



CITY OF CLAY, ALABAMA ORDINANCE 2010 - 03

WEED ABATEMENT ORDINANCE

AN ORDINANCE TO ABATE AND CONTROL THE GROWTH OF WEEDS AND ELIMINATE NUISANCES ON STREETS, SIDEWALKS OR UPON PRIVATE PROPERTY IN THE CITY OF CLAY AND TO PROVIDE PENALTIES FOR VIOLATIONS OF ITS PROVISIONS

WHEREAS, the City Council of the City of Clay, Alabama, on July 6, 2009, adopted Ordinance Number 2009-06, in accordance with § 11-47-140, Code of Alabama (1975), for the abatement of weeds and/or nuisances within the City of Clay, Alabama; and

WHEREAS, the Alabama Legislature on subsequent amendments has provided a different means of weed abatement in § 11-67-60, et. seq., Code of Alabama (1975) as amended, and the City of Clay wishing to adopt and come into compliance with a more modern Weed Abatement Ordinance hereby adopts the following Ordinance to control and abate the nuisance created by overgrown weeds and vegetation within the City Limits of Clay, Alabama, as follows:

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLAY, ALABAMA ORDINANCE NUMBER 2009-06 IS REPEALED AND REPLACED BY THE FOLLOWING:

SECTION 1. ABUNDANCE OF OVERGROWN GRASS OR WEEDS

An abundance of overgrown grass or weeds within a municipality that is injurious to the general public health, safety, and general welfare by providing breeding grounds and shelter for rats, mice, snakes, mosquitoes, and other vermin, insects, and pests or attaining heights and dryness that constitute a serious fire threat or hazard; or bearing wingy or downy seeds, when mature, that cause the spread of weeds and, when breathed, irritation to the throat, lungs, and eyes of the public; or hiding debris, such as broken glass or metal, that could inflict injury on a person going upon the property; or being unsightly; or growth of grass or weeds, other than ornamental plant growth, that exceeds twelve (12) inches in height, may be declared a public nuisance by the governing body of the City of Clay, Alabama and thereafter abated as otherwise provided herein. *(Determination of said nuisance shall be made by the City of Clay's Building Inspections Superintendent).*

SECTION 2. RESOLUTION FOR ABATEMENT

Whenever any weeds are growing upon any street, sidewalk, or private property, the governing body of the City of Clay may, by resolution, declare the weeds to be a public nuisance and order its abatement. The resolution shall refer to the street by the name under which it is commonly known or describe the property upon which or in front of which the nuisance exists by giving a legal description of the property and no other description of the property shall be required. Any number of streets, sidewalks, or parcels of private property may be included in one resolution. This article shall not apply to any property that has been zoned agricultural property. *(Said resolution shall, at the proper time, be prepared by the Building Inspections Department and forwarded to the City Clerk's Office for presentation to the City Council).*



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SECTION 3. NOTICE OF PUBLIC HEARING

(a) After the passage of the resolution, notice of a public hearing on the matter shall be given by certified mail, return receipt requested, mailed 21 days prior to the date of the hearing and shall inform the owner of the time, date, and place of the hearing and the reason for the hearing. The notice shall be mailed to the owner of the property as the information appears on record in the office of the tax assessor.

(b) All notices shall carry a list of names of persons or private contractors, or both, who perform the work and are registered with the municipal clerk. The names shall not constitute a recommendation and the failure to include a list shall in no way affect the operation of this article.

(c) Notice shall also be given by publication in a newspaper of general circulation published in the municipality once a week for two consecutive weeks, or if no newspaper is published in the municipality, notice shall be posted in three public places located in the municipality for at least 21 days prior to the hearing.

(d) In addition, two signs shall be conspicuously posted on the property. The wording of the signs shall not be less than one inch in height and shall be in substantially the following form:

NOTICE TO DESTROY WEEDS

Notice is hereby given that on the _____ day of _____, 2___ at _____ A.M./P.M. in the council chamber, the council of the Municipality of _____ will consider a resolution regarding the weeds growing upon or in front of the property _____ Street, in the Municipality of _____, and more particularly described in the resolution, a copy of which is on file in the office of the municipal clerk; and at that time and place will determine whether the weeds constitute a public nuisance which shall be abated by removal of the noxious or dangerous weeds; and, if so, will order the abatement and removal of the nuisance. If abatement and removal are ordered, the cost of abatement and removal shall be assessed upon the lots and lands from which or in front of which the weeds are removed, and the cost shall be added to the next regular bills for taxes levied against the respective lots and lands for municipal purposes. The costs shall be collected at the same time and in the same manner as ordinary municipal taxes are collected. The costs shall be subject to the same commissions and fees and the same procedure for foreclosure and sale in case of delinquency as provided for ordinary municipal taxes. If no objections are filed with the municipal clerk at least five (5) days before the meeting of the council and unless the person appears before the council in person or through his or her representative to show cause, if any, why his or her objection should be sustained, it shall be presumed that the person accepts the notice as fact and waives any rights he or she may have to contest the removal of the weeds and the action of the council shall be final unless good and sufficient cause can be



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otherwise shown. Reference is hereby made to the resolution, on file in the office of the municipal clerk, for further particulars.

