

ORDINANCE NO. 80-2022

**TITLE: AMENDING BARBERTON CODIFIED ORDINANCES
SECTIONS 670.02, REMOVAL OF WEEDS BY OWNER
OR OCCUPANT; FIVE DAYS' NOTICE, SECTION 670.03, REMOVAL OF
TREES, WEEDS, AND GRASS BY MUNICIPALITY, AND SECTION 670.04,
ASSESSMENT OF COSTS BY MUNICIPALITY.**

AN ORDINANCE AMENDING SECTION 670.02 "REMOVAL OF WEEDS BY OWNER OR OCCUPANT; FIVE DAYS' NOTICE," SECTION 670.03 "REMOVAL OF TREES, WEEDS, AND GRASS BY MUNICIPALITY," AND SECTION 670.04, "ASSESSMENT OF COSTS BY MUNICIPALITY," AND DECLARING AN EMERGENCY.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Barberton, State of Ohio:

SECTION 1. That Council hereby amends the text of Section 670.02, "Removal of Weeds by Owner or Occupant; Five Days' Notice", by showing said amendments with a ~~strikethrough~~ for any deletions and **bold** for any additions to read as follows:

670.02 REMOVAL OF WEEDS BY OWNER OR OCCUPANT; FIVE DAYS' NOTICE

~~(A) — The owner, occupant or person having the charge or management of any lot or parcel of land situated within the corporate limits, whether the same is improved or unimproved, vacant or occupied, within five days' written notice to do so, served upon him or her in conformity with Ohio R.C. 731.52, shall cut or destroy, or caused to be cut or destroyed, any ragweed, field daisies, goldenrod, burdock, yellow dock, dandelions, thistles, jimson weeds, milkweeds, polygonum, mullein, poison ivy, poison oak or other weeds or grasses of rank growth, exceeding eight inches in height. Notification will occur only with the first notice of each year. Non-compliance with this section following the first notice will result in assessments to the property owner. The property owner will be assessed the above fees and penalties without notice. Inspection shall begin no later than April 15 of each year and conclude no earlier than the first killing frost as recorded by the Department of Commerce, National Weather Service, offered of local jurisdiction.~~

~~(B) — On information that noxious weeds, including ragweed, field daisies, dandelions, goldenrod, burdock, yellow dock, polygonum, thistles or any other weed, grass, or growth which gives off offensive or noxious odors, or from which any injurious, offensive or annoying pollen, dust, down, seed or particles may be carried, or which may conceal filthy deposits, are growing on land within the city, the Building Commissioner may cause a certificate of mail notice to be served on the owner, lessee, agent, tenant or other person having charge of such land at his or her last known address notifying him or her that such weeds or other growth must be cut or destroyed within five days after receipt of such notice. In the event that the certificate of mail notice is returned undelivered, then notice may be given by publication once in a newspaper of general circulation or posted on the subject property. In the instance of unoccupied property or vacant land, the city, in lieu of a mailed notice, may post the property by affixing a notice to the building, or in the instance of vacant land, a notice may be affixed to a stake, tree or fence. This notice shall contain the date of posting and the location of the property. Such weeds or other growth must be cut or destroyed within five days after receipt of such notice.~~

~~(C) — Whoever violates or fails to comply with any of the provisions of this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. The~~

~~penalty shall be as provided in the Development Code, Section 1350.03, Enforcement. In addition, any costs incurred by the City in cutting and/or removing grass or weeds shall be charged to the owner or violator by the court. \$200.00 per hour per person using riding equipment \$150.00 per hour per person using hand held equipment; \$100.00 for each piece of equipment, \$200.00 per property administrative and processing fee, and provided to the court.~~

(A) Purpose: The purpose of this Section is to beautify and preserve the appearance of the City by requiring property owners and occupants to maintain grass lawns at a uniform height within the boundaries of their property and on abutting street right-of-way in order to prevent unsightly, offensive or nuisance conditions.

(B) Cutting Specifications and Standards of Practice: Every owner of real property within the City shall cut, mow and maintain all grass, weeds and brush upon the owner's property, and on the abutting street right of way adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, to a uniform height not exceeding 8 inches. A notification will be posted once in newspaper of regular circulation within the City of Barberton in April of each year, and this publication shall be deemed notice of each property owner's responsibility to comply with this requirement.

(C) Notice of Failure to Comply. Beginning no later than April 15 of each year and concluding no earlier than the first killing frost as recorded by the Department Commerce, National Weather Service, the City shall conduct periodic inspections of all properties to ensure compliance with this ordinance. If, upon inspection, the City determines that a property owner has failed to cut, mow, and maintain all grass, weeds and brush upon the owner's property in compliance with this section, then the Building Commissioner shall authorize inspectors to post a written notice of the violation that shall require the property owner to take corrective action to cut or mow such lawns and lots within 5 days of the posting of such notice. This site-specific written notice may be affixed to the structure, or in the instance of vacant land, may be affixed to a stake, tree, or fence on the property. The notice shall state the date of posting.

