

ORDINANCE NO. 21-79

AN ORDINANCE TO AMEND SECTIONS 94.35, 94.36, 94.37 AND 94.38 OF THE VILLAGE OF SPENCER, OHIO CONCERNING CUTTING WEEDS AND PROHIBITING LITTER AND TO DECLARE AN EMERGENCY

BE IT ORDAINED, by the Council of The Village of Spencer, Ohio, three-fourths of its members concurring herein, as follows:

1. That Sections 94.35, 94.36, 94.37 and 94.38 of the Code of Ordinances of the Village of Spencer, Ohio having to do with cutting weeds and prohibiting litter, are hereby amended to read as follows:

CUTTING WEEDS

94.35 KEEPING DOWN WEEDS AND PROHIBITING LITTER

"Any person owning or having charge of land within the municipality, shall keep said property free and clear from all noxious weeds and rank vegetation and shall be required to cut all such weeds and vegetation on the lots owned or controlled by him at least twice in every year, once between May first and June first and once between July first and August first; nor shall litter be placed on lands in the municipality."

94.36 NOTICE TO OWNER TO CUT NOXIOUS WEED: SERVICE

(A) "Upon written information that noxious weeds are growing on lands in the municipality and are about to spread or mature seeds, the council may cause written notice to be served on the owner, lessee, agent or tenant having charge of such land, notifying him that noxious weeds are growing on such lands and that they must be cut and destroyed within 5 days after service of such notice."

(B) "Upon a finding by the council that litter has been placed on lands in the municipality, and has not been removed, and constitutes a detriment to public health, the council of a municipality may cause a written notice to be served upon the owner and, if different, upon the lessee, agent, or tenant having charge of the littered land, notifying him that litter is on the land, and that it must be collected and removed within 15 days after the service of the notice."

(C) "As used in this Section and 94.38, "litter" includes any garbage, waste, peeling of vegetable or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, or of an unsightly or unsanitary nature, or anything else of an unsightly or unsanitary nature."

(D) "If the owner or other person having charge of the land is a nonresident of the municipal corporation whose address is unknown, the notice shall be sent to his address by certified mail. If the address of the owner or other person having charge of the land is unknown it is sufficient to publish the notice in a newspaper of general circulation in the county."

(E) "This Section does not apply to land being used under a municipal building or construction permit or license, a municipal permit or license, or a conditional zoning permit or variance to operate a junkyard, scrap metal processing facility, or similar businesses, or a permit or license issued pursuant to Chapter 3734, 4737.05 to 4737.12, or Chapter 6111, of the Revised Code. (R.C. 731.51)"

#### 94.37 FEES FOR SERVICE AND RETURN

"The marshal, any police officer, or clerk of council may make service and return of the notice provided for in 94.36 and shall be allowed the same fees as that provided for service and return of summons in civil cases before a magistrate. (R.C. 731.52)"

#### 94.38 PROCEDURE WHEN OWNER FAILS TO COMPLY WITH NOTICE OR PENALTY

(A) "If the owner, lessee, agent, or tenant having charge of the lands mentioned in 94.36 fails to comply with the notice required by such section, the council of the municipality may cause such noxious weeds to be cut and destroyed or such litter removed and may employ the necessary labor to perform the task. All expenses incurred shall, when approved by the council, be paid out of the money in the treasury of the municipality not otherwise appropriated. (R.C. 731.53) All costs thereof may be certified to the Medina County Auditor for addition to and collection with the real estate taxes upon the subject premises."

(B) "Whoever violates Section 94.35 or 94.36, in addition to the procedure provided in Sections 94.36 through 94.38A, shall be fined not more than \$100.00."

2. That this Ordinance is declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare and for the particular reason that this regulation is necessary for the immediate control of the problems of litter and cutting weeds, and that this Ordinance shall be in full force and effect from and after its passage.

PASSED: December 26, 1979