

ORDINANCE NO. 414

AN ORDINANCE TO ENACTED BY THE MAYOR AND COUNCIL OF POCOMOKE CITY TO ADD CHAPTER 99 TO THE POCOMOKE CITY CODE (“NOXIOUS WEEDS AND RANK VEGETATION”) TO CONTROL AND ERADICATE THE GROWTH OF NOXIOUS WEEDS AND RANK VEGETATION IN THE CITY OF POCOMOKE; TO IMPOSE RESPONSIBILITY UPON THE OWNERS, AGENTS, OR OCCUPANTS OF PROPERTY WITH RESPECT TO SAID CONTROL AND ERADICATION; TO DEFINE TERMS; TO IMPLEMENT A NOTIFICATION PROCEDURE; TO DESIGNATE RESPONSIBILITY FOR COMPLIANCE; TO IMPLEMENT THE ENFORCEMENT OF SUCH RESPONSIBILITY AND OBLIGATIONS BY LIEN ON PROPERTIES INVOLVED.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE CITY COUNCIL OF POCOMOKE CITY, MARYLAND, AS FOLLOWS:

That a new Chapter 99 be enacted and added the Pocomoke City Code as follows:

SECTION 1. Purpose

The purpose of this Chapter is to preserve and promote the health, safety, and general welfare of residents, motorists and pedestrians alike through the regulation of growth of noxious weeds and rank vegetation within the City which are deemed to detract from the appearance and character of the neighborhoods, negatively affect the value and marketability of surrounding property, constitute traffic hazards and fire hazards, and cause additional health problems for persons with respiratory ailments.

SECTION 2. Definitions

A. Noxious Weeds

For the purposes of this Chapter, “noxious weeds” or “weeds” shall be defined as uncontrolled plant or growth over eight (8) inches in height which is out of character with the development of and landscaping in the neighborhood and contrary to the public health, safety or welfare thereof and shall include, but not be limited to, the following:

1. Vegetation, trees or woody growth on private or governmental property which is abandoned, neglected, disregarded or not cut, mowed or otherwise removed and which have attained a height of eight (8) inches or more;
2. Vegetation, trees or woody growth on private or governmental property which are out of character with the development of and landscaping in the neighborhood in which the property is located;
3. Vegetation, trees or woody growth on private or governmental property which due to its proximity to any governmental property, right-of-way or easement, interferes with public safety or lawful use of the government property, right-of-way or easement;

4. Such weeds as may listed from time to time on any list of noxious or invasive weeds prepared or published by the Maryland Department of Agriculture;

B. Eradicate

To get rid of, to wipe out, to destroy entirely, working of natural processes or methodical plan.

C. Rank Vegetation

Profuse or unmanageable communities of plants in a region.

D. Grass

Any plant of the family Gramineae (or Poaceae) characterized by jointed stems, sheathing leaves, flower spikelets, and fruit consisting of a seed like grain or caryopsis.

E. Nature Area

A tract of real property on which the owner has been granted, by the Zoning Board of Appeals, an exemption from the vegetation growth limits.

SECTION 3. Growth of Grasses and Weeds Prohibited

A. Public Nuisance Declared

The presence of such noxious weeds, rank vegetation or tall grass upon improved and/or unimproved properties is hereby deemed to be detrimental to the public health, safety, and welfare and shall constitute a public nuisance.

B. Prohibition of Rank Vegetation and Noxious Weeds

No person owning any property, whether or not occupied, and no person occupying any property (pursuant to any land contract, rental or leasehold agreement), shall permit or maintain on any such property any growth of weeds, grasses or rank vegetation to a height greater than eight inches (8") or permit or maintain any accumulation of noxious weeds as defined in this Chapter or other poisonous plants, or plants detrimental to health, to grow on any improved property.

C. Exception for Designated Nature Area

Any person, firm or corporation possessing lands within the City of Pocomoke may maintain an area of natural plant growth on which plants not otherwise defined herein as noxious weeds may exceed the designated growth limitations if they first obtain a Natural Area Permit from the Board of Zoning Appeals. Application for such permit shall be submitted to the Superintendent of Public Works and be accompanied by a plot plan for the parcel or parcels which the application affects, drawn to scale not less than twenty (20) feet to the inch, showing the proposed nature area, buildings, and adjacent alleys, streets or

highways. The Superintendent of Public Works shall send notice of the application, along with a copy of the same and its accompanying plot plan and a description of the time and place of the Board of Zoning Appeals, to the owner or occupants of all parcels adjacent to the proposed nature area, by certified mail, no less than ten days before the Board of Zoning Appeals will consider the application. Charges for plan review and postage shall be charged to the applicant at a rate equal to the actual cost to the City, plus ten percent (10%). No action shall be taken on the application until all fees and expenses have been paid in full.

