CITY OF STOUGHTON, 207 S. Forrest St., Stoughton, WI 53589

ORDINANCE OF THE COMMON COUNCIL			
Repealing and recreating Section 58-6 and 58-8 and creating Sections 58-12 and 58-13 of the City of Stoughton Municipal Code relating to Public Nuisances			
Action:	Public Works Committee Approved 3-0		
Fiscal Impact:	None		
File Number:	O-27-2019	**First Reading:**	December 10, 2019
		Second Reading:	January 14, 2019

The Common Council of the City of Stoughton do ordain as follows:

1. Section 58-6 of the City of Stoughton Code of Ordinances is repealed and recreated as follows:

   Sec. 58-6 Abatement – generally.

   (a) *Responsibility for enforcement; inspections.* It shall be the duty of each department head to enforce those provisions of this chapter that come within the jurisdiction of their respective offices, and each department head shall make or cause to be made periodic inspections and inspections upon complaint to ensure such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself or herself that a nuisance does in fact exist.

   (b) *Summary abatement.*

   (1) *Order of abatement.* If the inspecting officer determines that a public nuisance exists within the city and that there is imminent danger to the public health, safety, peace, morals or decency, the officer may, without notice or hearing, issue an order reciting the existence of a public nuisance constituting imminent danger to the public and requiring immediate action be taken as the officer deems necessary to abate the nuisance. Notwithstanding any other provisions of this chapter, the order shall be effective immediately. Any person to whom such order is directed shall comply with the order immediately.

   (2) *Abatement by City.* Whenever the owner or occupant shall refuse or neglect to remove or abate the condition described in the order, the inspecting officer shall, in his or her discretion, enter upon the premises and cause the nuisance to be removed or abated and the City shall recover the expenses incurred thereby from

the owner or occupant of the premises or from the person who has caused or permitted the nuisance.

(c) *Nonsummary abatement by City.*

(1) *Order to abate nuisance.* If the inspecting officer determines that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten imminent danger to the public health, safety, peace, morals or decency, the officer shall issue an order reciting the existence of a public nuisance and requiring the person causing, permitting or maintaining the public nuisance or the owner of the premises where the public nuisance is located to remove or abate the condition described in the order by a date specified therein (the abatement date). The order shall be served personally on such person and the owner if different, and, at the option of the inspecting officer, the order may be mailed to the last known address of the person(s) to be served. If the owner or the occupant cannot be served, the order may be served by posting it on the main entrance of the property or by publishing as a Class 3 notice under W.S.A. Chapter 985. The time limit specified in the order runs from the earlier of the date of posting, service or publication.

(2) *Abatement by City.* If the owner or occupant fails or refuses to comply within the time period prescribed, the inspecting officer shall enter upon the premises and cause the nuisance to be removed or abated and the City shall recover the expenses incurred thereby from the owner or occupant of the premises or from the person who has caused or permitted the nuisance.

(3) *Remedy from abatement order.* Any person affected by an order under this section shall, prior to the abatement date, apply to the circuit court for an order restraining the City from entering on the premises and abating or removing the nuisance, or be forever barred.

(d) *Authority to assess costs.* The cost of the abatement or removal of a nuisance under this section shall be collected from the owner, occupant or person causing, permitting or maintaining the nuisance and, if notice to abate the nuisance, if applicable, has been given to the owner, such cost shall be assessed against the real estate as a special charge.

(e) *Abatement in accordance with state law.* Nothing in this section shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State. The city reserves all rights to commence an action for abatement of the public nuisance, damages and costs under chapter 823, Wis. Stat. and to enforce any judgment entered in such action.

(f) *Other action.* If the inspecting officer determines that a public nuisance exists within the city, the officer may cause to be issued and served a citation for violation of this section upon the person causing, permitting or maintaining the public nuisance and the owner of the premises where the public nuisance is located.

2. Section 58-8(6) of the City of Stoughton Code of Ordinances is repealed and replaced with the following:

(6) *Noxious weeds and wild growth*. All noxious weeds and other rank growth of vegetation.

(a) *Required*. The owner of any land within the city shall destroy all noxious weeds and keep mowed all grasses, as defined in subsection (b) of this section, which grow on owner's property and on any terraces and ditches abutting such property.

(b) *Defined*. The term "noxious weed" or "weeds" as used in this section are defined by Wis. Stat. §23.235 and §66.0407, respectively, as amended, and also include those weeds set forth is § 58.11 and shall also include common ragweed (Ambrosia atemisiifolia), giant ragweed (Ambrosia trifida) and burdock (Actrium spp.); all other plants defined as noxious by the Wisconsin Department of Natural Resources; and all other grasses over twelve (12) inches in height.

(c) *Managed natural landscape areas*. Planned natural and native landscape areas grown in a managed landscape plan will be allowed and shall not be subject to this section if the areas meet and are maintained as per the following criteria: All natural landscape areas shall comply with all Wisconsin law and may include native and naturalized plants including, but not necessarily limited to, ferns, wildflowers, grasses, shrubs and trees. These areas are to be kept free of all "noxious weed" or "weeds" as defined in this section at all times. Natural landscape areas shall be set back a minimum of ten (10) feet from all property lines and driveways unless the property is abutted by a roadway, fence or similar barrier separating it from adjoining residential properties, then the natural landscaping may be planted up to the property line (inside the sidewalk).

