

ORDINANCE NO. 2023-3

AN ORDINANCE AMENDING TITLE 4, CHAPTER 3 AS TO WEEDS AND VEGETATION TO ESTABLISH DATES FOR COMPLIANCE AND DATES FOR WARNING LETTERS, ESTABLISH A HEIGHT FOR GROUND GROWTH, AND ESTABLISH A PROCESS FOR APPLICATION TO THE MAYOR FOR AN EXCEPTION ON A CASE-BY-CASE BASIS, AND MAKING AMENDMENTS AS TO STYLE AND FORM FOR PURPOSES OF REFERENCE AND CODIFICATION.

WHEREAS, the City of White Sulphur Springs has determined the presence of weeds and vegetation over 4 inches in height, as well as trees which impinge upon sidewalks or neighboring properties, requires abatement to protect the environment as well as secure neighboring properties and pedestrians from potential fire hazards and other dangers associated with uncontrolled growth or overhanging branches or other impingements upon neighboring properties; and

WHEREAS, the City Council has determined there is a need to identify a specific height for weeds and vegetation before it is considered a nuisance, and a system of notice is appropriate to provide property owners with an opportunity to remediate their property before the City takes action; and

WHEREAS, the City Council believes a height for weeds and vegetation, such as but not limited to grass, of over 4 inches is a reasonable height and limits the cost of abatement; and

WHEREAS, the City Council has determined there should be a minimum of two cuttings per summer growing season with corresponding notices sent to property owners and agents, and a method for obtaining an exception on a case-by-case basis;

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of White Sulphur Springs Montana, that Title 4, Chapter 3 of the Code of Ordinance, be amended as follows:

Section 1

That the Code of Ordinance Title 4, Chapter 3, shall be amended as follows:

4.3.2 CUTTING OR REMOVING OF WEEDS AND VEGETATION REQUIRED.

(A) Any person who is the owner of or agent for any lot or parcel of land within the City limits, who permits or suffers to exist upon, in front of, or along such premises so owned by said person or for which said person is the agent, any growth of weeds or vegetation *which is 4 inches or more in height* or any tree or shrub of which the limbs or branches extend over any public sidewalk at a height of less than seven feet above such sidewalk, or which pose a direct threat to neighboring property or structures, shall be deemed guilty of maintaining a nuisance.

(B) For purposes of this part, an agent is considered to be a tenant or a property manager, but can also be any party who is authorized to act for the property owner or has taken responsibility for the property. The property owner is ultimately responsible for the care and maintenance of the property and all fixtures, buildings, or vegetation or trees on the property.

(C) A general notice regarding this chapter shall be sent to all property owners and their agents on or about June 15 of each year. The deadline for compliance shall be June 30 for bringing a property into compliance. A second notice shall be sent on or about August 1 of each year. The deadline for

compliance shall be August 15 for bringing a property into compliance. At the election of the Mayor, the second notice may be sent only to those properties identified as being in noncompliance with this part.

(D) Notices shall be mailed to the last-known address on file for the property owner and agent of the property. The mailing address on file for water/wastewater service or the mailing address on file for the property title shall be relied upon for such notices. Failure to maintain a current mailing address with the City Clerk/Treasurer or the Meagher County Clerk and Recorder shall not exempt the owner or agent from their responsibility to bring the property into compliance.

(E) A separate Notice of Violation, specifically identifying compliance issues under this chapter, may be served upon the property at any time by posting the same on the front door of the structure or other conspicuous location or by personal service upon the occupant. Such Notice of Violation shall have a deadline which shall be not less than five business days after service.

