

AGENDA

**DES MOINES CITY COUNCIL
REGULAR MEETING
City Council Chambers
21630 11th Avenue S, Des Moines, Washington**

August 3, 2017 – 7:00 p.m.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

COMMENTS FROM THE PUBLIC

BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

PRESIDING OFFICER'S REPORT

ADMINISTRATION REPORT

Item 1: EMERGING ISSUES

Item 2: COMMUNITY CONNECTIONS PILOT PROJECT

CONSENT CALENDAR

OLD BUSINESS

NEW BUSINESS

Page 1 Item 1: DRAFT ORDINANCE NO. 17-072; REMOVAL AND DESTRUCTION OF
NUISANCE VEGETATION AND DEBRIS ORDINANCE
Staff Presentation City Attorney Tim George

NEXT MEETING DATE

August 10, 2017 City Council Study Session

ADJOURNMENT

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Removal and destruction of nuisance vegetation and debris Ordinance

FOR AGENDA OF: August 3, 2017

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: July 25, 2017

ATTACHMENTS:

- 1. Draft Ordinance No. 17-072

CLEARANCES:

- Community Development _____
- Marina _____
- Parks, Recreation & Senior Services _____
- Public Works PBC

CHIEF OPERATIONS OFFICER: DJS

- Legal 76
- Finance _____
- Courts _____
- Police _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: [Signature]

Purpose and Recommendation

The purpose of this agenda item is for City Council to create an expedited procedure to abate overgrown and nuisance vegetation and debris and to recover the costs of abatement.

Suggested Motion

Motion 1: "I move to suspend Rule 26(a) in order to enact Draft Ordinance No. 17-072 on first reading."

Motion 2: "I move to enact Draft Ordinance No. 17-072 creating an expedited procedure to abate overgrown and nuisance vegetation and debris, a process to recover the costs of abatement, and a new chapter in Title 7 DMMC."

Background

As is the case in many cities, a small percentage of privately owned lots in the City of Des Moines are chronically overgrown with vegetation. At a minimum, these properties affect property values and quality of life for neighbors. In the extreme, these properties can provide harborage for rodents, constitute fire hazards, and provide cover for serious criminal activity that creates a severe danger to community health and safety.

The City's code enforcement officers have been successful in convincing a number of owners to properly maintain their properties, but some properties remain overgrown due to absentee owners or owners who disregard traditional code enforcement. Procedures do exist for the City to enter properties to abate these dangerous conditions, but these procedures generally take several months to years to complete, can involve considerable expense to the City that may not be recoverable, or both.

Discussion

RCW 35.21.310 authorizes cities to adopt an ordinance requiring any property owner to abate nuisance vegetation and debris on his or her property and providing for a process where the City Council may direct the removal or destruction of nuisance vegetation or debris on a particular property by resolution. Should the City Council pass such a resolution, and if the owner fails to complete the work in the time allowed, the City would be authorized to enter the property and abate the condition. The City's expenses would be charged against the property owner personally and as a lien against the property, which can be enforced and foreclosed upon as a mechanic's lien. The entire process can be completed within a few weeks, as opposed to several months or more.

The process under the proposed ordinance would occur as follows:

1. The City Manager or the City Manager's designee serves written notice to the property owner personally or by certified mail to the mailing address listed on the property tax roll. This notice informs the property owner of the condition to be abated, requires the property owner to abate the condition within a certain time, and advises the property owner that the City Council will consider a resolution as described in #2 below.
2. If the condition is not remedied within the required time, the City Council may consider a resolution finding the property in violation of the ordinance and ordering the violation to be abated within a specific time. The resolution may only be passed after five days' notice to the property owner and an opportunity for the owner to be heard.
3. Should the resolution pass and the property owner fail to abate the condition within the time required by the resolution, the City may enter the property and abate the condition.
4. The City can bill the property owner personally for the costs of abatement, file a mechanic's lien against the property, or both. An action to foreclose upon the lien must be commenced within eight months of recording.

In addition to abating overgrown nuisance vegetation on private property, the proposed ordinance gives the City the ability to recover its costs for abating vegetation that grows from private property into public rights-of-way when appropriate using the same procedure.

