



## City Council Staff Report

REPORT DATE: September 27, 2020

MEETING DATE: October 14, 2020

SUBJECT **Municipal Code Amendment Regarding Weed Control**

ITEM TYPE  Public Hearing  Work Session  Action Item

PRESENTER Olivia Goodale, City Administrator

### APPLICABLE VICTOR VALUES

Culturally Historic  Sustainable  Connected to Nature  
 Small Town Feel  Family Friendly  Administrative Need

### PURPOSE & PROCESS

The purpose of this item is to consider an Ordinance regarding weed control.

### BACKGROUND/ALTERNATIVES

Each year, the City receives complaints about vacant lots and lawns with overgrown grass and weeds. However, the current code is outdated and has gaps in the language making public education and code enforcement challenging.

Council reviewed this item during a work session on September 23<sup>rd</sup>. During the meeting, Council provided the following direction:

- The focus of the Ordinance should be on noxious weeds as opposed to the height of grass on vacant lots and lawns. Council requested the first portion of the first sentence of the draft be removed that stated *"All turf grass or weeds over twelve inches (12") in height"...*are hereby declared to be unlawful and shall be removed.
  - Council also requested the list of noxious weeds provided by the state under Idaho Code 22-2402. Please see <http://invasivespecies.idaho.gov/plants>.
  - State statute as it relates to noxious weeds is extensive and may be found at the following website. The City Attorney has confirmed that if approved, this ordinance would be in addition to state statute, not instead of. <https://legislature.idaho.gov/statutesrules/idstat/Title22/T22CH24/SECT22-2405/>
  - Teton County Idaho has a weeds department that provides weed control resources. <https://www.tetoncountyidaho.gov/department.php?deptID=36&menuID=1>
- To apply the code to all of city limits, as opposed to the downtown core only.
- To remove the reference to litter control and depend on State Statute with regard to enforcement of littering.
  - Council did request information regarding the City's nuisance code as it relates to accumulated trash. Please see Section 4-1-3.D of Title 4, Chapter 1,

<https://www.victorcityidaho.com/globalimage/Municipal%20Code/Health%20and%20Safety%20Regulations/Title%204%20Chapter%201%20new.pdf>.

The attached Ordinance, completely replaces the current code with the following:

4-1-6: WEED CONTROL

A. *RESPONSIBILITY. Noxious Weeds as defined by Idaho Code 22-2402 and those grasses or weeds determined to be a fire hazard by the Teton County Fire District are hereby declared to be unlawful and shall be removed, cut and destroyed by the owner or agent of the ground or premises on which the same are located. It shall be the duty of the owner, agent or person having charge of any property within the City limits where Noxious Weeds and those grasses or weeds determined to be a fire hazard by the Teton County Fire District are growing to remove, cut and/or destroy the same.*

B. *PENALTY. If, following notice of violation and order to abate, any person allows the existence of a violation of this section to continue beyond the timeframe specified by the City, such person shall be subject to a civil fine in the amount of one hundred dollars (\$100.00). Each and every day in which any such violation continues may be deemed a separate violation. Peace officers and code enforcement officers shall have the authority to issue fines to violators of this section.*

*Any person who violates this article twice within any 12 month period (treating multiple violations resulting from a continuing condition as a single violation for purposes of this paragraph) shall be guilty of a misdemeanor.*

Idaho Code 22-2402 defines Noxious Weeds as “*any plant having the potential to cause injury to public health, crops, livestock, land or other property; and which is designated as noxious by the director.*”

Below please find a summary of material changes proposed in the draft ordinance.

**Title:** The current Title of this code section is “*Litter and Weed Control within the Central and General Business Zones.*”

- The code amendment removes the reference to litter control and removes the reference to specific (and outdated) zones thereby expanding the applicability of this code to all of City limits as opposed to the general downtown area. The City has received complaints regarding upkeep of vacant lots in subdivisions outside of the City core.
- The current City Code references litter control in the title but does not have any further provisions. Because Idaho Code so comprehensively addresses littering, the City does not need to adopt further requirements unless it would like to institute a higher fine or add to the provisions.

Idaho Code 18-7031, PLACING DEBRIS ON PUBLIC OR PRIVATE PROPERTY, states “*It shall constitute an infraction for any person, natural or artificial, to deposit upon any public or private property within this state any debris, paper, litter, glass bottles, glass, nails, tacks, hooks, hoops, cans, barbed wire, boards, trash, garbage, lighted material or other waste substances on any place not authorized by any county,*

*city, village or the owner of such property, and is punishable by a fine of one hundred fifty dollars (\$150). A second conviction under this section within two (2) years of the commission of the prior offense for which the person was convicted shall constitute an infraction and be punishable by a fine not exceeding three hundred dollars (\$300). A third conviction under this section within three (3) years of the first offense for which the person was convicted shall constitute a misdemeanor and be punishable by a fine not exceeding one thousand dollars (\$1,000) and by imprisonment in the county jail not exceeding thirty (30) days. Additionally, a peace officer or state fish and game personnel supervised public service of not less than eight (8) hours and not more than forty (40) hours may be imposed to clean up and to properly dispose of debris from public property, or from private property with the written consent of the private property owner, as ordered by the court.”*

**Sections B and C of Current Code relating to Dead or Hazardous Trees and Overgrown Vegetation:**

Chapter 4 of Title 6 relates to Trees and provides for the regulation of planting, maintenance, and removal of trees, shrubs, and other plants within city limits. City staff anticipates reviewing this Chapter in the coming months.

**Scope:** The current code does not provide any definition of “weeds” and further prohibits “lawn areas that are dead and/or exceed a height of twelve (12) inches from grade; or a lack of plant material necessary to prevent erosion or prevent an unsightly landscape appearance that contributes to conditions that cause blight and property degradation.”

- The code amendment more specifically defines weeds as shown in Section A above.

**Penalty.** The current code has no specific penalty. The proposed penalty is listed above in Section B.

**ATTACHMENTS**

Ordinance

**FISCAL IMPACT**

Fiscal impact is neutral but does include the cost of publishing the legal notice after the ordinance is approved.

**STAFF IMPACT**

Staff impact is moderate and mostly complete at this point because the code amendment has now been drafted and reviewed at a staff level. Once the ordinance is approved, staff will need to process it for the permanent records, publish the associated legal ads, and update the code book online and in hard copy.

**LEGAL REVIEW**

Complete

**RECOMMENDATION**

Staff recommends Council approve the Ordinance as presented.

**SUGGESTED MOTION**

I move to waive first reading in full of Ordinance O573, An Ordinance Amending and Reenacting Chapter Section 6, Chapter 1 of Title 4 of the Victor City Code Regarding Litter and Weed Control, to read it by title only, and to waive the second and third Ordinance readings.

[General vote]

I move to further approve Ordinance O573 and its summary, and to direct the City Clerk to publish the summary.

[Roll call vote]

**THE CITY OF VICTOR, IDAHO**  
**ORDINANCE 0573**

**AN ORDINANCE OF THE CITY OF VICTOR, IDAHO AMENDING AND REENACTING SECTION 6, CHAPTER 1 OF TITLE 4 OF THE VICTOR CITY CODE REGARDING LITTER AND WEED CONTROL; AND ESTABLISHING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF VICTOR, COUNTY OF TETON, STATE OF IDAHO:**

**SECTION 1.** Section 6, Chapter 1 of Title 4 shall be amended and reenacted as follows:

4-1-6: ~~Litter and Weed Control Within The Central and General Business Zones.~~ WEED CONTROL

~~A. It shall be unlawful for any owner or occupant of any real property within the Central or General Business Zone of the City to allow weeds to grow, exist or accumulate upon such real property, and allow:~~

~~B. Dead or hazardous trees, or other vegetation that is unsightly or dangerous to public health, safety and welfare, or contributes to blight and property degradation.~~