(D) Failure to Take Corrective Action. If, after the posting of a notice of a failure to comply, a property owner fails to take corrective action within five (5) days of the posting of such notice, the Building Commissioner shall cause the grass, weeds, or brush to be cut and destroyed in accordance with § 670.03 of this Chapter. The Building Commissioner and his designees may continue to take further action to remedy any property that continues to remain in noncompliance for the balance of the growing season, and such corrective action may be taken on the same property without additional written notice being given. Any property owner who violates the provisions of this chapter will be given one (1) notice of violation per growing season, and the City will be authorized to respond to additional violations without additional written notice being given.

(E) Penalties. In addition to the remedies set forth in § 670.02(D), § 670.03, and § 670.04 of this Chapter, any person who violates or fails to comply with any of the provisions of this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. The penalty shall be as provided in the Development Code section 1350.03, Enforcement. In addition, any costs incurred by the City in cutting and/or removing grass, weeds, or brush on the property shall be charged to the violator by the Court.

SECTION 2. That Council hereby amends the title and text of Section 670.03, “Removal of Trees, Weeds and Grass by Municipality”, by showing said amendments with a ~~strikethrough~~ for any deletions and **bold** for any additions to read as follows:

§ 670.03 REMOVAL OF TREES, WEEDS AND MOWING, CUTTING, OR REMOVING OF GRASS, WEEDS, OR BRUSH BY MUNICIPALITY.

~~If the owner or other person in charge of lands, as set forth in § 670.02 of this chapter, fails to comply with the certificate of mail notice or other notice served upon him or her, as set forth in § 670.02 of this chapter, within five days of the date of such service,~~ **If, after the posting of a notice of a failure to comply under § 670.02(C) of this Chapter, a property owner fails to take corrective action within five (5) days of the posting of such notice,** the Building Commissioner shall cause the grass, ~~noxious weeds,~~ or brush to be **mowed, cut, and/or removed** ~~and destroyed,~~ and may employ the necessary labor to perform such work or cause it to be done by the appropriate city division. **The cost of this work, plus administration fees, will be charged at the rate of \$200 per hour per person using riding equipment; \$150 per hour per person using hand held equipment; \$100 for each piece of equipment; \$200 per property administration and processing fee, and shall be billed and/or assessed to the property owner in accordance with the procedures set forth in § 670.04 of this Chapter. The same costs shall be billed to the property owner for any additional work that may be performed by the City on any property that remains in violation of § 670.02 of this Chapter during the same growing season.**

SECTION 3. That Council hereby amends the text of Section 670.04, “Assessment Of Costs By Municipality,” by showing said amendments with a ~~strikethrough~~ for any deletions and **bold** for any additions to read as follows:

§ 670.04 ASSESSMENT OF COSTS BY MUNICIPALITY.

Upon the completion of any work performed upon any property under § 670.02(D) and § 670.03, the City ~~All expenses incurred by cutting and destroying noxious weeds or grasses, together with an administrative charge of \$100 for each certificate of mail notice sent and each notice that is posted, shall be reported to the Building Commissioner, who shall prepare an invoice that sets forth the dates of each corrective action taken by the City, and the amount of charges owed by the property owner under § 670.03 of this Chapter for each corrective action, and shall mail a copy of such invoice~~ **a statement of the amount thereof to the owner of the land at the tax mailing address maintained by the Summit County Fiscal Office for the property. , if his or her address is known. If the property owner wants to contest any of the charges imposed under § 670.03 of this Chapter, then he or she shall submit a written appeal to the Board of Zoning and Building Appeals within twenty (20) days of the date of the mailing of the invoice by the City. If, after 30 days of the date of mailing, a timely appeal has not been filed, and the total such amount of the charges** ~~remains unpaid, the Building Commissioner shall certify the total amount of the~~ **owed expenses,** the name of the owner of the land, and a sufficient description of the premises to the County Auditor, to be entered on the tax duplicate to be a lien on the land from the date of entry and to be collected as are other taxes and assessments and returned to the City, pursuant to Ohio R.C. 731.54. Such remedy shall be in addition to the penalty provided in §§ 670.01(E) and 670.02(E) of this Chapter.

SECTION 4. That is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were meetings open to the public in compliance with the law.

SECTION 5. That this resolution is hereby declared to be an emergency measure

necessary for the immediate preservation of the public peace, health, safety, convenience and welfare of the City of Barberton and the inhabitants thereof, in order to expedite this project, and provided it receives the necessary votes required by the City Charter, shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Passed June 13, 2022

Clerk of Council

President of Council

Approved _____ 2022

Mayor