

ORDINANCE NO. 1924

AN ORDINANCE TO PROVIDE A PROCEDURE FOR THE DECLARATION OF THE EXISTENCE OF OVERGROWN GRASS OR WEEDS AND OTHER VEGETATION WITHIN THE CORPORATE LIMITS OF THE CITY OF TALLADEGA INJURIOUS TO THE GENERAL PUBLIC HEALTH, SAFETY AND GENERAL WELFARE OF THE CITIZENS OF THE CITY OF TALLADEGA AS THEREBY CONSTITUTING A NUISANCE; TO PROVIDE A PROCEDURE FOR THE ABATEMENT OF SUCH NUISANCE; AND TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF; AND TO REPEAL IN ITS ENTIRETY ORDINANCE NO. 1642 AND ORDINANCE NO. 1753.

BE ORDAINED BY THE CITY COUNCIL OF THE CITY OF TALLADEGA, ALABAMA, AS FOLLOWS:

SECTION I. Statement of Intent.

It is hereby declared that an abundance of overgrown grass or weeds within the City of Talladega is injurious to the general public health, safety, and general welfare because such conditions provide breeding grounds and shelter for rats, mice, snakes, mosquitoes, and other vermin, insects and pests; or by attaining such heights and dryness the grass or weeds constitute a serious fire threat or hazard; or by bearing wingy or downy seeds, when mature, the vegetation causes the spread of weeds and, when breathed, cause irritation to the throat, lungs and eyes of the public; or by attaining such heights such overgrown grass or weeds hide debris, such as broken glass or metal, that could inflict injury on a person going upon that property, and by reason of such factors are hereby declared to be a public nuisance. It is, therefore, deemed to be in the interest of the health, safety and general welfare of the citizens of the City of Talladega that such growth or accumulations, whether they be in the nature of weeds or other forms of plant life or other materials be removed in accordance with the following procedures of this ordinance or the violator of this ordinance shall be otherwise punished as provided for herein.

SECTION II. Definitions.

For the purpose of this ordinance, the following words and phrases shall have the meanings respectively prescribed to them by this section, together with the usual meanings thereof, unless the context clearly indicates otherwise:

- A. "City" shall mean the City of Talladega, Alabama, a municipal corporation.
- B. "Excessive Growth" shall mean the growth of weeds, grass or other plant life that are not cultivated or landscaped or regularly maintained that reach a height in excess of twelve (12) inches or the growth of any vines or kudzu that endangers other plant life, trees or property.
- C. "Owner" shall mean the person, corporation, partnership, company, trust, estate or any combination of other business or legal entities, singular or plural, that is a record owner or owners as recorded on the current tax rolls in the office of the Revenue Commissioner of Talladega County, Alabama. For property owned and operated as a condominium, the owner shall mean the condominium association and not the individual unit owners.
- D. "Person" shall mean any individual, person, firm, corporation, partnership, trust, company, estate or combination of any other business or legal entity that has any interest, fee simple, leasehold or otherwise, in any property located within the City.
- E. "Property" shall mean any individual platted parcel of real property or any portion thereof, as it is recorded in the public records of Talladega County, whether or not such parcel is contiguous to any other platted parcel, or any individual parcel of real property described by metes and bounds in the public records of the Talladega County located within the corporate limits of the City.

SECTION III. Prohibitions.

No person shall permit the excessive growth or accumulation of weeds, or other similar plant materials, on any property located in the City, whether such property is attended or unattended.

SECTION IV. Exemptions.

The prohibitions contained in Section III shall not apply to the following:

- A. Any lands within the City that are over five acres in area and in an undeveloped state. As used in this paragraph, the term "undeveloped state" shall mean land that is in a natural state and land that has never been cut or mowed.
- B. Wetlands and environmentally sensitive areas as designated by any governmental agency, as presently exist or hereafter designated.

C. Any property within the City that is zoned as agricultural property.

D. Any property that is outside the corporate limits of the City.

SECTION V. Designation of Investigating and Enforcement Authority.

The enforcement officer of the City, or any other officer as designated by the City Manager, or any police officer of the City (herein collectively referred to as "enforcement officer") is hereby designated as the investigating and enforcing authority pursuant to this provisions of this ordinance. The enforcement officer is hereby authorized and directed to receive all complaints of a violation of this ordinance, make inspections to determine if a violation of this ordinance exists, gather all relevant information concerning such complaints, conduct field investigations and inspections of the property, and to enter upon public or private property in the conduct of its official business pursuant to this ordinance. The City Clerk shall be responsible for providing all notices except the posting of the property. The posting of the property shall be done by the enforcement officer to affected property and Owners required by this ordinance.

