

ORDINANCE

An Ordinance to amend Sections 7.210; 8.190; and 13.050 of the Manitowoc Municipal Code regulating Snow and Ice on Sidewalks; Trees and Shrubs; and Removal of Noxious Weeds.

The Mayor and Common Council of the City of Manitowoc do ordain as follows:

Section 1. Section 7.210 of the Manitowoc Municipal Code is amended to read as follows:

“7.210 Snow and Ice on Sidewalks and Roofs.

(1) Removal. It shall be the duty of the lessee, occupant of the first or ground floor or person having charge of a building, or, if there be no lessee, occupant or person having charge, then the owner of each and every parcel of real estate in the City of Manitowoc, abutting or bordering upon any street, avenue, highway or other public place, to remove or cause to be removed all snow and ice from the sidewalk in front of or adjacent to such premises to the full paved width of such sidewalks. Any newly fallen snow or newly formed ice which is on any such walk at 6:00 a.m. of any day shall be removed from such walk by 8:00 p.m. of the same day; provided, that where footways or sidewalks have not been paved or duly established, snow and ice shall be removed to a width of not less than four feet from that portion of the street or way which is used in common as a footway.

...

(5) Duty of Police. It shall be the duty of each police officer, in case the officer finds snow and ice have not been removed from sidewalks and roofs or in case of the neglect of the person charged with such duty by this section to spread sand or other substances upon ice or snow when the same cannot be removed within the time required by this section, immediately to proceed to enforce said section.

(6) Duties of Director of Public Infrastructure. It is hereby made the duty of the Director of Public Infrastructure or person performing the duties of that office to cause each such sidewalk mentioned in subsection (1) of this section to be cleaned of snow and ice or properly sanded or sprinkled with an equivalent thereto, in each case where the owner abutting the premises has refused or neglected to perform the duties in respect thereto rendered on him by subsection (1) of this section and the ~~prevailing~~ cost of the same, including staff time, to be assessed against the owner. The Director of Public Infrastructure or his/her designee shall be responsible for issuing citations to persons alleged to have violated this Section.”

Section 2. 7.210. Penalties for violating Section 7.210 shall be as follows:

Offense Number (within 12 months)	Deposit Amount	Deposit + Court Costs = Total
First Offense	\$500.00 <u>No citation issued</u>	\$691.00
Second Offense	\$750 <u>\$250</u>	\$1006.00 <u>\$376</u>
Third Offense	\$1000 <u>\$400</u>	\$1321.00 <u>\$565</u>
Subsequent Offenses	\$1000 <u>\$400</u>	\$1321 <u>\$565</u>

Section 3: Section 8.190 of the Manitowoc Municipal Code shall be amended to read as follows:

“8.190 Trees and Shrubs.

...

(9) Assessment of ~~Costs of Abatement~~ Abatement Costs. The entire cost of abating any hazard or public nuisance resulting from any tree or shrub growing or located upon private property including staff time, shall be ~~a minimum charge of \$300.00~~ borne by the owner of such property. ~~For any abatement that takes longer than 60 minutes, there will be an additional charge of time and material at 120 percent of the total cost to the City.~~

...

(16) Appeal from Determinations or Orders. Any person who receives a written determination or order from the Director and objects to all or any part thereof may file with the Director a written appeal to the ~~Public Safety Committee~~ Board of Public Works, within seven days of receipt of the written order. The ~~Public Safety Committee~~ Board of Public Works shall hear such appeal within 15 days of receipt of written notice of the appeal. After such hearing, the ~~Public Safety Committee~~ Board of Public Works may reverse, affirm, or modify the order or determination, and shall state the grounds for its decision in writing. The chairperson of the ~~Public Safety Committee~~ Board of Public Works shall, by letter, notify the party appealing the order or determination of its decision within 10 days after the decision has been made. ~~The decision of the Public Safety Committee shall be final.~~ After such hearing, the Board of Public Works shall make a recommendation to Common Council for action.

...

