, gardens, or are designated as a natural area of native plantings.
2. The option to levy fines for violations of noxious vegetation has been added. These fines may be levied in addition to, or as an alternative to the abatement of any weeds or noxious vegetation.

Attached is a draft copy of the proposed changes.

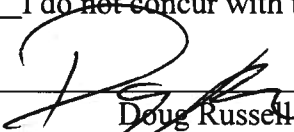
Respectfully,


Joe Morrow
Building Official

Recommendation: It is recommended that the City Board of Commissioners establish January 26, 2009 as the date for a public hearing to consider ordinance #920.

I concur with the recommendation.

I do not concur with the recommendation.



Doug Russell
City Manager

Cc: Dave Mingo, Community Development Director

ORDINANCE #920

An ordinance amending the City of Yankton's Noxious Vegetation Ordinance to include certain vegetation that has grown to a height of eight inches or more

ARTICLE II. ~~WEEDS AND NOXIOUS VEGETATION~~ *

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***State law references:** Authority with respect to noxious and unhealthful vegetation, SDCL 1967, § 9-32-12; authority to require the removal of weeds from parkings, SDCL 1967, § 9-30-5.

Sec. 24-16. Weeds and vegetation deemed noxious, dangerous, and unhealthful are declared to be a nuisance.

The following named weeds and plants shall be deemed noxious, dangerous, and unhealthful vegetation and are hereby declared to be nuisances: Ragweed; parsley; pigweed; nettle; thistle; sunflower; goldenrod; tumbleweed; burdock; cockle burrs; wild oats; sticktight; milkweed; mustard greens and all other non-woody grasses and plants growing in the city to a height greater than eight (8) inches.; and all other weeds suffered or allowed to grow during the growing season. This does not apply to vegetation which is being grown as a crop, livestock pasture, wildflower display garden, or property that has been designated by the director as a natural area or native planting. (Rev. Ords. 1949, § 9.0401)

Sec. 24-17. ~~Duty to cut or kill weeds.~~ Duty to cut or kill weeds and noxious vegetation.

It shall be the duty of the occupant, person in charge, or owner of any lot in the city to keep the lot free from noxious vegetation and to cut or spray with a generally accepted chemical for weed control such noxious vegetation at such time as may be necessary to prevent its growth. (Rev. Ords. 1949, § 9.0402; Ord. No. 275, 1-13-64)

Sec. 24-18. Notice to cut or kill weeds and noxious vegetation.

(a) The city may, at the beginning of or during the growing season, by public notice to each occupant, person in charge or owner of any lot require all weeds and noxious vegetation upon any lot to be cut or sprayed with a generally accepted chemical for weed control within five (5) days after the giving of the notice. The notice need not be given personally, but may be given generally by one (1) publication in the official newspaper once in each growing season.

(b) The notice given pursuant to subsection (a) shall provide that each occupant, person in charge or owner of any lot shall cut or spray with a generally accepted chemical for weed control at all times during the growing season, all weeds and noxious vegetation, and shall further provide that in case of failure to so cut or spray the weeds and noxious vegetation, the city will cause the weeds and noxious vegetation to be cut or sprayed and assess the cost thereof, including the cost of levying a special assessment, against the property benefited.

(c) In addition to, or as an alternative to the abatement of any weeds or noxious vegetation, any occupant, person in charge or owner found in violation of section 24-17 shall be fined in the amount of \$30.00 for the first offense, \$60.00 for the second offense and \$100.00 for each subsequent offense thereafter within any one year period.
(d) No person shall intentionally interfere or attempt to interfere with the cutting, spraying or removal of vegetation that has been deemed noxious per section 24-16.
(Rev. Ords. 1949, § 9.0403; Ord. No. 275, 1-13-64)

Sec. 24-19.—Compliance with notice.

The occupant, person in charge or owner of any lot in the city shall, within five (5) days after the publication of a notice pursuant to this article, and at all times subsequent during the growing season as may be necessary, cut or spray with a generally accepted chemical for weed control all noxious vegetation.
(Rev. Ords. 1949, § 9.0403; Ord. No. 275, 1-13-64)

Sec. 24-20. When weeds and other noxious vegetation may be cut or killed by the city.

Whenever the city determines that a property owner, occupant or person in charge has failed to cut weeds and other noxious vegetation or spray with a generally accepted chemical for ~~weed~~ control of all noxious vegetation upon the lot as required, the city shall give personal notice to the property owner, occupant or person in charge that weeds or noxious vegetation has been found on their property and that they must cut or chemically treat ~~the weeds~~ within five (5) days of the giving of this notice or the city will cause the weeds or noxious vegetation to be cut or chemically treated and all costs incurred shall be reimbursed to the city as provided in this article.
(Ord. No. 275, 1-13-64; Ord. No. 705, § 1, 12-12-94)

Sec. 24-21. Special assessment for city weed and other noxious vegetation destruction.

(a) The city shall cause an account to be kept against each lot of the cost for the cutting or spraying of weeds and noxious vegetation during the growing season of each year, and the account shall be certified to the finance officer on or before the first day of December of each year.
(b) The finance officer shall prepare an estimate of the assessment against each lot for the cutting or spraying of weeds and noxious vegetation for the preceding growing season, including therein the expense of levying the special assessment against each lot. The estimate shall be submitted to the board of commissioners for its approval on or before the first day of January of each year.
(c) The finance officer shall cause to be published in the official newspaper a notice of the time and place when the board of commissioners will meet for the purpose of approving the estimate, which notice shall be published once, not less than one (1) week before the hearing.
(d) Upon the day for hearing, the board of commissioners shall meet and, if it shall find the estimate correct, it shall approve the estimate by resolution, or if not correct, it shall correct or modify the estimate and approve it as modified or corrected, and file the assessment roll with the finance officer.

(e) From the date of the approval and filing of the assessment roll with the finance officer, the same assessment roll shall be and become a special lien against the various pieces of property described in it, and the assessment shall be collected in like manner as special assessments for public improvements are now collected.
(Rev. Ords. 1949, § 9.0405; Ord. No. 275, 1-13-64)

State law references: Financing of public improvements, SDCL 1967, § 9-43-1 et seq.
Secs. 24-22--24-31. Reserved.

That any section, subsection, sentence, clause or phrase of this ordinance is for any reason, held to be unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance.

That the finance Officer is hereby ordered and directed to cause this ordinance to be published as required by law.

That this ordinance and the rules, regulations, provisions, requirement, orders and matters established and adopted hereby shall take effect and be in full force 20 days from the date of its final passage, adoption and publication.

Adopted this _____ day of _____, 2009.

Dan Specht
Mayor

Attest:

Al Viereck,
Finance Officer