SECTION VI. Enforcement.

A. Whenever any weeds are growing upon any street, sidewalk, or private property, the City Council 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.

B. After the passage of the resolution, notice of a public hearing on abating the weeds shall be given to the Owner by certified mail, return receipt requested, mailed 21 days prior to the date of the hearing. The notice 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 Revenue Commissioner of Talladega County.

(1) All notices shall carry a list of names of persons or private contractors, or both, who perform the work of weed abatement 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 Ordinance.

(2) 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.

(3) In addition to the notice required, the enforcement officer or such other person designated by the City Manager shall at least seven (7) days prior to the public hearing on the resolution to abatement the nuisance post a notice conforming to the requirements below advising of the nature of the public nuisance and informing the Owner of the date, time and place of the public hearing on the abatement of the nuisance. The posting notice shall consist of two signs being conspicuously posted on the property. The wording on the signs shall not be less than one (1) inch in height. The posting notice shall read as follows:

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 City of Talladega will consider a resolution regarding the weeds growing upon or in front of the property _____ (address), in the City of Talladega, 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 City Clerk at least five days before the meeting of the Council and unless the Owner 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 Owner 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 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 _____, 2___.

City of Talladega

City Clerk

Date Posted

C. The City Council shall set a date for a public hearing of the objection filed by the Owner, which said date for the hearing may be the date originally set in paragraph B above. The City Council may conduct a public hearing on several parcels simultaneously. At the hearing before the City Council, Owner(s) may introduce such evidence as the Owner(s) deems necessary. The City Council shall hear and consider all objections, evidence and protest regarding the proposed removal of weeds and other plant life considered as excessive growth. The City Council may continue the hearing from time to time. Upon conclusion of the said hearing, the City Council, by resolution, shall determine whether a public nuisance exists, and if a public nuisance is found to exist, the City Council shall order it to be removed or abated with respect to the property or any part thereof described. The City Council, by passage of such resolution, shall be deemed to have acquired jurisdiction to proceed and either to perform or to contract with private contractors for the performance of the work of removal or abatement with respect to such property or part thereof. The decision of the City Council on matters relating to the termination of a public nuisance shall be deemed final and conclusive. Upon approval of the resolution finding the condition of the property to be a public nuisance and ordering its abatement, all employees and duly authorized agents of the City are hereby expressly authorized to enter upon public and private property for the purposes of abatement and removal of such violation as set out in the resolution.

D. If no objection or request for a hearing is filed by the Owner with the City Clerk within the time period set out hereinabove and unless the Owner 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 of public nuisance as fact and waives any right to contest the removal of weeds and other plant life constituting excessive growth. The City Council, by resolution, shall determine whether a public nuisance exists, and if a public nuisance is found to exist, the City Council shall order it to be removed or abated with respect to the property or any part thereof described. The City Council, by passage of such resolution, shall be deemed to have acquired jurisdiction to proceed and either to perform or to contract with private contractors for the performance of the work of removal or abatement with respect to the property or any part thereof. The decision of the City Council on matters relating to the termination of a public nuisance shall be deemed final and conclusive. Upon approval of the resolution finding the condition of the property to be a public nuisance and ordering its abatement, all employees and duly authorized agents of the City are hereby expressly authorized to enter upon public and private property for the purpose of abatement and removal of such violation as set out in the resolution.

E. The City Council may, at its option, authorize private contractors, companies, enterprises or individuals to abate and remove the public nuisance on behalf of the City. The Council, by resolution, shall designate the contractors, companies, enterprises or individuals who may perform such work. Those persons so designated are authorized to enter upon public and private property for the purpose of abating or removing such nuisance.

SECTION VII. Removal of Excessive Growth at Owner's Expense.

Any Owner shall have the right to have such weeds or other plant life constituting excessive growth removed at the Owner's own expense providing the same is done prior to the commencement of work done by the City of Talladega, its employees, agents, contractors, enterprises or individuals employed to perform the work.

SECTION VIII. Costs of Abatement.