Dated this _____ day of _____, _____.

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BY: _____
City Clerk and Treasurer

- (e) The notice shall be posted at least seven (7) days prior to the time for hearing objections by the governing body of the municipality.

SECTION 4. OBJECTIONS: HEARING

If objections are filed, at the time stated in the notice, the City Council shall hear and consider all evidence, objections, and protests regarding the proposed removal of weeds. The City Council may continue the hearing from time to time. Upon the conclusion of the hearing, the City Council, by resolution, shall decide whether a public nuisance exists and, if so, shall order it to be removed or abated with respect to any property or part thereof described. The governing body, by passage of the resolution, shall be deemed to have acquired jurisdiction to proceed and either to perform or have performed the work of removal or abatement with respect to the property or part thereof. The decision of the Clay City Council on the matter shall be deemed final and conclusive.

SECTION 5. ORDERING ABATEMENT

(a) After the City Council passes the resolution finding the conditions of the property to be a nuisance and ordering its abatement, all employees and duly authorized agents of the City of Clay may enter upon the private property to abate the nuisance.

(b) The City Council may authorize private contractors, companies, enterprises, or individuals to abate and remove the nuisance. The City Council, by resolution, shall designate the contractors, companies, enterprises, or individuals who may perform the work. Those persons so designated may enter upon private property for purposes of abating or removing the nuisance. For purposes of this article compliance with the competitive bid law is not required. *(Said resolution shall be prepared by the Building department and forwarded to the City Clerk's Office for presentation to the City Council).*

(c) Any property owner shall have the right to have any weeds removed at his or her own expense providing the removal is done prior to the commencing of the work by the employees or agents of the City of Clay hired or contracted to do the removal.

SECTION 6. COST OF ABATING OR REMOVING NUISANCE

Each municipality shall keep an account of the cost of abating or removing the nuisance in front of or on each separate lot or parcel of land where the work is done by its employees, or



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by a duly authorized private contractor, company, enterprise, or individual, and shall render an itemized report in writing to the City Council of the City of Clay showing the cost of removing the nuisance on each separate lot, or in front of the lot. Before the report is submitted to the City Council, a copy of the report shall be posted for at least five (5) days prior thereto on or near the chamber door of the City Council, together with a notice of the time when the report shall be submitted to the governing body for confirmation. *(Said report of cost shall be kept by the Public Works Superintendent with copies forwarded to the City Clerk's Office and Building Department).*

SECTION 7. HEARING

At the time fixed for receiving and considering the report, the City Council shall hear the report, together with any objections which may be raised by any of the property owners liable to be assessed for the work of abating the nuisance and thereupon make modifications in the report as deemed necessary, after which by motion or resolution the report shall be confirmed. The amounts of the cost for abating the nuisance in front of or upon the various parcels of land mentioned in the report shall hereinafter be referred to as "weed liens," and shall constitute a weed lien on the property for the amount of the weed liens, respectively. After confirmation of the reports, a copy shall be turned over to the Tax Collector of Jefferson County who, under the "Optional Method of Taxation," is charged with the collection of the municipal taxes pursuant to Article 1, Division 2, Chapter 51, of Title 11. *(Said report shall be forwarded by the Building Department to the Tax Collector of Jefferson County, Alabama.)* It shall be the duty of the County Tax Collector to add the costs of the respective weed liens to the next regular bills for taxes levied against the respective lots and parcels of land subject to a weed lien, and thereafter, the costs shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency; provided, however, that if the foreclosure and sale is the result of a delinquency caused by a weed lien, the City of Clay shall reimburse the County Tax Collector for all costs associated with the foreclosure and sale unless the costs are collected at the time of sale as part of the sale.

SECTION 8. ARTICLE CUMULATIVE

This article is cumulative in nature and in addition to any and all power and authority which a municipality may have under any other law. All resolutions authorizing abatement or removal of nuisances enacted prior to passage of this article under the authority of any other act are hereby given full force and effect and the City may proceed to have such nuisances removed or abated by either the City or a duly authorized private contractor, company, enterprise, or individual. The procedure for confirming the account report shall be in accord with the provisions of the article. All account reports previously confirmed prior to the enactment of this article are hereby given full force and effect and the City may proceed to collect these special assessments in the same manner as provided by prior law.



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SECTION 9. If any provision or portion of this act is found to be improper, illegal, contrary to law, or otherwise unconstitutional, such finding shall in no way be construed to invalidate or impair the remainder of this Ordinance which shall continue in full force and effect notwithstanding such holding.

ADOPTED and APPROVED on this 15th day of February, 2010.

Ed McGuffie
Mayor

ATTEST:

Bobby Christmas
City Clerk



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CERTIFICATION:

I, Bobby Christmas, as City Clerk of the City of Clay, Alabama, hereby certify that the above and foregoing copy of one (1) Ordinance 2010-03 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Clay, Alabama, on the 15th day of February 2010, as same appears in the official records of said City.

Posted at City Hall, Chalkville Regions Bank, Clay Post Office and the Clay Seniors Center all being in the City of Clay this the 16th Day of February 2010.

Bobby Christmas
City Clerk