(18) Violations, ~~and~~ Penalty and Enforcement. Violation of any offense for the cutting, damaging or mutilation of trees or shrubs located in public and terrace areas, or any provision of Wis. Stat. § 86.03, is subject to a forfeiture amount not to exceed \$25.00 per tree or shrub damaged. ~~In addition to the forfeiture, court-ordered restitution will be sought for all damage or loss in an amount not to exceed \$4,000, as authorized pursuant to Wis. Stat. § 800.093.~~ All other violations in this section shall be limited to a forfeiture ~~in an amount~~ not to exceed \$500.00 for each offense. The Director of Public Infrastructure or his/her designee shall be responsible for issuing citations to persons alleged to have violated this Section”

Section 4: Section 13.050 of the Manitowoc Municipal Code is amended to read as follows:

“13.050 Removal of Noxious Weeds.

...

(2) Destruction of Noxious Weeds Required. Every person shall destroy all noxious weeds on every parcel of land which he/she owns, occupies or controls.

(3) Notice to Destroy Noxious Weeds.

(a) The Weed Commissioner or his designee shall publish a notice annually on or before May 15th, as required by Wis. Stat. § 66.0407, and shall further notify property owners as required by Wis. Stat. § 66.0628, that every person is required by law to destroy all noxious weeds on lands in the City which he owns, occupies or controls.

(b) Upon receipt of a noxious weed complaint, the Weed Commissioner or his designee shall, on the first violation of the season, place a 48-hour written notice to destroy noxious weeds on the violating property. Notice may be placed on the entrance door of a primary building of the property ~~or, if the property is vacant, on a sign placed on the property at a location visible from an adjacent sidewalk or road.~~ If the property is not owner-occupied, a notice will be sent to the property owner as required by Wis. Stat. § 66.06728.

If the party responsible for the property fails to timely destroy the noxious weeds ~~within 48 hours~~ after receiving written notice, the City may proceed as set forth in subsection (4)(b) of this section. Subsequent violations will be addressed by the City without notice and may include the issuance of a citation.

(4) Destruction of Noxious Weeds by City.

(a) The Weed Commissioner, who shall be the Director of Public Infrastructure, or his designee, shall have the powers and duties enumerated in this section and in Wis. Stat. § 66.0517.

(b) The Weed Commissioner or his designee shall investigate the existence of noxious weeds in the City. If a person neglects to destroy noxious weeds as required by this section and Wis. Stat. § 66.0407(3), the Weed Commissioner

or his designee shall destroy, or have destroyed, the noxious weeds in the most economical manner. The Weed Commissioner or his designee is empowered to enter upon public and private lands and to cut or remove noxious weeds as defined in subsection (1) of this section or Wis. Stat. § 66.0407(1)(b).

(5) Cost of Removal. If the Weed Commissioner or his designee removes noxious weeds, the property owner shall be assessed for the cost of removal. Assessments shall be set annually by resolution of the Council based upon contractor time and materials and staff time, a copy of which shall be available at the City Clerk’s office. ~~For any weed/grass cutting that takes longer than 60 minutes, there will be an additional charge of time and material at a full-time rate.~~ Charges will be collected as a tax pursuant to Wis. Stat. § 66.0517.

(6) Appeals. A person who is ordered to control noxious weeds and/or is charged for the cost of noxious weed control shall have the right to appeal the decision to control and the cost of the control by filing a written appeal on a form provided by the Municipal Clerk’s office with the Board of Public Works within 20 days of the date of the control activity. The Board of Public Works shall hear such appeal at the next scheduled board meeting. After such hearing, the Board of Public Works shall make a recommendation to Common Council for action.”

Section 5: 13.050. Penalties for violating Section 13.050 shall be as follows:

Offense Number (within 12 months)	Deposit Amount	Deposit + Court Costs = Total
First Offense	<u>No citation issued</u>	
Second Offense	<u>\$250</u>	<u>\$376</u>
Third Offense	<u>\$400</u>	<u>\$565</u>
Subsequent Offenses	<u>\$400</u>	<u>\$565</u>

Section 6: This ordinance shall take effect January 1, 2021.

INTRODUCED _____ ADOPTED _____

Justin M. Nickels, Mayor

APPROVED _____

Fiscal Impact:
Funding Source:
Finance Director Approval:
 Approved as to form: /kmm

This resolution was drafted by Elizabeth Majerus, Assistant City Attorney.