CITY OF LINDEN

ORDINANCE NO. 2023-9

CHAPTER 152

AN ORDINANCE ENACTING A NEW CHAPTER 152 ("GRASS AND WEEDS") TO THE CODE OF ORDINANCES OF THE CITY OF LINDEN, IOWA.

Be it enacted by the City Council of the City of Linden, Iowa:

Section 1. Chapter 152 of the Code of Ordinances of the City of Linden, Iowa, is hereby enacted to the City Code of Ordinances as follows:

CHAPTER 152

GRASS AND WEEDS

152.01 Purpose
152.02 Nuisance prohibited – Authority to abate
152.03 Nuisance declared
152.04 Notice to abate – Service
152.05 Abatement by administrative proceedings
152.06 Abatement by municipal infraction proceedings
152.07 Abatement remedies – Penalties
152.08 Emergency abatement procedure
152.09 Repealer
152.10 Severability

152.01 - Purpose.

The purpose of this chapter is to protect the health, safety, and welfare of the citizens and to enhance the appearance and safety of property within the City by providing proper maintenance of deleterious and/or unhealthful grass, weeds, and/or vegetation on private property.

152.02 - Nuisance prohibited—Authority to abate.

(a) The creation or maintenance of a nuisance is unlawful and prohibited and shall constitute a misdemeanor or a municipal infraction.

(b) The housing official and any enforcement officers designated by the mayor are authorized to abate nuisances in accordance with the procedures set forth in this title. Nuisances may be abated by either the administrative abatement process or the municipal infraction process, as provided in this chapter.

152.03 - Nuisance declared.

(a) All premises and exterior property shall be maintained free from all weeds, grass and plant growth in excess of eight inches. All noxious weeds shall be prohibited. This term shall not apply to trees, shrubs, cultivated flowers, gardens, and agricultural products.

(b) No person, firm, or corporation shall throw, rake, deposit, dump or spill litter, leaves, waste material, garbage, refuse, debris, hazardous material, rubbish, or any other foreign material upon the improved portion of streets, sidewalks, rights-of-way, alleys or on any private or public property within the city. However, yard waste in biodegradable bags in accordance may be placed in the street right-of-way for collection.

152.04 - Notice to abate - Service.

In the case of deleterious or unhealthful growths of weeds, grass or other vegetation, the abatement procedure shall be as follows:

(1) One notice shall be published no earlier than April 15th nor no later than the last week in May in a newspaper of general circulation advising all property owners in the city of the city's intention to abate all such nuisances;

(2) Whenever practical, the property owner shall be given oral or written notice allowing him seven days in which to abate the nuisance;

(3) The enforcement officer shall verify in writing the date and time of any oral communication with the property owner. The seven days allowed to abate the nuisance shall commence on the date as verified, or in the case of written notice, shall commence on the day the letter was mailed. Such written notice shall be posted by regular mail or clearly posted on an entry door to the building on the property.

(4) If the nuisance has not been abated in the seven days allowed, the city shall abate the nuisance by contracting the work to private contractors or shall cause the work to be done by the City.

(5) There will be no second notice within the same year for noncompliance.

(6) The property owner shall be given written notice immediately following the abatement of the nuisance by the city, giving the property owner thirty days in which to pay the charges for the city's abatement procedures.

(7) After the thirty days, and upon nonpayment, the city shall perfect a lien against the property.

152.05 - Abatement by administrative proceedings.

(a) Content of Notice. In the event the enforcement officer decides to abate a nuisance administratively, the notice to abate shall include the following information:

(1) Description of what constitutes a nuisance, citing the appropriate code section;

(2) Description of the action necessary to abate the nuisance;

(3) The order to abate within a specified time period.

(b) The notice shall advise that, upon failure to comply with the order to abate, the city shall undertake such abatement and that the cost of abatement may be assessed against the property for collection in the same manner as property taxes;

(c) Any person ordered to abate a nuisance may have a hearing with the city council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the city council at a time and place fixed by the city council. The findings of the city council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within seven days.

152.06 - Abatement by municipal infraction proceedings.

In the event the enforcement officer determines a nuisance exists as defined in this chapter, the enforcement officer may issue a civil citation to the property owner or responsible party, charging that person with a municipal infraction.

Each day that a nuisance is permitted to continue constitutes a separate offense.

152.07 - Abatement remedies—Penalties.

(a) Abatement may include but shall not be limited to mowing, trimming, cutting, and cleaning of public right of way.

(b) The cost of abatement may be assessed against the property for collection in the same manner as property taxes. Abatement costs shall include the cost of removing or eliminating the nuisance, the cost of investigation such as title searches, inspection, and testing; the cost of notification; the filing costs; and other related administrative costs.

(c) In a municipal infraction proceeding for the abatement of a nuisance, the court may order any one or more of the following:

(1) Place a judgment against the person and/or property of the defendant for the cost of abatement;

(2) Levy a civil penalty (fine) against the defendant and be subject to the penalties prescribed by the laws of the state of Iowa as a misdemeanor;

(3) Order abatement of the nuisance in any manner as provided in this chapter;

(4) Assess costs of the abatement against the property for collection in the same manner as property taxes.

152.08 - Emergency abatement procedure.

When the enforcement officer determines that a nuisance exists on a property and the nuisance constitutes an imminent clear and compelling danger to the health, safety or welfare of persons or property, the enforcement officer is authorized to abate or have abated the nuisance without prior notice and opportunity of hearing. The cost of such action may be assessed against the property for collection in the same manner as property tax. However, prior to such assessment, the city shall give property owner notice by certified mail and an opportunity for an administrative hearing.

152.09 - Repealer.

All ordinances and parts of ordinances in conflict with the provisions of this title are hereby repealed.

152.10 - Severability.

If any section, provision, or part of the ordinance from which this title is derived shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudicated invalid or unconstitutional.

Section 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. Severability clause. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. When effective. This ordinance shall be effective from and after its final passage, approval, and publication as provided by law.

Passed and approved by the Council the 2nd day of October, 2023

Tom Kauzlarich

Thomas Kauzlarich, Mayor

Attest: Shannon Barber

Shannon Barber, City Clerk

Passed First Reading: the 2nd day of October, 2023

Second Reading: the 2nd day of October. 2023

Third Reading: the 2nd day of October, 2023

CLERK'S CERTIFICATE

I hereby certify that the foregoing Ordinance No. 2023-9 was published and posted as required under Section 18.05 of the Code of Ordinances of the City of Linden, Iowa, on the 2nd day of October, 2023.

Shannon Barber

Shannon Barber, City Clerk