

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER LANGWORTHY
Council Bill No. 19
Ordinance No. 1522
Series of 2012

TITLE: AN ORDINANCE AMENDING SECTION 24-51 OF THE WHEAT RIDGE CODE OF LAWS, CONCERNING WEED AND TALL GRASS CONTROL, TO AUTHORIZE ABATEMENT OF VIOLATIONS THEREOF AND ABATEMENT COST RECOVERY THROUGH NUISANCE ENFORCEMENT AND ADMINISTRATIVE ENFORCEMENT

WHEREAS, the City of Wheat Ridge, Colorado (the "City"), is a Colorado home rule municipality, duly organized and existing pursuant to Section 6 of Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-15-401, the City, acting through its City Council (the "Council"), is authorized to declare and abate nuisances and to declare as unlawful and prohibit activity that is detrimental to the public health, safety and welfare; and

WHEREAS, pursuant to this authority, the Council previously adopted certain requirements concerning the control of weeds and tall grass upon properties within the City, codified as Section 24-51 of the Wheat Ridge Code of Laws ("Code"), and declared certain violations thereof to be a nuisance; and

WHEREAS, Code Section 24-51 currently authorizes the City to summarily abate weeds and tall grass upon private property after providing the owners and occupants of such property seven (7) days' written notice; and

WHEREAS, Chapter 2 of the Code, concerning administrative enforcement, provides property owners with a ten (10) day period to abate certain Code violations, including violations of Chapter 24; and

WHEREAS, the Council finds that, in the interests of consistency, it is desirable to amend Code Section 24-51 to eliminate the current seven (7) day notice period and to reference the administrative enforcement process, including a ten (10) day notice period, already available to enforce such violations under Chapter 2 of the Code; and

WHEREAS, the Council finds that it is equitable and desirable to provide property owners and occupants an opportunity to have a hearing on an alleged violation of Code Section 24-51 prior to the City's abatement of any such violation; and

WHEREAS, the Council therefore finds it additionally desirable and internally consistent to reference the administrative enforcement process of Chapter 2, which includes an opportunity for a hearing, in Code Section 24-51; and

WHEREAS, the Council further desires to authorize the City to recover its costs to abate violations of Code Section 24-51 in accordance with the nuisance abatement cost recovery process set forth in Section 15-11 of the Code.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1. Section 24-51 of the Wheat Ridge Code of Laws, concerning weed and tall grass control, is hereby amended as follows:

Sec. 24-51. - Weed and tall grass control.

- (a) All owners and occupants of land shall prevent property owned or occupied by them from becoming overgrown with weeds or tall grass.
- (b) It shall be unlawful for the owner or occupant of any undeveloped property zoned as agricultural, excluding the city's owned or leased greenbelt natural areas, to permit weeds or tall grass to grow on such property to a height of more than twelve (12) inches within a distance of one hundred (100) feet from any public street, highway or park, or within a distance of one hundred (100) feet from property lines adjoining any residential, commercial, industrial or open zone or use.
- (c) Weeds and tall grass shall be controlled by cutting, spraying or other lawful and suitable method of control. Such methods shall include ~~irradiation~~ ERADICATION, containment and/or suppression, as appropriate and as deemed by the city to be consistent with 35-5.5-101 et seq., C.R.S.
- (d) It shall be unlawful and shall be deemed a nuisance for the owner of any property, regardless of its zoning, to allow weeds or tall grass in excess of twelve (12) inches height to grow on the adjacent street or right-of-way, OR TO VIOLATE ANY OTHER SUBSECTION OF THIS SECTION.
- (e) The city may ENFORCE AND ABATE ANY VIOLATION OF THIS SECTION AS AUTHORIZED BY ARTICLE V OF CHAPTER 2 OF THIS CODE AND RECOVER ITS ABATEMENT COSTS AS AUTHORIZED BY ARTICLE II OF CHAPTER 15 OF THIS CODE. THE ENFORCEMENT PROCESS SET FORTH IN ARTICLE V OF CHAPTER 2 OF THE CODE INCLUDES A TEN (10) DAY PERIOD TO CURE VIOLATIONS AND AN OPPORTUNITY FOR A HEARING. THE CITY IS AUTHORIZED TO FOLLOW THE ABATEMENT COST RECOVERY PROCESS SET FORTH IN SECTION 15-11 OF THE CODE TO RECOVER ITS ABATEMENT COSTS AND FEES FOR VIOLATIONS OF THIS SECTION. ~~notify property owners and occupants in violation of this section either by posting the property, or by first class or certified mail, at the city's option. Such notice shall be dated and shall include a statement directing that failure to cut and remove the weeds or tall grass within seven (7) days of the notice will result in the city cutting such weeds or tall grass and the actual cost of the cutting and/or removal, plus administrative fees of twenty five (25) percent for the first cut, fifty (50) percent for the second cut and seventy five (75) percent for the third cut within the same growing season, plus a fifteen (15) percent fee if not paid within thirty (30) days, charged to the owner notwithstanding the provisions of section 15-11(a).~~ SUCH ABATEMENT COSTS AND FEES ARE RECOVERABLE IN ADDITION TO ANY ADMINISTRATIVE FINE, FEE OR CHARGE IMPOSED FOR THE SAME VIOLATION PURSUANT TO CHAPTER 2 OF THE CODE.

~~(f) If the owner or occupants shall fail to cut weeds or tall grass, as required by this section, within seven (7) days after being notified to do so, the city may direct that the weeds or tall grass be cut and charge the cost thereof to the owner in the manner permitted by section 24-10~~

(Fg) This section shall not apply to:

- (1) Lots or parcels zoned for and also used for agricultural operations, or
- (2) Lots or parcels larger than twelve thousand, five hundred (12,500) square feet, under a single ownership, used for the growing and harvesting of agricultural crops, regardless of the zoning of the lots or parcels.

(Gh) The city may pursue the remedies set forth herein with or without also filing a complaint in the municipal court, at the city's sole discretion.

(Hi) For the purposes of this section, the following terms shall be defined:

Agricultural crop. Cultivated grain and non-grain plants grown for food or fiber, including vegetables, fruits, nuts, and nursery plants.

Agricultural operation. A purpose related to the production, harvest, exhibition, processing or manufacture of agricultural products by a natural person who cultivates, plants, propagates or nurtures the agricultural products.

Section 2. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Wheat Ridge, that it is promulgated for the health, safety, and welfare of the public and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.


Section 3. Severability; Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 8 to 0 on this 27th day of August, 2012, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge and Public Hearing and consideration on final passage set for September 10, 2012, at 7:00 o'clock p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 6 to 0, this 10th day of September, 2012.

SIGNED by the Mayor on this 10th day of September, 2012.



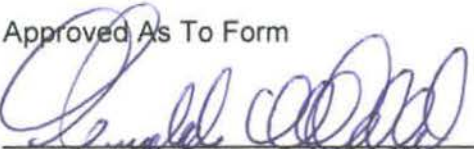
Jerry DiTullio, Mayor

ATTEST:



Janelle Shaver, City Clerk



Approved As To Form


Gerald E. Dahl, City Attorney

First Publication: August 30, 2012
Second Publication: September 13, 2012
Wheat Ridge Transcript
Effective Date: September 28, 2012