Alternatives

The City Council may:

1. Enact the proposed Draft Ordinance as written.

2. Enact the proposed Draft Ordinance with modifications
3. Decline to enact the proposed Draft Ordinance.

Financial Impact

The City has in the past incurred costs to abate properties in this condition without recovery. The proposed Draft Ordinance may allow the City to reduce the future financial impact of these operations from potentially negative thousands of dollars to zero.

Recommendation

Staff recommends Council enact Draft Ordinance No 17-072 on the first reading as written.

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CITY ATTORNEY'S FIRST DRAFT 6/20/17**DRAFT ORDINANCE NO. 17-072**

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to removal and destruction of nuisance vegetation and debris; and adding and codifying a new chapter to Title 7 DMMC entitled "*Overhanging, Obstructing, and Nuisance Vegetation*".

WHEREAS, promoting safe and unimpeded passage on public roads and sidewalks and protecting the health, safety, and welfare of its citizens are priorities for the City of Des Moines, and

WHEREAS, the duty and responsibility to prevent vegetation from growing on private property in a manner that obstructs public roadways or sidewalks or in a manner that constitutes a danger to public health, safety, or welfare should lie with the owner or occupier of that property, and

WHEREAS, when code enforcement efforts fail to obtain abatement of overgrown and nuisance vegetation through existing means due to absentee or unwilling property owners, the City may have no speedy and adequate remedy, and

WHEREAS, if a remedy exists, the City may not recover its costs of abatement for a significant period of time, if at all, and

WHEREAS, RCW 35.21.310 authorizes cities to adopt local ordinances requiring property owners to remove or destroy obstructing or nuisance vegetation on their property, providing that the City may cause such removal or destruction upon the property owner's failure to timely comply with a resolution of the City Council requiring such removal or destruction with adequate notice, and assessing the City's expenses as costs against the owner and a lien on the property, and

WHEREAS, the City council finds that adopting this ordinance under the authority granted by RCW 35.21.310 is appropriate and necessary to promote safe and unimpeded passage on public roads and sidewalks and protect the public health, safety, and welfare; now therefore,

Ordinance No. _____

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

A new chapter shall be added to Title 7 DMMC to read as follows in sections 1 through 11 of this Ordinance:

OVERHANGING, OBSTRUCTING, AND NUISANCE VEGETATION

Sec. 1. Title. This chapter shall be entitled "Overhanging, Obstructing, and Nuisance Vegetation".

Sec. 2. Application. This chapter shall apply to real property located in the City of Des Moines and the owners of real property located in the City of Des Moines.

Sec. 3. Purpose. These regulations are adopted to promote the public health, safety and general welfare of the citizens of Des Moines and to provide for enforcement, abatement, and recovery of City costs for abatement, requiring property owners to remove vegetation that obstructs the free use of the sidewalk or public street and vegetation on the owner's property which is a fire hazard or a menace to public safety, health, or welfare; providing a procedure for the City Council to order removal of nuisance vegetation by resolution after notice of the condition to the property owner; allowing the City to cause the removal of nuisance vegetation following passage of the resolution should the property owner fail to remove the nuisance vegetation; and providing that the City's costs in removing the nuisance vegetation shall become a charge against the property owner and a lien against the property.

Sec. 4. Authority. This chapter is adopted pursuant to the authority set forth in RCW 35.21.310.

Sec. 5. Removal of overhanging or obstructing vegetation. The owner or occupant or other person in control of real property within the City shall remove or destroy all trees, plants, shrubs or vegetation, or any parts thereof, which overhang any sidewalk or which are situated on the property or on the portion of the street or sidewalk abutting thereon in such manner as to obstruct or impair the free and full use of the sidewalk or street, including the interruption or interference with the clear vision of pedestrians or persons operating vehicles thereon, or interfering with sidewalks, streets, poles, wires, pipes, fixtures or any other part of any public utility situated in the street.

Ordinance No. _____

Sec. 6. Removal of nuisance vegetation and debris. The owner or occupant or other person in control of real property within the City shall remove or destroy all grass, weeds, shrubs, bushes, trees or vegetation growing or which has grown and died, and to remove or destroy all debris, upon property owned or occupied by them and which are a fire hazard or a menace to public health, safety or welfare.

Sec. 7. Nuisance declared. It is unlawful and a nuisance for the owner or occupant or other person in control of any real property in the City to maintain or allow the property in violation of this chapter.

Sec. 8. Notice.

