



**Meeting:** Village Board  
**Meeting Date:** 7/23/2012  
**Agenda Item:** #6b

**Mission Statement**

Delivering quality services in a courteous, cost-effective and efficient manner.

**VILLAGE BOARD MEETING STAFF REPORT**

**REPORT TO:** Burt R. McIntyre, President  
Village Board of Trustees

**REPORT FROM:** Dave Wiese, Director of Community Development

**AGENDA ITEM:** Review and take action on Ordinance 2012-11

**ACTION REQUESTED:**  Ordinance  Resolution  Motion  Receive/File

**PROPOSED CHANGES**

Village staff has proposed to amend the current ordinance pertaining to the enforcement of tall grass and vegetation regulations to remove the requirement for annual notice to chronic offenders. If Village records confirm one or more previous violations by owner or occupant of the property, the building inspector may take immediate action to abate the public nuisance without serving notice upon the owner or occupant. Staff has also proposed a change to the minimum fee to abate any violations. The charge by the village shall be \$200.00 per hour with a minimum charge of one hour per parcel and this cost shall be charged to the property owner. The current regulations have a \$150.00 per hour minimum charge.

**BACKGROUND INFORMATION**

For many years the Department of Code Administration has encountered difficulties when attempting to enforce the provisions of the nuisance ordinances dealing with noxious weeds and weed and grass control. The ordinances have always been enforced on a complaint basis, and commonly complaints are received about the same properties on a regular basis while complaints are never received on other properties with equal or greater violations. Also, it is not uncommon to receive complaints in rural or agricultural areas where one would normally expect grass and other vegetation to be allowed to grow to its natural height.

Currently, when a code enforcement officer receives a complaint about long grass or weeds on a property, he inspects the property to determine if the vegetation complies with the 10-inch height regulation. If the vegetation is taller than 10 inches he is obligated to order that the property be maintained by cutting or chemical eradication. However, problems often arise with larger lots and undeveloped lots and multiple lots within undeveloped and partially developed subdivisions. Questions the code enforcement officer often face are "how much should be ordered cut?" or "is it fair to order the owner to cut the entire 23 acres because of a complaint received from one owner who may or may not own abutting property?"

Ordinance #2009-18 was adopted in July 2009 to address some of the enforcement difficulties and to establish specific standards for how and where the regulations apply. The following is a section by section explanation of the ordinance changes that were made in 2009.

- 10.03(8) Noxious Weeds – Removed the reference to weeds grasses and plants "over 10 inches in height" from this section and moved the reference to Section 10.07(2)(a).
- 10.08(a) Added "as determined by the Building Inspector" to this subsection.
- 10.08(b)-(e) These subsections have remained unchanged.
- 10.07(1) Removed the reference to "or other rank growth of vegetation" from the section.
- 10.07(2) The previous section entitled "Notification" has been removed and replaced with a completely new section entitled "Tall Grass and Vegetation Regulated."

- 10.07(2) This section establishes the specific areas of the Village where the ordinance can be enforced. Currently, the ordinance is enforceable Village-wide, which allows a property owner in a rural or agricultural area to register a complaint about his neighbor's 40-acre hay or alfalfa field. The proposed section limits enforceable areas to recorded subdivision plats containing 5 or more lots and properties served by the municipal water and sewer system. The regulated areas in the proposed ordinance are most likely to be higher density urban areas.
- 10.07(2)(a) This section establishes the rules for keeping grass, weeds and other vegetation to a height of less than 10 inches in regulated areas (previously contained in Section 10.03(8)).
- 10.07(2)(a)(1) This and the following three subsections further describe what specific locations within the regulated areas must be maintained. #1 requires that if a lot is in a regulated area, is 1.5 acres or less in size, and contains at least one non-agricultural building, the entire lot must be maintained in accordance with Section 10.07(2)(a).
- 10.07(2)(a)(2) This subsection covers any lot, regardless of size, and requires that any portion of the lot within 20 feet of another lot where an established lawn exists or where a non-agricultural building exists, must be maintained. This would allow undeveloped lots exceeding 1.5 acres to remain uncut as long as the 20' area adjacent to any developed lot is maintained.
- 10.07(2)(a)(3) This subsection requires that property owners maintain all terrace areas located within a road right-of-way adjacent to their properties.
- 10.07(2)(a)(4) This subsection requires that property owners cut or maintain all areas within 10 feet of a public sidewalk or walkway, regardless of whether the affected area is located on private property or public property.
- 10.07(2)(b) This section establishes rules for what can and can't be done with grass clippings and other vegetation resulting from maintaining property in accordance with this ordinance. It requires that grass clippings cannot be deposited anywhere (other than on the property from which they were removed) without the consent of the owner of the property onto which such grass or vegetation is to be left or deposited.
- 10.07(2)(c) This section addresses grasses and weeds that tend to grow horizontally onto public areas but may not exceed a height of 10 inches.
- 10.07(2)(d) This section prohibits the deposition of grass or other vegetation in such a manner as to block a storm sewer or other drainage way.
- 10.07(2)(e) This section prohibits the placement, piling or storage of grass or other vegetation on terrace areas during the times of the year where Village work crews are not collecting or picking up such material.
- 10.07(2)(f) & (g) These sections are self-explanatory.
- 10.07(3) This section remains substantially the same as in the current ordinance except the reference to "Weed Commissioner" is changed to "Building Inspector" and the time allowed to abate the nuisance is reduced from 5 days to 3 days.
- 10.07(4) This section remains unchanged from the current ordinance.
- 10.07(5) This final section is completely new and establishes procedures to be followed when multiple violations of the ordinance by the same owner/occupant of the same property in any one calendar year are found. It requires that a municipal court citation be issued to the multiple violator on the 2<sup>nd</sup> and all subsequent violations.

**POLICY REFERENCE**

*Wisconsin Statutes:*                    66.96(1)  
*Howard Municipal Code:* 10.03(8), 10.07  
*Policies & Procedure Manual:*    N/A

**ATTACHED INFORMATION**

- I. Proposed Ordinance 2012-11
- II. Current Ordinance adopted July 2009

# ATTACHMENT I

## ORDINANCE NO. 2012 - 11

AN ORDINANCE REPEALING AND RECREATING SECTIONS 16-176 AND 16-177 AND REPEALING SECTION 16-178 OF THE OF THE VILLAGE OF HOWARD CODE OF ORDINANCES PERTAINING TO ENFORCEMENT OF TALL GRASS AND VEGETATION REGULATIONS

**THE VILLAGE BOARD OF THE VILLAGE OF HOWARD, BROWN COUNTY, WISCONSIN, HEREBY ORDAINS THAT THE MUNICIPAL CODE OF THE VILLAGE OF HOWARD, BE AMENDED AS FOLLOWS:**

**SECTION 1** Sections 16-176 and 16-177 are hereby repealed and recreated to read as follows:

**Sec. 16-176 – Enforcement**

- (1) First Time Offenders - If a property owner or occupant fails to comply with the regulations set forth in Section 16-175 above, and no record exists of a previous violation of this section by such owner or occupant, the building inspector shall serve notice upon him as to the violation. If such owner or occupant fails to abate the public nuisance within three days after service of the notice, the building inspector may initiate action to abate the public nuisance.
- (2) Chronic Offenders - If a property owner or occupant fails to comply with the regulations set forth in Section 16-175 above, and Village records confirm one or more previous violations of this section by such owner or occupant of the property, the building inspector may take immediate action to abate the public nuisance without serving notice upon the owner or occupant. Additionally, the building inspector may follow up his action to abate by serving upon the owner or occupant a Wisconsin Uniform Municipal Court Citation and Complaint in accordance with Section 1-17. Any person convicted of multiple violations as described in this section, shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00 plus other penalties and fees as set forth in the village bond schedule. Each violation and each day a violation continues or occurs shall constitute a separate offense.

**Sec. 16-177 – Costs**

If the village causes a nuisance to be abated as provided in section 16-176 above, the charge by the village shall be *\$200.00 per hour* with a minimum charge of one hour per parcel and this cost shall be charged to the property owner. If such charges are not paid by November 15 of the year in which they are billed, such charges, together with an additional administrative fee for collection equal to ten percent of the total of such charges and fees, shall be extended on the next succeeding tax roll as a tax charged against the property affected and collected in the same manner as are other taxes, pursuant to Wis. Stats. § 66.98.

**SECTION 2** Section 16-178 (Chronic Nuisances) is hereby repealed.

**SECTION 3** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 4** This ordinance shall take effect upon its adoption and publication.

Approved and adopted this \_\_\_ day of \_\_\_, 2012.

\_\_\_\_\_  
Burt McIntyre, Village President

ATTEST:

\_\_\_\_\_  
Christopher A. Haltom, Village Clerk

DATE OF PUBLICATION: \_\_\_\_\_

**ORDINANCE NO. 2009 – 18**

**AN ORDINANCE AMENDING SECTIONS 10.03(8) AND 10.07 OF HOWARD MUNICIPAL CODE RELATING TO GRASS AND WEED CONTROL**

THE VILLAGE BOARD OF THE VILLAGE OF HOWARD, BROWN COUNTY, WISCONSIN, HEREBY ORDAINS THAT THE MUNICIPAL CODE OF THE VILLAGE OF HOWARD, BE AMENDED AS FOLLOWS:

**SECTION 1.** Section 10.03(8) is hereby amended to read as follows:

**10.03(8) NOXIOUS WEEDS** All noxious weeds, as defined in Section 66.96 (1), Wis. Stats., and other rank growth of vegetation, excluding trees and shrubs, which:

- (a) Detract from the surrounding area and properties as determined by the Building Inspector.
- (b) Become a possible fire hazard, as determined by the Fire Chief.
- (c) Become a health hazard due to their pollen or a potential cover for disease-carrying rodents and other small animals.
- (d) Are of infectious or poisonous nature in or adjacent to a populated area.
- (e) Become a potential hazard to vehicular traffic in vision clearance triangles.

**SECTION 2.** Section 10.07 is hereby amended to read as follows:

**10.07 WEED AND GRASS CONTROL.**

**(1) NOXIOUS WEEDS AND RANK GROWTH PROHIBITED.** No owner or occupant of any lot or parcel of land shall allow such property to become overgrown with weeds or other rank growth of vegetation so as to constitute a public nuisance, as defined in Sec. 10.03(8) of this chapter.

**(2) TALL GRASS AND VEGETATION REGULATED** The following regulations shall apply to all lands within recorded subdivision plats containing five (5) or more lots and all properties served by the municipal water and sewer system.

- (a) The owner or occupant of any lot or parcel of land shall maintain all grass, weeds and other vegetation, excluding trees and shrubs, at a height of less than ten (10) inches in the following locations:
  - 1. All areas on any lot less than one and one-half (1 ½) acres in area, where one or more buildings (as defined in Chapter 17 of the Howard Municipal Code) exist, excluding agricultural or farm buildings.
  - 2. Those areas on any lot adjacent to and within twenty (20) feet of any lot where an established lawn exists or where one or more buildings (as defined in Chapter 17 of the Howard Municipal Code) exist, excluding agricultural or farm buildings.
  - 3. Terrace areas located within a road right-of-way adjacent to any lot or parcel of land. Such areas shall be maintained in accordance with this section by the owner or occupant of the abutting lot or parcel of land.
  - 4. Those areas within ten (10) feet of a public sidewalk or walkway. If such areas are located in whole in part on public grounds, a road right-of-way or other land dedicated to public use,

they shall be maintained in accordance with this section by the owner or occupant of the abutting lot or parcel of land.

- (b) No grass or other vegetation resulting from the mowing or cutting of private or public property shall be discharged, dumped or in any other way deposited upon any parcel of private property or upon a public street, road, road shoulder, sidewalk, walkway alley, park, or other public place in the Village, other than that parcel from which the grass or vegetation was removed, without the consent of the owner of the property onto which such grass or vegetation is to be left or deposited.
- (c) No grass or other vegetation shall be permitted to encroach horizontally upon any public street, road, road shoulder, sidewalk, walkway or alley more than ten (10) inches, regardless of height.
- (d) No grass or other vegetation resulting from the mowing or cutting of private or public property shall be discharged or disposed of in such a manner as to block a storm sewer or other drainage way.
- (e) No grass or other vegetation resulting from the mowing or cutting of private or public property shall be left piled on terrace areas located within a road right-of-way from May 16<sup>th</sup> to September 30<sup>th</sup> or from November 16<sup>th</sup> to March 31<sup>st</sup> of any year, or any other period of time when Village work crews are not collecting or picking up such material.
- (f) Grass, weeds and other vegetation required to be maintained by this section may be controlled by cutting, mowing, chemical eradication or other approved method.
- (g) Failure to comply with the above regulations shall constitute a public nuisance, as defined in Sec. 10.03(8) of this chapter.

**(3) ENFORCEMENT.** If a property owner or occupant fails to comply with the above regulations, the Building Inspector shall serve notice upon him as to this fact. If such owner or occupant fails to abate the public nuisance within three (3) days after service of the notice, the Building Inspector shall take action to abate such public nuisance.

**(4) COSTS.** If the Village causes a nuisance to be abated, as provided in subsection (3) above, the charge by the Village shall be \$150.00 per hour with a minimum charge of one hour per parcel and this cost shall be charged to the property owner. If such charges are not paid by November 15 of the year in which they are billed, such charges, together with an additional administrative fee for collection equal to 10% of the total of such charges and fees, shall be extended on the next succeeding tax roll as a tax charged against the property affected and collected in the same manner as are other taxes, pursuant to Section 66.98, Wis. Stats.

**(5) CHRONIC NUISANCES.** Whenever the Building Inspector finds multiple violations of this section by the same owner/occupant of the same property in any one calendar year, the 2<sup>nd</sup> and all subsequent abatement notices described in subsection (3) above shall be accompanied by the issuance of a Wisconsin Uniform Municipal Court Citation and Complaint in accordance with Section 9.19 of the Howard Municipal Code. Any person convicted of multiple violations as described in this section shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00 plus other penalties and fees as set forth in the Village of Howard Bond Schedule. Each violation and each day a violation continues or occurs shall constitute a separate offense.

**SECTION 3.** All ordinances or parts of ordinances, in conflict herewith are hereby repealed.

**SECTION 4.** This ordinance shall take effect upon its adoption and publication.