



ORDINANCE 2009 -06

AN ORDINANCE REQUIRING PREMISES TO BE KEPT FREE OF WEEDS WITHIN THE CORPORATE LIMITS OF THE CITY OF CLAY, ALABAMA

WHEREAS, the City Council of the City of Clay, Alabama, on July 5, 2005, adopted Ordinance Number 2005-65 which established a weed regulation for the City of Clay, Alabama

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Clay, Alabama, that Ordinance Number 2005-65, is hereby amended to read as follows:

Section 1. The word “person” as used in this Ordinance shall include and be applicable to firms, corporations, and associations, as well as to individuals.

Section 2. Every person owning or having in charge any premises within the corporate limits of the City of Clay shall keep the same free of any growth of weeds favorable to the harboring of mosquitoes or other insects of like kind, and every such growth of weeds is hereby declared to be a nuisance, and every such person who shall allow any such growth of weeds to accumulate on the premises which such person owns or of which he/she is in charge, shall be punished as for a violation of this section. This Ordinance shall not apply to such premises that are under cultivation for useful and productive purposes. However, if the property is zoned agricultural, and there is a residence located on the property, it will be subject to the setback requirements under Zoning Ordinance, 2006-07, Section 506.04.

Section 3. Any growth of weeds more than one (1) foot in height shall be deemed favorable to creating or causing a fire hazard, the harboring of mosquitoes or insects of like kind, within the meaning of this Ordinance.

Section 4. Whenever any employee of the City of Clay shall discover on any premises within the corporate limits of the City any growth of weeds in violation of Section 2 of this ordinance, he/she shall cause the owner or person having such premises in charge or control to be given notice to appear before the Building Inspections Superintendent, at a time and place to be fixed in said notice, to show cause why said growth of weeds should not be declared a nuisance, and an order issued requiring same to be cut and removed.

Said notice shall be in substantially the following form:

“NOTICE”

To the owner or owners of (here describing property) in the City of Clay:

You are hereby notified that there exists on the above-mentioned property, a growth of weeds or grass, in violation of Section 2 of an Ordinance adopted by the City Council of the City of Clay on July 5, 2005, entitled Ordinance No. 2005-65. You are further notified that a hearing will be conducted by the Building Inspections



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Superintendent, at _____ o'clock _____m on the _____ day of _____, 2____, at which time and place you are directed to appear and show cause why the existence of said growth of weeds should not be declared a nuisance and an directive issued requiring the same to be cut and removed.

Should the violator believe that the finding of the Building Inspections Superintendent's ruling is not in accordance with the Ordinance, the violator may petition the Mayor and City Council to appeal the Building Inspections Superintendent's findings.

You are hereby further notified that if said growth is not removed within five (5) days after same has been ordered cut and removed, the City will enter upon said premises and will have the same cut and removed at your cost and expense, and will certify the cost and expense, and will assess the cost against you and the above-described property, and that the said expense will constitute a lien on said property if cost and expenses are not paid in full within thirty (30) days.

Dated this _____ day of _____, 2_____.

City of Clay

By: _____

If said premises are in charge or control of a person other than the owner, then the notice aforesaid shall be addressed to such person, if that person can be identified and located for service of the notice. If the person in control cannot be located and served with notice, then notice will be given to the owner of the property, even in the event that the owner shall be a corporation or financial institution.

Section 5. The notice provided for in the foregoing section shall be served upon the owner of said property (or the person having same in charge or control, as the case may be), if he/she is known and can be found within the City or its police jurisdiction, but if such person is not known or cannot be found within the City or its police jurisdiction, service of said notice shall be effected by posting one (1) copy thereof on the premises where said growth of weeds is found to exist, and the notice, as herein provided for, shall be served or posted, as the case may be, at least five (5) days before the date fixed for hearing before the Building Inspections Superintendent.



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Section 6. At the time and place appointed in the notice provided for in Section 5 hereof, the Building Inspections Superintendent shall conduct a hearing for the purpose of determining whether the growth of weeds complained of exists in violation of this Ordinance, and if he/she finds that same constitutes a violation of this Ordinance, he/she shall so declare the same and shall make a determination requiring the cutting and removal of said growth of weeds within five (5) days from the making of said determination.

Section 7. The owner or person having charge or control any such premises, who having been personally served with the notice provided for herein, shall fail to comply with the determination of the Building Inspections Superintendent requiring the cutting and removal of such weeds, shall be in violation of this Ordinance and, on the violation, shall be punished as provided in this Ordinance.

Section 8. If the owner or person having in charge or control any premises whereon there exists any growth of weeds in violation of this Ordinance shall fail to cut and remove the same within five (5) days after the cutting and removal thereof has been determined by the Building Inspections Superintendent, the appropriate city department shall enter upon said premises, and at the expense of such person, shall proceed to cut and remove said weeds. The employee in charge of the work is directed to keep an account of the expense of cutting and removing such weeds, and to certify the same monthly to the City Council. Said employee shall keep separate accounts showing the total expense of cutting and removing said weeds from each separate lot or premises, and in certifying the same to the City Council, he/she shall report separately as to each piece of property wherefrom he/she has cut and removed weeds, together with a description of said premises and the name of the owners or persons having same in charge or control thereof (if known) and the total expense incurred in abating each such nuisance.

Section 9. At intervals to be determined by the City Council, it shall cause to be made a list showing the names of the owners or persons who had in charge or control the premises for which weeds have been removed at the expense of such persons as heretofore provided, together with a description of the property from which said weeds have been removed, and a statement of the amount of the expense (as reported by the officer in charge thereof) of cutting and removing the weeds from each such piece of property. If the names of the owners of said property are not known, same may be stated as unknown. The Council shall set a time and place when such persons may appear and show cause, if any they can, why the expense should not be assessed against them and their respective premises, and shall cause said notice to be published one time in some



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newspaper of general circulation in the City, the publication to be made at least ten (10) days in advance of the date fixed for said hearing. At the time and place fixed for said hearing, the City Council shall proceed to hear and determine any objections that may be interposed to such assessments, and unless good cause shall be shown against the right of the City to assess the same, shall proceed to levy an assessment against the persons and their respective premises, from which weeds have been cut and removed, for the expense of cutting and removing such weeds, and the assessment so made shall be final, and the City shall have a charge and claim against such persons and a lien on the property so assessed for the amount of the respective assessments, which lien and charge it shall proceed to enforce and collect as any other debts are collected or liens enforced.

Section 10.

For any violation of any section or provision of this Ordinance, in addition to the cost of such work performed by the City of Clay, and additional assessment shall be added as follows:

1. First Offense: \$100.00
2. Second Offense: \$200.00
3. Third Offense: \$300.00
4. Fourth and subsequent offenses will increase \$100.00 per violation.

Multiple offenses for one lot, place, or premises shall be cumulative within twelve (12) months from the date of the first offense. Repeat citations for the same offense may be issued following ten (10) day intervals. The right to elect to enter a guilty plea and waive trial and pay for the fine and court costs is terminated following the third offense within said 12-month period.

Section 11. If any section or provision of this Ordinance shall be held invalid, such holding shall not affect the validity of any other section or provision thereof which is not of itself invalid.

Section 12. This Ordinance shall become effective upon its adoption and publication as required by law.



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Section 13. This Ordinance is cumulative and is not intended to interfere with, abrogate, or annul or repeal any other city ordinance, rules or regulation statute, or other provisions of law.

ADOPTED and APPROVED on the 6th day of July, 2009.

Ed McGuffie
Mayor

ATTEST: _____
Bobby Christmas
City Clerk