SECTION 4. Duty of the Occupant or Owner

It shall be the duty of the occupant or owner of every premise or property within the City, whether improved or unimproved, to remove or destroy by lawful means all noxious weeds, poisonous or harmful vegetation and to cut all grass or rank vegetation, as often as may be necessary to comply with the provisions of this Chapter.

SECTION 5. Enforcement

A. Notices of violation.

1. Whenever the Housing Inspector determines that there has been a violation of any provision of this chapter, he or she shall give notice of such violation to the person or persons responsible therefore and order compliance with this chapter as hereinafter provided. Such notice and order shall be in writing on an appropriate form and shall include:
 - a. a list of the violations, with reference to the section of the chapter violated,
 - b. an order as to the remedial action required to effect compliance with the chapter, and
 - c. specification of a reasonable time for performance.
2. Such notice and order shall be served upon the owner, occupant or agent in person; provided, however, that the notice and order shall be deemed to be properly served if such owner, occupant or agent is sent a copy thereof by registered mail to his or her last known address and a copy is posted in a conspicuous place on the property affected.

B. Action Authorized

1. Authority to Act when timely remedial action not taken

If the remedial action required to effect compliance with the chapter has not been completed within the time for performance specified in the notice, then any officer, inspector or other agent authorized by the City of Pocomoke or its agents or contractors

may enter upon the property as many times as necessary and cause such grass, weeds, and other vegetation to be cut, destroyed and removed, and all expenses associated therewith shall be paid by the owner or owners of the property. The City shall have liens upon the property for such expenses, and such liens may be enforced in the manner prescribed by the general laws of the State providing for tax liens.

2. Means to be Utilized

In the discretion of the officer, inspector or other agent or contractor authorized by the City of Pocomoke, hand or mechanical or chemical means may be used, and all due care shall be taken to avoid unnecessary damages to the property.

3. Owner Liability

- a. Lien Upon Property. From the time of commencement of the actions authorized herein, the City shall have a lien upon the property.
- b. Costs. The owners of the property shall be liable for all costs incurred by the City in performing the actions authorized herein, plus an administrative fee in the amount of twenty-five percent (25%) of the actual cost. If the actions authorized herein are performed by city employees, the Pocomoke City Council may by resolution from time to time establish a fee schedule to be charged for the actions authorized herein.
- c. Billing. For purposes of determining the ownership of the property, it shall be presumed in evidence that the person to whom the property is assessed on the City's most recent tax roll is the owner of the property. Billing of costs will be mailed to the owners of the property by regular mail to the address shown on the City tax roll. In the event the charges involved are not paid by the owner within thirty (30) days from the date of billing, payment shall be deemed delinquent and shall incur interest at the rate of one per centum (1%) per month or fraction thereof.
- d. Delinquent Charges/Tax Lien: In the event of delinquent charges, the City shall have a lien upon such property for such charges and lien enforceable as a tax lien in the manner prescribed by the general laws of the State against the property, and collected as in the case of general property tax.

4. Violation Constitutes Municipal Infraction

In the event of the failure, neglect or refusal of any owner, occupant or person in control duly notified in accordance with Section 5.A. of this Chapter to complete the remedial action within the time specified in the notice, he or she shall be in violation of this Chapter and shall be charged with a municipal infraction and governed by the provisions

of Chapter 1, General Provisions, Article V, Municipal Infractions, and any person found to have committed said municipal infraction shall be subject to a fine as set forth in the Fees, Charges and Rates Schedule, as adopted by resolution of the City Council from time to time. Each and Every day that a person shall be in violation of this Chapter shall constitute a separate offence.

Section 6. Severability

The provisions of this Chapter are deemed severable and if any part thereof shall be declared invalid by any court, such judgment or decree shall affect only that part directly involved in the controversy and the remainder of the Chapter shall continue in full force and effect.

AND BE IT FURTHER ENACTED AND ORDAINED, as aforesaid, that this Ordinance shall take effect from the date of its passage.

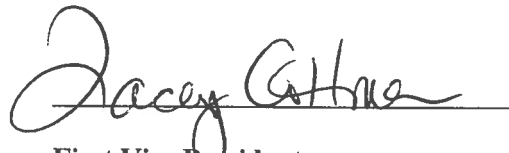
The forgoing Ordinance passed by the Council at the regular meeting of the Mayor and Council of Pocomoke City, held on the 4 day of March, 2013.

Feb. 4, 2013

Date Introduced

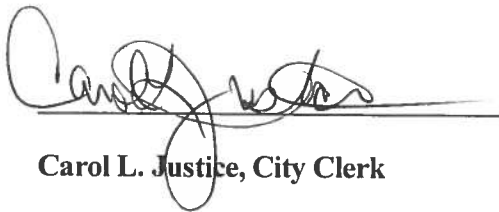
March 4, 2013

Date Passed



First Vice President

Attest:



Carol L. Justice, City Clerk



Bruce A. Morrison, Mayor

Approved this 4 day of March, 2013.