

ORDINANCE RECORD

No. 728-REFIELD & COMPANY INC., OMAHA

ORDINANCE NO. 1357

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA TO AMEND MUNICIPAL CODE SECTION 133.01; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Municipal Code Section 133.01 is hereby amended to read as follows:

§ 133.01 STAGNANT WATERS, WEEDS, AND LITTER.

(A) Lots or pieces of ground within the city or within the city's extraterritorial zoning jurisdiction shall be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon.

(B) The owner or occupant of any lot or piece of ground within the city or within the city's extraterritorial zoning jurisdiction shall keep the lot or piece of ground and the adjoining streets and alleys free of any excessive growth of weeds, grasses, or worthless vegetation. "Excessive growth" for purposes of this Section 133.01 shall include without limitation, 12 inches or more in height of weeds, grasses, or worthless vegetation.

(C) The throwing, depositing, or accumulation of litter on any lot or piece of ground within the city or within the city's extraterritorial zoning jurisdiction is prohibited, except that grass, leaves, and worthless vegetation may be used as a ground mulch or in a compost pile.

(D) It is hereby declared to be a nuisance to permit or maintain any excessive growth of weeds, grasses, or worthless vegetation on any lot or piece of ground within the city or within the city's extraterritorial zoning jurisdiction or on the adjoining streets or alleys or to litter or cause litter to be deposited or remain thereon except in proper receptacles.

(E) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this section, be guilty of an offense as provided by Nebraska Statutes.

(F) (1) The city shall, during the month of April of each year, publish or cause to be published in one or more newspapers of general circulation within the city a general notice setting forth the requirements of this section.

(2) In addition to the above general notice, upon determination by the Chief building official, Code enforcement officer, or other proper City representative that the owner or occupant has failed to keep such real estate free of nuisances, notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service, first class mail or certified mail. Such notice shall include the information and shall be given in the manner required by Code Section 92.17. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the city to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the city clerk. A hearing on the appeal shall be held within fourteen days after the filing of the appeal and shall be conducted by the City Administrator or any other appointed officer of the City from time to time designated by the City Administrator, Mayor or City Council. Notice of the hearing will be provided in the manner described in Section 92.17. The hearing officer, based on all information presented at the hearing, shall render a decision of the appeal within five business days after the conclusion of the hearing. If the appeal fails, the city may have such work done. If the owner or occupant of the lot or piece of ground within five days after receipt of such notice does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance within the required time, the city may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the city may either:

ORDINANCE RECORD

No. 728—REFFIELD & COMPANY INC., OMAHA

(a) Levy and assess the costs and expenses of the work upon the lot or piece of ground so benefitted as a special assessment; or

(b) Recover in a civil action the costs and expenses of the work upon the lot or piece of ground and the adjoining streets and alleys.

Unless otherwise specified by applicable law, notice for purposes of this section shall be deemed to be received upon deposit in the United States mail, postage prepaid, if by first-class mail, or upon actual receipt, if by personal service or certified mail.

(3) Notwithstanding any other provision of the Code to the contrary, at all times thereafter until new growth of the following year, the city shall have the right, without providing further notice to such owner, agent, occupant, tenant or person in possession, charge or control of such lot or ground, to continue cutting and/or removing from such lot or ground all litter or excessive growth of weeds or grass or worthless vegetation.

(G) For purposes of this section:

(1) LITTER includes, but is not limited to:

(a) Trash, rubbish, refuse, garbage, paper, rags, and ashes;

(b) Wood, plaster, cement, brick, or stone building rubble;

(c) Grass, leaves, and worthless vegetation;

(d) Offal and dead animals; and

(e) Any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk; and

(2) WEEDS includes, but is not limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus sp.*) (tourn), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

(3) Weeds, grasses, and worthless vegetation does not include vegetation applied or grown on a lot or piece of ground outside the corporate limits of the city but inside the city's extraterritorial zoning jurisdiction expressly for the purpose of weed or erosion control, as determined to the satisfaction of the city engineer. ('79 Code, § 6-328) (Ord. 147, passed --; Am. Ord. 450, passed 9-15-87; Am. Ord. 547, passed 6-16-92; Am. Ord. 938, passed 8-17-04; Am. Ord. 1256, passed 7-7-15) Penalty, see § 10.99

Statutory reference:

Municipal authority; notice and hearing requirements, see Neb. RS 16-230
Additional authority to regulate nuisances, see Neb. RS 18-1720

SECTION 2. Repeal of Conflicting Ordinances. Section 31.21as originally enacted, and all ordinances and parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof, are hereby repealed.

SECTION 3. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

ORDINANCE RECORD

No. 728-REFIELD & COMPANY INC., OMAHA

SECTION 4. Effective Date. This Ordinance shall be in force and take effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 2ND DAY OF JULY 2019.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:



Pamela A. Buethe, CMC
City Clerk