

CITY OF LYNNWOOD

ORDINANCE NO. 847

AN ORDINANCE AMENDING ORDINANCE 744 AND PORTIONS OF LYNNWOOD MUNICIPAL CODE 10.08, DEFINING CATERPILLARS TO BE A NUISANCE AND REQUIRING CONTROL AND ESTABLISHING PROCEDURES FOR CONTROL AND ESTABLISHING PENALTIES.

WHEREAS the City Council of the City of Lynnwood finds and determines that the presence of caterpillars, including but not limited to varieties commonly known as tent caterpillars, are a public nuisance because they defoliate and dessicate the leaves on shrubs and trees and affect property of others by wandering to find leaves to eat or places to construct thier cocoons, causing further defoliation and annoyance contrary to the welfare and beauty of the City of Lynnwood; and

WHEREAS the City Council of the City of Lynnwood finds that present procedures and ordinances are ineffective to deal with the nuisance of caterpillars during periods of infestation.

Therefore, the City Council of the City of Lynnwood do ordain as follows:

Section 1. There is added a new section to Lynnwood Municipal Code Chapter 10.08, to read as follows:

The following is declared to be a nuisance affecting public peace, safety and welfare:

To own or occupy any premises upon which there shall be any trees or shrubbery which have become infected by caterpillars. It shall be the duty of every person owning or occupying any premises in the City of Lynnwood on which there shall be growing any fruit, shade or forest trees or shrubbery of any kind, to keep the same free from caterpillars, and in the event it is found that any fruit, shade or forest trees or shrubbery have become infected with caterpillars, it shall be unlawful for the owner or occupant of any such premises on which there shall be growing any such trees or shrubbery to fail or neglect to promptly take and use such methods as may be necessary to effectually destroy such caterpillars, or to in lieu thereof destroy such trees or shrubbery.

Section 2. There is added a new section to Lynnwood Municipal Code Chapter 10.08 to read as follows:

(1) Failure to eliminate caterpillars: Should any property owner or tenant in possession, after having been given seven (7) days written notice signed by the Chief of Police or other person designated by the Chief of Police, fail to eliminate and eradicate caterpillars on said property owned or occupied in the City of Lynnwood, a criminal citation shall be issued for violation of the provisions of this chapter.

(2) Contents of notice: Said notice shall describe by street address and/or general terms the property involved and the condition of infestation or presence of caterpillars, and shall require that the owner cause the condition to be eliminated within such period of time as is designated on the notice which shall be seven (7) days; the notice shall further provide that if said condition is not eliminated within seven (7) days, then a criminal citation shall be issued charging the owner and/or tenant in

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possession with a violation of the laws of the City of Lynnwood punishable by imprisonment and/or fine; the notice shall further provide that a criminal citation will not issue if (a) on or before the date specified on the written notice; the property owner provides written proof to the Chief of Police or other person designated by the Chief of Police that the condition was treated by a sprayer or pesticide applicator licensed by the State of Washington, or (b) Chief of Police or other person designated inspects the property on or as soon after the date specified for elimination of the problem in the written notice and determines that the condition is eliminated. The notice shall further provide that a reoccurrence or failure of the corrective measures to eliminate the condition will result in issuance of other correction notices and/or criminal citations.

- (3) Service of notice: The notice provided for in Section (2) hereof shall be served by delivering the notice or a copy thereof to the owner personally if the owner be in possession of the premises, or by leaving the same at his place of residence with a person of suitable age or discretion, or to the tenant in possession or by leaving the same at his residence with a person of suitable age of discretion, or if the owner or tenant or a person of suitable age and discretion cannot be found then by affixing a copy of the notice in a conspicuous place on the premises involved and mailing a copy thereof to the owner at his last-known place of residence, if any, or to the person whose name appears on the current assessment roll of the County Assessor, relating to the property involved.

Section 3. Penalty for violations. Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than two hundred fifty dollars only.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. That this Ordinance shall be in full force and take effect five (5) days after its passage, approval and legal publication.

PASSED this 26th day of April, 1976, and signed in authentication of its passage this 26th day of April, 1976.

ATTEST:

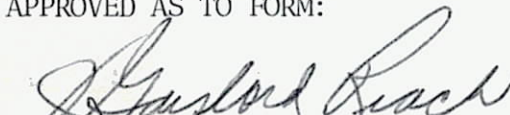


R. W. NOACK, City Clerk


M. J. HRDLICKA, Mayor

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APPROVED AS TO FORM:


J. GAYLORD RIACH, City Attorney