



# City of Harrisonburg, Virginia

## Department of Planning & Community Development

409 South Main Street  
Harrisonburg, Virginia 22801  
(540) 432-7700 / FAX (540) 432-7777  
[www.harrisonburgva.gov/community-development](http://www.harrisonburgva.gov/community-development)

Building Inspections  
Engineering  
Planning & Zoning

To: Eric Campbell, City Manager  
From: Adam Fletcher, Director - Department of Planning and Community Development  
Date: Tuesday, March 13, 2018 Regular Meeting  
Re: Proposed Amendments to Section 16-6-58 – Weeds, etc., on lots.

### **Summary:**

Consider a request to amend the City Code Section 16-6-58 Weeds, etc., on lots by replacing the entire section with new and updated language to regulate the growth of grass, weeds, or foreign growth when such vegetation is presumed to threaten the health, safety, and general welfare of the residents of the City.

### **Background:**

Section 16-6-58 Weeds, etc., on lots is commonly referred to as the tall grass and weeds (TGW) ordinance. Based upon staff research, it appears a TGW ordinance has been enforced in the City for almost 80 years as the first regulations were adopted in September 1938. Below is a history/timeline of the TGW enforcement with a brief synopsis of the regulations and amendments that appeared in the specified year:

- 1938: The title of the ordinance was “Cutting Weeds on Vacant Lots,” and the regulations required owners of all vacant lots to cut and remove weeds and other foreign growth at intervals determined by the City Health Officer. Notice was given by mail or newspaper publication and if the vegetation was not cut by a specified date, the City Sanitary Inspector was authorized to have it cut and bill the owner. If the owner failed to pay the bill, the amount owed was collected as taxes.
- 1939: The same regulations as were previously approved existed except the code was amended to give authority to City Council, rather than the City Health Officer, to determine the intervals at which weeds and foreign growth had to be cut. Notice of violation could also be delivered to the owner in addition to mail or newspaper publication.
- 1946: The regulations remained the same as previous years except the City Superintendent was referenced as the enforcement officer rather than the City Sanitary Inspector.
- 1952: The title of the ordinance changed to “Weeds, etc. on vacant lots.” The regulations remained the same except by this time the City Manager was referenced as the enforcing officer.
- 1955: On May 17, 1955, City Council amended the ordinance by eliminating all previous regulations and adopted new stipulations. At this time the title of the ordinance was “Weeds etc. on lots,” and the regulations stated that “[b]etween May twentieth and June twentieth and between August first and September first, of each year, every owner of real estate situate in the City shall, at his sole expense, cause to be cut therefrom all grass, weeds and foreign growth.” The regulations noted that if the owner violated the ordinance they shall be deemed guilty of a misdemeanor, and upon conviction fined not less than \$2.00 or more than \$50.00 for each offense. For every seven-day period the property remained uncut, the violation was considered a separate offense. The

ordinance further noted that if the owner of the property was not known, could not be found, or was a nonresident whose address was not known, without notice the City Manager could have the grass, weeds and foreign growth removed and to collect any unpaid bill as taxes.

- 1972: At this time the regulations were an abbreviated version of the 1955 amendments. The time periods of enforcement were the same and the City Manager could have the vegetation cut and to collect any unpaid bill as taxes, however the misdemeanor charges and fees were no longer referenced in the section associated with TGW.
- 1985: On May 9, 1985, City Council amended the code, which was then found in Section 16-6-58. The time period of enforcement was changed to “[b]etween May 1<sup>st</sup> and September 1<sup>st</sup> of each year.” The Code also offered three exceptions to when the regulations did not apply, they included: 1) farm land on which crops were grown or used to pasture livestock, 2) acreage not farmed or pastured but which was not subdivided—however the owner was required to mow a 25 feet wide strip of the property that was adjacent to a street or a property with a residence, or 3) subdivided residential lots that did not have public street frontage. Aside from these changes, the enforcement language was the same as it was in 1972.
- 1986: On August 12, 1986, the ordinance was again amended, where the regulations that were adopted were more extensive and included many of the stipulations that exist now in 2018. In addition to maintaining the time periods of enforcement adopted in 1985 and the three exceptions to the regulations, the Code now consisted of a subsection that allowed the City Manager and Chief of Police to enforce the removal of any “trash, garbage, refuse, litter and other similar substances” on any property including the area in front of the property extending to the curb line. Notice was required to be provided to property owners to remove such debris within 10 days.

With regard to TGW, the code specified that grass, weeds, and foreign growth had to be cut on the property including the area in front of the property extending to the curb line, when the TGW reached a height of 15 inches or more. Upon receiving notice, the TGW had to be removed within five days. After notice was given to the property owner, and if the property owner did not comply with the notice, the City could cut and remove the vegetation and bill the owner, and if not paid, collect the fees as taxes. The code also noted that if the property owner could not be found, then publication about the violation could be published in the newspaper for three consecutive days, and if the property owner did not come forth, then the city could have the property mowed.

The code also noted that the failure, neglect or refusal to comply with any notice served related to the stipulations of the section would constitute a Class 4 misdemeanor.