A. Accounting of costs. The enforcement officer shall keep an account of the cost of abating or removing any public nuisance from each separate lot or parcel of land where the work of removal is being performed by City employees or by a duly authorized private contractor, company, enterprise, or individual, and shall render an itemized report in writing to the City Clerk showing the costs of removing the public nuisance on each separate lot, provided, that before the report is submitted to the City Clerk, a copy of the same shall be posted for at least five days prior thereto at the City Hall and a copy of the same shall be given to the Owner by certified mail.

B. Assessment. The City Clerk, upon receipt of the accounting of cost from the enforcement officer and after posting of the same as provided in Subsection A, above, shall request the City Council to adopt a resolution assessing such cost to the Owner as above provided. The City Council is hereby authorized to assess against the property made the basis of the previous notice of public nuisance and abatement work pursuant to this ordinance the actual cost to the City of such abatement plus the sum of fifty percent (50%) of such costs to reimburse the City for actual costs of abatement of the nuisance plus such other administrative costs that may be incurred. The total sum of such costs shall constitute a weed lien against the property. Notice of weed lien in such form as the City Council shall determine will be filed in the office of the Judge of Probate of Talladega County and recorded as other liens are recorded in said Probate Office.

C. Collection. Upon receipt of the resolution setting out the costs of abatement and the administrative costs associated with the abatement of the public nuisance provided for in Subsection B, above, the City Clerk shall file a weed lien in the Office of the Judge of Probate and shall also file with the Revenue Commissioner of Talladega County a copy of such resolution and a copy of the weed lien filed in the Office of the Judge of Probate. The Revenue Commissioner will collect the nuisance abatement cost and lien under the optional method of taxation pursuant to Sections 11-51-40 through 11-51-74, Code of Alabama, 1975, as it presently exists or is hereinafter amended. The lien shall be added to the next regular bill of taxes levied against such property and shall be collected in the same manner as ordinary municipal ad valorem taxes and shall be subject to the same penalties and procedures under foreclosure and sale in the case of delinquency as provided by law.

SECTION IX. Penalty.

In addition to the declaration of public nuisance and abatement of public nuisance as provided for herein and the right to reimbursement of costs and liens associated therewith, as an additional remedy and penalty, any enforcement officer of the City, or other person who is hereby authorized, may cause a complaint to be filed in the Municipal Court of the City of Talladega alleging a violation of any provision of this ordinance against any person found to be in violation of this ordinance, which said complaint shall be heard and tried in the Municipal Court of the City of Talladega in the same manner as other violations of municipal ordinances of this City. Any person found to be in violation of any of the provisions of this ordinance, in addition to any other public nuisance abatement provisions and costs provided for hereinabove in this ordinance, shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished as follows: for first time violations of any section or provisions of this ordinance there shall be imposed fine of not less than \$50.00 for the first offense plus court costs; for the second violation of any section or provisions of this ordinance, there shall be imposed a fine of not less than \$100.00, plus court costs; for any violation after the second violation of this ordinance, there shall be imposed a fine of not less than \$200.00, plus court costs. A violation commences following the expiration of seven (7) days as provided in the notice provided for in Section VI; provided however, that the violation will be held in abeyance upon the timely filing of an objection as provided in said notice provided in Section VI until such time that a resolution is entered by the City Council pursuant to Section VI, and each day thereafter in which a violation occurs or continues shall be deemed a separate offense.

SECTION X. Limited Right of Entry upon Public or Private Property.

Any enforcement officer and/or other City official shall have limited right to enter upon public or private property to reasonably ascertain the violation of any provisions, terms and conditions of this ordinance which right of entry shall include the right to gather information to properly identify the owner of the

property alleged to be in violation of this ordinance and/or the occupant of the property upon which the violation is occurring.

SECTION XI. Severability.

All sections of this ordinance are hereby declared to be severable; and if any word, phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, phrases, clause, sentences, paragraphs and sections of this ordinance.

SECTION XII. Repeal

Upon adoption of this ordinance, Ordinance No. 1642 and Ordinance No. 1753 are repealed in their entirety.

SECTION XIII: This ordinance shall take effect immediately upon its passage and publication as provided by law.

Vickay R. Hall
Member of Council
W. K. King
Member of Council
Scott C. Spitzer
Member of Council
Nadene G. Pelt
Member of Council
[Signature]
Member of Council

ACKNOWLEDGED this 21st day of NOVEMBER, 2022.
[Signature]
City Manager

ACKNOWLEDGED and ATTESTED this 21st day of NOVEMBER, 2022.
[Signature]
City Clerk