*(F) If Any ~~such~~ owner or agent who neglects or refuses to cut and ~~remove or otherwise~~ destroy any such growth of weeds or vegetation, or to cut away ~~and remove or destroy~~ such trees or shrubs impinging upon the sidewalk or constituting a direct threat to neighboring property, ~~within ten days after being notified in writing by the Mayor or the Mayor's agent~~ by the deadlines established in this chapter shall be deemed guilty of a violation of this section, and upon conviction shall be punished with a fine of not less than \$50 and not more than \$300, and upon a second or subsequent offense, shall be punished as provided in § 1.4.1. *Each day any violation of any provision of this chapter shall continue shall constitute a separate offense.**

Section 2

That the Code of Ordinance, Title 4, Chapter 3, Section 3 be amended as follows:

§ 4.3.3 FAILURE TO COMPLY WITH THESE PROVISIONS.

(A) Whenever a Notice ~~of Violation~~ has been issued to the owner, or agent of the owner, under § 4.3.2 regarding weeds, vegetation, or trees or shrubs upon the property, ~~or a special Notice of Violation has been served upon the property or the owner or agent~~, and the owner or agent has failed to comply with the ~~Notice or~~ Notice of Violation by abating the nuisance, then the Mayor or the Mayor's agent or contracted service shall be authorized to enter and abate the nuisance and perform such other work necessary to render the premises in compliance with this chapter ~~at the expense of the property owner~~.

(B) Entry without notice may be made in the case of necessity due to the threat to persons or property, as determined by the Public Works Supervisor or the Mayor.

*(C) The City Clerk shall certify the cost of the work and shall notify the owner of the costs, for which the owner shall be liable, ~~by mailing an invoice to the owner~~. *Payment is due thirty days after mailing*, and if the costs are not paid, it shall become a lien upon the property and the City Clerk shall make all filings as required for collection, and the owner may be subject to all costs of collection, including attorney fees.*

(D) Alternately, the costs may be assessed as a tax on the property and collected accordingly.

Section 3

That the Code of Ordinance, Title 4, Chapter 3, be amended by adding the following section:

§4.3.6 EXEMPTIONS

(A) A property owner or agent may request an exemption from abatement by filing a written request at City Hall for review by the Mayor.

(B) A request shall specify the location of the property, whether the individual making the request is the property owner or the agent of the owner, the reason or reasons for the request, with supporting documentation as applicable, and any other information the individual believes to be relevant to the request.

(C) The request must be received at least one week prior to the deadline for abatement as stated in the notice. The Mayor may visit the property during business hours to visually inspect the issues present.

(D) Any exemption is considered and granted on a case-by-case basis and does not obligate the City to extend the same exemption to the same individual or another individual or property under the same or similar circumstances whether in the same year or subsequent years. Denial of an exemption is not subject to appeal to the City Council.

Section 4

Repealer. All resolutions, ordinances, and sections of the White Sulphur Springs Municipal Code and parts thereof in conflict herewith are hereby repealed.

Section 5

Savings Provision. This ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this ordinance. All other provisions of the White Sulphur Springs Code of Ordinance not amended by this Ordinance shall remain in full force and effect.

Section 6

Severability. If any provisions of this ordinance, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable.

Section 7

EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 8

CODIFICATION. Upon Final Passage and Adoption, the City Clerk is authorized to publish the foregoing ordinance, making amendments as to referenced code sections, notations, and grammar as well as style to be consistent with the ordinance as passed. All references within the White Sulphur Springs Code of Ordinance shall be revised as necessary to be consistent with and reflect the changes in this ordinance. The Clerk, and through the Clerk the entity maintaining the Code of Ordinance, shall insert this ordinance and shall remove the prior provisions inconsistent with the current ordinance, as passed and adopted, in any official publication or on-line version of the White Sulphur Springs Municipal Code.

PASSED by the City Council and the City of White Sulphur Springs, Montana, on first reading at a regular session thereof held on the _____ day of _____, 2023.

Rick Nelson, Mayor

ATTEST:

Michelle Stidham, City Clerk

PASSED, ADOPTED, AND APPROVED by the City Council and the City of White Sulphur Springs, Montana, on second reading at a regular session thereof held on the _____ day of _____, 2023.

Rick Nelson, Mayor

ATTEST:

Michelle Stidham, City Clerk

APPROVED AS TO FORM:

City Attorney