

ORDINANCE 2020-24

AN ORDINANCE TO REPEAL AND REPLACE ORDINANCE 2012-10 DEFINING THE METHOD FOR WEED AND OVERGROWTH ABATEMENT WITHIN THE CITY OF SPRINGVILLE, ALABAMA

WHEREAS, the City of Springville, Alabama (the “City”) is authorized to regulate the weed and overgrowth of grass within the City; and

WHEREAS, the City desires and is authorized to enact laws which promote the general health, safety, and welfare of the public by minimizing or eliminating the overgrowth of grass or weeds within a municipality which may provide breeding grounds and shelter for rats, mice, snakes, mosquitoes, and other vermin, insects and pests; constitute a fire threat or hazard; bear 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 which may hide debris, such as broken glass or metal, that could inflict injury on a person going upon the property; or being unsightly; or a growth of grass or weeds, other than ornamental plant growth, that exceeds twenty-four (24) inches in height (said growth as described above referred to herein as “weeds”).

NOW THEREFORE, be it ordained by the City Council of Springville, Alabama, as follows:

Section 1: Weeds may be declared public nuisance; Resolution to abate.

Upon receipt of written complaint from a member of the general public, whenever any weeds are growing upon any street, sidewalk, or private property, the City may, by resolution, declare the weeds to be a public nuisance and order its abatement. The resolution (the “First 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 Ordinance shall not apply to any property that has been zoned agricultural property or which remains in a natural and undisturbed state. The intent of this Ordinance and its application shall be as against overgrowth which is caused by the intentional neglect of a property owner causing a hazardous situation as described above. It is *not* the intent nor shall it be the application of this Ordinance to create a burden upon the public resources of the City to maintain yards, landscaping or the like and it shall not be interpreted or applied in such a manner. The City shall not be called upon to perform routine yard maintenance upon property that is not clearly being intentionally neglected by a property owner.

Section 2: Notice.

(a) After the passage of the First 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 City of Springville will consider a resolution regarding the weeds growing upon or in front of the property _____ Street, in the Municipality of Springville 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 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 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____.

Name of municipality

City Clerk

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

Section 3: 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 shall, by resolution (the "Second 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 City Council, by passage of the Second 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 governing body on the matter shall be deemed final and conclusive.

Section 4: Abatement of nuisance.

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

(b) The governing body may authorize private contractors, companies, enterprises, or individuals to abate and remove the nuisance. The governing body of the municipality, by resolution, shall designate the contractors, companies, enterprises, or individuals who may perform the work. This may be done in the Second Resolution. 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.

(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 to do the removal.

Section 5: Report of costs.

The City 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 by a duly authorized private contractor, company, enterprise, or individual, and shall render an itemized report in writing to the City Council of the municipality 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 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 City Council for confirmation.

Section 6: Confirmation of report; weed liens.

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 given to the tax collector or revenue commissioner of the 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. It shall be the duty of the county tax collector or revenue commissioner 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 municipality shall reimburse the county tax collector or revenue commissioner 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 7: Weed Nuisance Repeat Offenders

Once a nuisance has been abated by the owner or by the city, the case will remain active for 90 days. If the property should return to a nuisance state during the specified time, the city will not be required to pass the "First Resolution" as if a new abatement but rather begin passage of the "Second Resolution."

Section 7: That all Ordinances or parts of Ordinances in conflict with the above are, to the extent of such conflict, hereby repealed.

Section 8: That if any part, section, subsection or provision of this Ordinance shall be held by a Court of competent jurisdiction as unconstitutional or otherwise invalid for any reason, said finding shall not effect the validity or enforceability of any other part, section, subsection or provision of this Ordinance, which shall continue in

full force and effect notwithstanding such finding.

Section 9: That this ordinance shall become effective as provided by law after passage, approval and publication.

ADOPTED and **APPROVED** this the 19th day of October, 2020.

CITY OF SPRINGVILLE, ALABAMA

By: William Isley
William Isley, Mayor

ATTEST: [Signature]
City Clerk

CERTIFICATION

I, the undersigned, City Clerk of the City of Springville, Alabama, do hereby, certify that the above is a true and correct copy of an Ordinance duly adopted by the City Council at its meeting held on October 19, 2020 and as same appears of record in Minute Book of said City, and approved by the City Council on the 19th day of October, 2020.

GIVEN UNDER MY HAND AND CORPORATE SEAL of the City of Springville, Alabama, this 19th day of October, 2020.

[Signature]
City Clerk