

ORDINANCE B- 527

AN ORDINANCE AMENDING ORDINANCE B- 346 OF THE CODE OF THE CITY OF VICTORIA, KANSAS, CONCERNING THE REMOVAL OF WEEDS, PROVIDING FOR THE REMOVAL AND/OR FINE AND PENALTIES FOR FAILING TO REMOVE WEEDS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF VICTORIA, KANSAS:

Section 1. WEEDS TO BE REMOVED. It shall be unlawful for any owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.

Section 2. DEFINITIONS. Weeds as used herein, means any of the following:

- (a) Brush and woody vines shall be classified as weeds;
- (b) Weeds and indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (c) Weeds which bear or may bear seeds of a downy or wingy nature;
- (d) Weeds which are located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety or welfare;
- (e) Weeds and indigenous grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds and indigenous grasses shall be presumed to be blighting if they exceed 12 inches in height.

Section 3. PUBLIC OFFICER; NOTICE TO REMOVE. The mayor with the consent of the council shall designate a public officer to be charged with the administration and enforcement of this ordinance. The public officer or an authorized assistant shall notify in writing the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this ordinance, by mail or by personal service,

once per calendar year. Such notice shall include the following:

- (a) That the owner, occupant or agent in charge of the property is in violation of the city weed control law.
- (b) That the owner, occupant, or agent in charge of the property is ordered to cut the weeds within 10 days of the receipt of notice.
- (c) That the owner, occupant, or agent in charge of the property may request a hearing before the governing body or its designated representative with five days of the receipt of notice.
- (d) That if the owner, occupant, or agent in charge of the property does not cut the weeds, the city or its authorized agent may cut the weeds and assess the cost of the cutting, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property.
- (e) That the owner, occupant or agent in charge of the property will be given an opportunity to pay the assessment, and, if it is not paid, it will be added to the property tax as a special assessment.
- (f) That no further notice shall be given prior to removal of weeds during the current calendar year.
- (g) That the public officer should be contacted if there are any questions regarding the order.

If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this subsection, the city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this section.

Section 4. ABATEMENT; ASSESSMENT OF COSTS.

- (a) Upon the expiration of 10 days after the receipt of the notice required by Section 8-403, and in the event that the owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements of Section 8-401, the public officer or an authorized assistant shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.

- (b) The public officer or an authorized assistant shall give notice to the owner, occupant or agent in charge of the premises by restricted mail of the costs of abatement of the nuisance. The notice shall state that payment of the costs is due and payable within 30 days following receipt of the notice.
- (c) If the costs of removal or abatement remain unpaid after 30 days following receipt of notice, a record of the costs of cutting and destruction and/or removal shall be certified to the city clerk who shall cause such costs to be assessed against the particular lot or piece of land on which such weeds were so removed, and against such lots or pieces of land in front of or abutting on such street or alley on which such weeds were so removed. The city clerk shall certify the assessment to the county clerk at the time other special assessments are certified for spreading on the tax rolls of the county.

Section 5. RIGHT OF ENTRY. The public officer, and the public officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this article.

Section 6. UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere with or to attempt to prevent the public officer or the public officer's authorized representative from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute a code violation.

Section 7. NOXIOUS WEEDS.

- (a) Nothing in this article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.

Section 8. ALTERNATIVE FINE. As an alternative to the removal of weeds, the city or its authorized agent may fine the owner, occupant or agent in charge of the property the sum of \$25 per day until the property is mowed and assess the fine

against the property as provided in Section 4 above. The notice provision as provided in Section 3 above shall be applicable to the fine hereunder.

Section 9. This Ordinance shall take effect after its publication in The Russell County News, the official City newspaper.

PASSED BY THE GOVERNING BODY OF THE CITY OF VICTORIA,
KANSAS THIS 20th DAY OF August, 2012.

Curtis B. Unrein, Mayor
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