- 2012: On July 12, 2012, several amendments were approved. First, the dates of enforcement were extended to April 1<sup>st</sup> and to November 1<sup>st</sup> of each year, the enforcement height was reduced from 15 inches to 12 inches, all notices to property owners explained that “no further notice shall be given by the City for the remainder of the calendar year” and that “the City shall take corrective action as needed through the end of the calendar year enforcement period,” and that in addition to sending notice to the property owner about the violation, the property shall be posted for five days stating the nature of the violation and how to correct the violation along with a telephone number to where additional information can be obtained.
- 2013: Two amendments occurred on March 26, 2013. The first clarified that parcels being used as “business gardens” (as defined and regulated in the Zoning Ordinance) were still expected to

conform to the regulations of the TGW ordinance. The second amendment included adding a fourth exception to TGW enforcement, which included: “Alleys and public streets that are not open to vehicular traffic and which are governed by the Maintenance Improvement Plan to Public Alleys.”

2015: The last and most recent amendment to Section 16-6-58 occurred on March 10, 2015, when a fifth exception to TGW enforcement was added to the code, which included: “Areas which the City has qualified as an approved and maintained Best Management Practice for stormwater regulatory compliance and/or stormwater utility fee credit purposes.”

**Key Issues:**

In November 2017, shortly after the 2017 TGW enforcement period ended, staff began meeting and drafting amendments to the TGW ordinance. Staff believed it was time to update this ordinance by replacing the entire section with new, updated, and more succinct language to regulate TGW and to help in its interpretation and the general public’s understanding of the Code.

Although the entire ordinance has been re-written, for all intents and purposes, if the amendments are approved as proposed, the regulating provisions and processes for rectification will predominately remain the same as they are implemented under the current ordinance. The enforcement period as well as the 12-inch height stipulation will remain in place; upon notice of violation, property owners will still be given five days to rectify the violation; only one notice per growing season will continue to be reasonable notice necessary to take corrective action or to issue penalties for future violations; and the City will maintain the ability to mow properties and bill the owner for the work and collect unpaid fees as taxes. However, there are some significant differences, which include:

1. A statement to clarify the interpretation of enforcement of the ordinance asserting that “Grass, weeds, or foreign growth shall not be interpreted to include planned, intentional and maintained areas of ornamental grasses, ground covers, ferns, fruits, vegetables, herbs, spices, flowers, wildflowers, or trees.”
2. The circumstances in which the code does not apply were amended and include:
  - a. Nonconforming farm land, not to include business gardens, on which crops are being grown or land used to pasture livestock. (*Note: This subsection is essentially the same.*)
  - b. Undeveloped public alleys and streets. (*Note: This subsection replaces the previous exception that allowed for alleys and public streets governed by the maintenance improvement plan to be exempted from the code. This new provision allows for more areas to be exempted from the Code.*)
  - c. Areas which the city has qualified as an approved and maintained stormwater best management practice for stormwater regulatory compliance and/or stormwater utility fee credit purposes. (*Note: This subsection is essentially the same.*)
  - d. Areas with a steep land slope of greater than 15 percent. (*Note: This is a new exemption and allows for more areas in the City to be exempted from the Code.*)
3. A new subsection was added, which is associated with undeveloped property, which is somewhat of a combination of previous exemptions (found within the existing 16-6-58 (a) (2) and (4)) and states that “[f]or undeveloped property, excluding common area parcels as a part of a development, having no principal or accessory structure or existing use, this section shall apply only to those portions of the property within 5 feet of a property line abutting a developed street

and extending to the curb line or a property with a principal or accessory structure or existing use. (Note: This allows for more areas in the City to be exempted from the Code.)

4. The existing Section 16-6-58 (b), which is associated with the matter of the requirement to maintain property and the area in front of such land or premises extending to the curb line by removing “any trash, garbage, refuse, litter and other similar substances” is proposed to be entirely deleted and removed from the TGW ordinance. This matter is now primarily regulated through Section 6-2-6 of the City Code titled “Accumulation of junk, rubbish or garbage on premises in open view.” The Department of Public Works is primarily responsible for this section of the Code, but the Department of Planning and Community Development assists them, when necessary.
5. Although the Code will maintain the procedures of posting notice in a conspicuous location on the property, staff plans to implement this procedure by posting notice on the front/main door of a developed property with an existing structure, rather than erecting a sign on the parcel, which was the previous practice. Parcels with no building on the property, but which fall under the parameters of the Code, will still be posted with a small erected sign on the property.
6. Lastly, the Code will be decriminalized as violations of the ordinance will no longer carry a criminal offense, but rather provides for \$50.00 civil penalties to be issued. Note that multiple civil penalties could be issued to the same property owner if they fail to take corrective action upon receiving multiple notices of violation.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

- (a) Approve the ordinance amendments as proposed.
- (b) Approve the ordinance amendments with changes specified by City Council.
- (c) Deny the ordinance amendments and maintain the existing ordinance.

**Community Engagement:**

This section of the City Code does not require community engagement nor public hearings. However, staff can perform some type of community engagement if City Council desires. One option could include posting this memorandum and the proposed amendment document on [Beheardharrisonburg.org](http://Beheardharrisonburg.org) to receive feedback.

**Recommendation:**

Staff recommends alternative (a) to approve the ordinance as proposed.

**Attachments:**

1. Ordinance amendment document (5 pages).

**Review:**

N/A