

COUNCIL ACTION FORM

SUBJECT: **NOXIOUS WEED ORDINANCE**

BACKGROUND:

Currently the City does not have an ordinance prohibiting noxious weeds within the City. Iowa Code Chapter 317 defines noxious weeds and grants the County Weed Commissioner authority and responsibility for the eradication of noxious weeds within the county. At the present time, however, the County Weed Commissioner does not actively enforce any weed eradication programs within the City of Ames.

Because the Inspections Division receives and responds to complaints about weeds within the City, an ordinance was requested that would declare noxious weeds to be a public nuisance and make their existence punishable as a municipal infraction. The City Council considered the matter on March 27, 2012, and directed the City Attorney's Office to draft an ordinance in response to this request.

The attached ordinance adopts by reference the definition and list of noxious weeds specified in Section 317.1A of the Iowa Code. Upon adoption of the ordinance, the same weeds will be prohibited within the City that are prohibited throughout the state. The ordinance creates a new Division IX within Chapter 5 of the Municipal Code so that this ordinance stands out from the rest of the Building Code.

Because the ordinance is located within Chapter 5, the penalties and alternative enforcement provisions of the Chapter are available to situations involving noxious weeds. This gives the Inspections Division flexibility and provides the option to cite violations as municipal infractions and seek enforcement through the Court. Alternatively, the Inspections Division has the ability to abate noxious weeds as a public nuisance, while also giving the property owner the means to appeal through an administrative process.

ALTERNATIVES:

1. Approve on first reading the attached ordinance declaring noxious weeds to be a public nuisance and providing for penalties.
2. Refer the matter back to staff with direction to make changes in the draft ordinance.
3. Oppose the approval of the attached ordinance declaring noxious weeds to be a public nuisance and providing for penalties.

CITY MANAGER'S RECOMMENDATION:

In keeping with the Council's directive to develop an ordinance that would allow the Inspections staff to better respond to weed complaints within the City, it is the recommendation of the City Manager that the City Council support Alternative #1. This action will approve on first reading the attached ordinance declaring a specific list of noxious weeds to be a public nuisance and providing for penalties.

Under this new ordinance the same noxious that are prohibited in the State Code will be prohibited in the City of Ames. It is possible in the future that the Council might want to modify the list of prohibited weeds to address our local concerns.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY ENACTING A NEW CHAPTER 5, DIVISION IX, SECTION 5.901 THEREOF, FOR THE PURPOSE OF DECLARING NOXIOUS WEEDS TO BE A NUISANCE AND PUNISHABLE AS A MUNICIPAL INFRACTION; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Ames desires to have the ability to locally enforce the abatement of noxious weeds; and

WHEREAS, Chapter 317 of the Code of Iowa defines those noxious weeds within the State; and

WHEREAS, a local ordinance, punishable as a municipal infraction, will assist the inspections department in eradicating noxious weeds and will enable them to better respond to customer complaints regarding the presence of weeds.

Therefore, BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by enacting a new Chapter 5, Division IX, Section 5.901 as follows:

“DIVISION IX NOXIOUS WEEDS

Sec. 5.901. WEED ORDINANCE.

1. Words and Terms Defined

- a. Noxious Weeds: Primary and secondary classes of weeds as defined by Iowa Code Section 317.1A.
- b. Weed Official: Person designated by the city manager to enforce this section.

2. Nuisance Declared; Penalty

- a. It shall be a public nuisance for any owner or person in the possession or control of any land to allow any noxious weeds to grow thereon.
- b. Duty To Cut Noxious Weeds: Each owner and each person in the possession or control of any land shall cut or otherwise destroy, in whatever manner prescribed by the weed official, all noxious weeds thereon and shall keep said lands free of such growth.
- c. Interference With Weed Official: No persons shall interfere with the weed official or any appointed assistant while engaged in the enforcement of this chapter.”

Section Two. Violation of the provisions of this ordinance shall constitute a municipal infraction punishable as set out by law.

Section Three. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

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

Passed this _____ day of _____, _____.

ATTEST:

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor