

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A NEW CHAPTER 52 REGULATING FOR LAWN HEIGHT.

BE IT ENACTED by the City Council of the City of Fontanelle, Iowa:

SECTION 1. A new Chapter 52 titled “Lawn Height” is hereby added to the Fontanelle City Code to read as follows:

CHAPTER 52

LAWN HEIGHT

52.01 DEFINITIONS

52.02 HEIGHT OF LAWNS REGULATED

52.03 VIOLATIONS, HOW MEASURED

52.04 NOTICE; METHOD OF SERVICE

52.05 PENALTIES

52.06 COLLECTION OF COSTS

52.07 HAY / PASTURE

52.08 VEGETABLE AND FLOWER GARDENS

52.09 WOODY SHRUBS AND TREES

52.10 GROUND IN ACTIVE CROP PRODUCTION

52.01 Definitions.

As used in this chapter, the term “lawn” shall mean all portions of private property not covered by improvements, including the portion of the road right of way between the edge of the street / curb and the property line of abutting property owners.

52.02 HEIGHT OF LAWNS AND OTHER VEGETATION REGULATED

Any property within the City Limits, whether vacated or non-vacated, is required to be mowed any time vegetation (grass and weeds) reaches a height of more than six (6) inches. The property owner and occupant are jointly and severally responsible for mowing the lawn, including (as defined above) the abutting space between the lot line and the curb line or edge or the traveled portion of the street right-of-way and one – half of unimproved alleys abutting the property.

52.03 VIOLATIONS, HOW MEASURED

The Council finds that allowing vegetation in a height exceeding the limit imposed by this Chapter is injurious to the safety, health, or morals of the public, and/ or works a substantial annoyance, inconvenience, or injury thereto, and is therefore declared a Public Nuisance. Violation of this section will be determined by visual observation and measurement.

The Mayor shall appoint a committee of _____, consisting of two members of the Council and two residents of the City, for the purpose of enforcing this statute. Upon receipt of a complaint under this

section, the committee shall, as soon as possible, proceed to the offending location to make a determination as to the validity of the complaint. If a majority of the members of the committee present believe that the complaint is valid, the committee shall relay its findings to the City Clerk, who shall proceed with Notice as set forth below.

52.04 NOTICE; METHOD OF SERVICE

The City Clerk may publish a copy of this ordinance annually as a reminder to Citizens. However, annual Publication is not a prerequisite to enforcement.

When a violation has occurred, the City will send a written notice to the property owner informing said owner of the violation. The notice may be served by certified mail or personal service and shall set forth that the property owner has seven (7) days from the date of notice to have the vegetation cut so that the height conforms with this Chapter. The notice shall set forth the address of the property in question and shall instruct the property owner that the notice constitutes notice for the balance of the mowing season and that further action will be taken by the City to remedy the problem if it occurs again on the same property without additional written notice being given.

Notice addressed to the Property Owner at the Owner's address shown by the records of the County Auditor at the time of said notice shall be deemed to be properly addressed to said Owner.

52.05 PENALTIES

In the event a violation of this Chapter remains uncured, the following penalties shall be assessed by the City:

- a. **First Offense.** Any property which is not mowed by the date stated in notice to property owner may be mowed by the City or Agent(s) or Contractors approved and appointed by the City. For a first offense, the property owner shall be assessed a civil penalty of \$200.00 plus a surcharge of \$60.00 per hour spent mowing the property. The hourly rate shall be billed in tenths of an hour; provided the minimum assessment of the hourly rate shall be one (1) hour.
- b. **Second Offense.** Any property charged with second violation of this Chapter within twelve (12) calendar months of the first offense may be mowed by the City or Agent(s) or Contractors approved and appointed by the City without prior notice to the Owner / Occupant. For a second offense, the property owner shall be assessed a civil penalty of \$300.00 plus a surcharge of \$60.00 per hour spent mowing the property. The hourly rate shall be billed in tenths of an hour; provided the minimum assessment of the hourly rate shall be one (1) hour.
- c. **Third and Subsequent Offenses.** Any property charged with third or subsequent violation of this Chapter within twelve (12) calendar months of the first offense may be mowed by the City or Agent(s) or Contractors approved and appointed by the City without prior notice to the Owner / Occupant. For a third offense, the property owner shall be assessed a civil penalty of \$400.00 plus a surcharge of \$60.00 per hour spent mowing the property. For each subsequent offense, the civil penalty shall increase by \$100.00. The hourly rate shall be billed in tenths of an hour; provided the minimum assessment of the hourly rate shall be one (1) hour.

52.06 COLLECTION OF COSTS

The Clerk shall send a statement of the total expense payable hereunder by certified mail to the property owner who has failed to abide by the notice described above. If the amount shown on said statement has not been paid within thirty days, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.

52.07 HAY / PASTURE

Any parcel which is used by the Owner thereof as a bona fide hay ground or pasture shall be exempt from this Ordinance, provided the Owner has complied with the following:

- a. The Owner has made application for a Permit to use said property as hay ground / pasture and the same has been approved by the Council. A Permit fee of \$15.00 shall be required. This Permit shall expire on December 31st of each calendar year.
- b. The Owner mows at least nine (9) feet adjoining any road right of way in accordance with the regulations and height specified above. Said width can be expanded if, in the Opinion of the Mayor, additional right of way is needed to ensure the safety of the public.
- c. No license shall be granted for any portion of property which is immediately adjacent to a residential dwelling. Should a parcel contain both hay ground / pasture and a residential dwelling, the Council, in its discretion, shall set the boundaries of the portion of said parcel which is allowed to be maintained hereunder as hay ground / pasture.
- d. The height of said hay ground / pasture shall not exceed three (3) feet.
- e. The Owner shall keep said hay ground / pasture free from all noxious weeds, including but not limited to thistles and other weeds regulated by the County Weed Ordinance.

52.08 ORNAMENTAL LANDSCAPING, VEGETABLE AND FLOWER GARDENS

The Regulations of this Chapter shall not apply to purposefully planted features of **ornamental landscaping**, vegetable gardens, or flower gardens, so long as they are maintained free of weeds.

52.09 WOODY SHRUBS AND TREES

The Regulations of this Chapter shall not apply to purposefully planted woody shrubs and/or Trees, or **existing wooded areas**, which are governed by other Chapters of this Code.

52.10 GROUND IN ACTIVE CROP PRODUCTION

The Regulations of this Chapter shall not apply to unimproved tracts of land which are currently used for the active cultivation of corn, soybeans, or other crops, provided, however, that no expansion of current corn or soybean cultivation shall be allowed within city limits without prior permission of the Council. All ground covered under this exception shall be maintained free from all noxious weeds, including but not limited to thistles and other weeds regulated by the County Weed Ordinance.

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 5. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

First Reading June 14, 2021.

Second Reading: _____

Third Reading: _____

Passed and approved this _____ day of _____.

Mary Sturdy-Martin, Mayor

Attest: Amanda Held, City Clerk / CFO