(d) *Enforcement*. Failure to correct a violation of this section may result in nuisance abatement as defined in section §58-6 of this ordinance and penalties as provided in § 58-3 and § 1-3.

(e) *Authority to assess costs*. The cost of the abatement or removal of a nuisance under this section shall be collected from the owner, occupant or person causing, permitting or maintaining the nuisance and, if notice to abate the nuisance, if applicable, has been given to the owner, such cost shall be assessed against the real estate as a special charge.

(f) *Abatement in accordance with state law*. Nothing in this section shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State. The city

reserves all rights to commence an action for abatement of the public nuisance, damages and costs under chapter 823, Wis. Stat. and to enforce any judgment entered in such action.

(g) *Other action*. If the director of public work determines that a public nuisance exists within the city under this section, the director may cause to be issued and served a citation for violation of this section upon the person causing, permitting or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located.

3. Section 58-12 of the Stoughton Code of Ordinances is created to read:

Sec. 58-12. Diseased, infested or dangerous trees or other plantings a nuisance.

(a) *Public nuisances declared*. The continued existence of diseased, infested or dangerous trees, as defined in section 58-12 (c), or other plantings, and the failure to properly treat or control the same which is likely to cause the spread of disease or infestation or endanger persons because of the deteriorated condition, is hereby declared to be a public nuisance requiring abatement.

(b) *Abatement*

(1) *Order*. Whenever the director of public works shall find on examination that any tree or shrub or part thereof growing or located upon private premises is a public nuisance as defined in this section, he or she shall notify the owner, or if the owner is unknown and there is a tenant or operator occupying said property then to such tenant or operator, in writing that the nuisance must be sprayed, removed, or otherwise abated as directed in the order within the time specified, which shall not be less than 14 days unless the director of public works shall determine that immediate action is necessary for public safety or health. The order shall be served personally on the owner, or if the owner is unknown and there is a tenant or operator occupying said property then to such tenant or operator, and, at the option of the director of public works may be mailed to the last known address of the person(s) to be served. If the owner or the occupant cannot be served, the order may be served by posting it on the main entrance of the property or by publishing as a Class 3 notice under W.S.A. Chapter 985. The time limit specified in the order runs from the earlier of the date of posting, service or publication.

(2) *Abatement by city*. If the owner of such premises or occupant if different from owner refuses or neglects to comply with the notice to abate a nuisance under this section within the time specified, the director of public works shall cause the nuisance to be sprayed, removed or otherwise abated and shall report the expense thereof to the city treasurer, who shall enter it as a charge against the property upon which the tree or shrub is located.

(3) *Appeals*. Any person affected by an order under this section shall, prior to the abatement date, apply to the circuit court for an order restraining the City from

entering on the premises and abating or removing the nuisance, or be forever barred.

(4) *Abatement in accordance with state law.* Nothing in this article shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State. The city reserves all rights to commence an action for abatement of the public nuisance, damages and costs under chapter 823, Wis. Stat. and to enforce any judgment entered in such action.

(5) *Other action*. If the director of public works determines that a public nuisance exists within the city, the director may cause to be issued and served a citation for violation of this section upon the person causing, permitting or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located.

(c) *Dangerous Trees*

(1) *Definition.* "Dangerous tree" means any tree which, in the opinion of the director of public works, is so decayed or injured, or which for any other reason is likely to fall upon any sidewalk, street or other public property.

(2) *Notice to remove.* Whenever the director of public works shall have notice of a dangerous tree which is likely to fall, it shall give notice in writing to the owner of the land where such tree is located, requiring the owner to remove the tree within 14 days after receiving the notice. The notice may be served personally on the owner or agent thereof or by registered mail addressed to the owner or agent.

(3) *Appeals*. Any person affected by an order under this section shall, prior to the abatement date, apply to the circuit court for an order restraining the City from entering on the premises and abating or removing the nuisance, or be forever barred.

(4) *Abatement in accordance with state law.* Nothing in this article shall be construed as prohibiting the *abatement* of public nuisances by the City or its officials in accordance with the laws of the State. The city reserves all rights to commence an action for abatement of the public nuisance, damages and costs under chapter 823, Wis. Stat. and to enforce any judgment entered in such action.

(5) *Other action*. If the director of public works determines that a public nuisance exists within the city, the *director* may cause to be issued and served a citation for violation of this section upon the person causing, permitting or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located.

(6) *Authority to assess costs.* The cost of the abatement or removal of a nuisance under this section shall be *collected* from the owner, occupant or person causing,

permitting or maintaining the nuisance and, if notice to abate the nuisance, if applicable, has been given to the owner, such cost shall be assessed against the real estate as a special charge.

4. Section 58-13 of the City of Stoughton Code of Ordinances is created as follows:

Section 58-13. *Interference Prohibited*. No person shall prevent, delay or interfere with the director of public works, or designee, or any of his/her agents or employees while they are engaged in the performance of duties imposed by this chapter. No person shall refuse to permit the director or employees of the department of public works to enter upon his premises at reasonable times to exercise the duties imposed by this section or permit any public nuisance to remain on any premises owned or controlled by him when ordered by the director of public works to abate such nuisance.

5. This ordinance shall be effective upon passage and publication pursuant to law.

Dates

Council Adopted:_____

Mayor Approved: _____ _____

Tim Swadley, Mayor

Published:_____

Attest:_____ _____

Holly Licht, City Clerk