~~C. Overgrown vegetation likely to harbor vermin and other nuisances dangerous to public health; cause a detriment to neighboring property; contribute to conditions that cause blight and property degradation, or grow into the public right-of-way such that it obstructs the view of drivers on public streets or private driveways, or substantially obstructs the use of a public sidewalk area.~~

~~D. Lawn areas that are dead and/or exceed a height of twelve (12) inches from grade; or lack plant material necessary to prevent erosion or prevent an unsightly landscape appearance that contributes to conditions that cause blight and property degradation. (Ord. 08-0827-1)~~

A. **RESPONSIBILITY.** Noxious Weeds as defined by Idaho Code 22-2402 and those grasses or weeds determined to be a fire hazard by the Teton County Fire District are hereby declared to be unlawful and shall be removed, cut and destroyed by the owner or agent of the ground or premises on which the same are located. It shall be the duty of the owner, agent or person having charge of any property within the City limits where Noxious Weeds and those grasses or weeds determined to be a fire hazard by the Teton County Fire District are growing to remove, cut and/or destroy the same.

B. **PENALTY.** If, following notice of violation and order to abate, any person allows the existence of a violation of this section to continue beyond the timeframe specified by the City, such person shall be subject to a civil fine in the amount of one hundred dollars (\$100.00). Each and every day in which any such violation continues may be deemed a separate violation. Peace officers and code enforcement officers shall have the authority to issue fines to violators of this section.

Any person who violates this article twice within any 12 month period (treating multiple violations resulting from a continuing condition as a single violation for purposes of this paragraph) shall be guilty of a misdemeanor.

(Ord O573 § 1, 2020; Ord 08-0827-1)

**SECTION 2.** All ordinances, resolutions or parts thereof in conflict herewith are hereby repealed, rescinded and annulled.

**SECTION 3.** This ordinance shall be in full force and effect from and after its passage, approval and publication, according to law.

**PASSED BY THE COUNCIL OF THE CITY OF VICTOR, IDAHO, this 14<sup>th</sup> day of October 2020.**

**APPROVED BY THE MAYOR OF THE CITY OF VICTOR, IDAHO, this 14<sup>th</sup> day of October, 2020.**

ATTEST:

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Will Frohlich, Mayor

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Michelle Smith, City Clerk

**NOTICE AND PUBLISHED SUMMARY  
OF ORDINANCE PURSUANT TO I.C. § 50-901(A)**

**CITY OF VICTOR ORDINANCE NO. O573**

**AN ORDINANCE OF THE CITY OF VICTOR, IDAHO AMENDING AND REENACTING SECTION 6, CHAPTER 1 OF TITLE 4 OF THE VICTOR CITY CODE REGARDING LITTER AND WEED CONTROL; AND ESTABLISHING AN EFFECTIVE DATE.**

The principal provisions of this ordinance amendment are to amend and reenact Section 4-1-6 regarding Litter and Weed Control to address responsibility, definitions, and associated penalty of weed control within the Victor City limits.

A full text of this ordinance is available for inspection at Victor City Hall, City of Victor, Unit 101, 10 South Main Street, Victor, Idaho. This Ordinance shall become effective upon passage and publication.

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City of Victor  
Mayor and City Council  
By: Michelle Smith, City Clerk

First Reading: October 14, 2020  
Adopted after first reading pursuant to Idaho Code § 50-902

**STATEMENT OF VICTOR CITY ATTORNEY  
AS TO ADEQUACY OF SUMMARY OF ORDINANCE NO. O573**

The undersigned, Herbert J. Heimerl III, City Attorney of the City of Victor, Idaho, hereby certifies that he is the legal advisor of the City and has reviewed a copy of the attached Ordinance No. O573 of the City of Victor, Idaho, and has found the same to be true and complete and provides adequate notice to the public pursuant to Idaho Code § 50-901A(3).

DATED this 14<sup>th</sup> day of October, 2020.

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Herbert J. Heimerl III  
City Attorney