(1) If real property within the City is allowed or maintained in violation of this chapter, the City Manager or the City Manager's designee may serve notice upon the property owner identifying the property involved; describing the condition to be corrected; requiring the owner to correct the condition within the time specified in the notice; and notifying the owner that if the condition is not corrected within the time specified, that after the termination of such period of time and on a date specified in the notice, a resolution will be presented to the City Council to provide for the removal or destruction of the grass, weeds, shrubs, bushes, trees, vegetation, and/or debris, and the cost of that removal or destruction become a charge against the owner and a lien against the property.

(2) Notice under this section shall be served on the property owner personally or by certified mail, with a five-day return receipt requested, sent to the property address and the owner's address on file with the King County Treasury. Notice by certified mail will be effective on the fifth day after mailing.

Sec. 9. Resolution. The City Council may adopt by resolution a declaration that real property within the City is in violation of this chapter; identifying the specific property and the specific grass, weeds, shrubs, bushes, trees, vegetation and/or debris to be removed or destroyed; and requiring the property owner to remove or destroy the grass, weeds, shrubs, bushes, trees, vegetation, and/or debris within a specific time. The resolution shall be passed after not less than five days' notice to the owner as described in Section 8 of this ordinance and an opportunity for the owner to be heard and show cause why the grass, weeds, shrubs, bushes, trees, vegetation and/or debris should not be removed or destroyed.

Ordinance No. _____

Sec. 10. Removal by City. If a property owner fails to remove or destroy the grass, weeds, shrubs, bushes, trees, vegetation, and/or debris as required by a resolution of the City Council authorized by this chapter in the time specified in the resolution, the City shall cause the removal or destruction of the grass, weeds, shrubs, bushes, trees, vegetation, and/or debris.

Sec. 11. Cost of removal. The cost to the City of removing grass, weeds, shrubs, bushes, trees, vegetation, and/or debris as authorized by this chapter shall become a charge against the owner of the property and a lien against the property. Notice of the lien shall be in substantially the same form and enforced and foreclosed as is provided by law for liens for labor and materials.

Sec. 12. Codification. Sections 1 through 11 of this Ordinance shall be codified as a new chapter in Title 7 DMMC.

Sec. 13. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

Sec. 14. Effective date. This Ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this _____ day of _____, 2017 and signed in authentication thereof this _____ day of _____, 2017.

M A Y O R

Ordinance No. _____

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

Effective Date: _____

Community Programs at Wesley Homes

Students-in-Residence Program

Wesley Homes Des Moines and Highline College have developed a distinctive, living and learning opportunity for college students. This volunteer program provides student housing and fosters a better understanding between generations.

For details about the program, contact:

Charis Hnin — 206.592.3550 or chnin@highline.edu



Highline Montessori at Wesley Homes

An Intergenerational Program

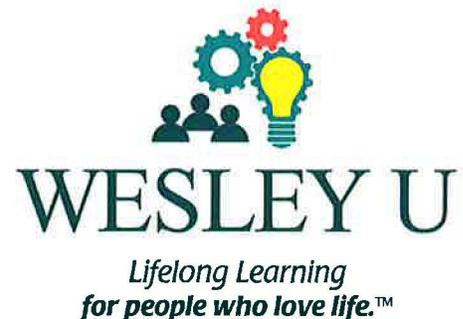


Wesley Homes Des Moines and Highline School District have partnered to create a program to bring young children and experienced seniors together. Children learn age-appropriate tasks naturally through play and collaborative activities. For more information, contact:

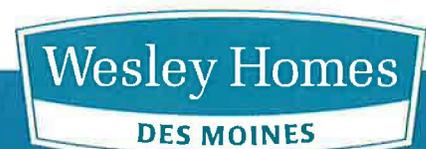
Catherine Cabone-Rogers — catherine.rogers@highlineschools.org

Learning is a lifelong process. That is why we developed Wesley U with Highline College and Des Moines / Normandy Park Activity Center. Wesley U is a free continuing education program for mature adults who enjoy learning. For more information, contact:

Leslie Lehnhoff — 206.870.1385 or lehnhoff@wesleyhomes.org



www.wesleyhomes.org



Wesley Homes Des Moines is a not-for-profit retirement community offering a continuum of care for people who love life.™

816 S. 216th St., Des Moines, WA 98198