

ORDINANCE NO. 1762

AN ORDINANCE AMENDING ARTICLE V OF CHAPTER 26 OF THE CITY OF NEODESHA CODE REGARDING WEEDS IN THE CITY OF NEODESHA, WILSON COUNTY, KANSAS.

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

Section One: Article V of Chapter 26 of the City of Neodesha Code shall be amended to read as follows:

Sec. 26-85 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.

Sec. 26-86 Definitions.

Weeds as used herein, means any of the following:

- (1) Brush and woody vines;
- (2) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (3) Weeds which bear or may bear seeds of a downy or wingy nature;
- (4) 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;
- (5) Weeds and grasses on or about residential property which, because of its height, has a blighting influence on the neighborhood. Any such weeds or grasses shall be presumed to be blighting if they exceed eight inches in height.

Sec. 26-87 Public officer; notice to remove.

- (a) The city administrator shall designate a public officer to be charged with the administration and enforcement of this article. The public officer or an authorized assistant shall give written notice to the owner, occupant or agent of such property by certified mail, return receipt requested, or by personal service, to cut or destroy weeds; provided, however, that if the property is unoccupied and the owner is a nonresident, such notice shall be sent by certified mail, return receipt requested, to the last known address of the owner. Such notice shall only be given once per calendar year.
- (b) The notice to be given hereunder shall state:
 - (1) That the owner, occupant or agent in charge of the property is in violation of the city weed control law;
 - (2) That the owner, occupant, or agent in control of the property is ordered to cut or destroy the weeds within ten days of the receipt of notice;
 - (3) That the owner, occupant or agent in control of the property may request a hearing before the governing body or its designated representative within five days of the receipt of the notice or, if the owner is unknown, and there is no resident agent, ten days after notice has been published by the city clerk in the official city newspaper;
 - (4) That if the owner, occupant or agent in control of the property does not cut or destroy the weeds or fails to request a hearing within the allowed time, the city or its authorized agent will cut or destroy the weeds and assess the cost of the cutting or destroying the weeds, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property.
 - (5) That the owner, occupant or agent in control of the property will be given an opportunity to pay the assessment, and if it is not paid within 30 days of such notice, it will be added to the property tax as a special assessment.
 - (6) That no further notice shall be given prior to removal of weeds during the current calendar year.
 - (7) That the public officer should be contacted if there are any questions regarding the order.
- (c) If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this section, 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 chapter.

Sec. 26-88 Abatement; assessment of costs.

- (a) If the owner, occupant or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the time periods specified in section 26-87, the public officer or an authorized assistant shall abate or remove the conditions causing the violation.

- (b) The owner, occupant or agent in charge of the property shall be charged \$150 per hour per person (one hour minimum) for the City to mow or clean, and an administrative fee of \$100. Additional charges may be assessed for expenses incurred. Provided, however, that no charge shall be assessed for the use of city equipment. All fees are charged once each mowing or abatement.
- (c) The above charges and fees shall be doubled for properties with more than one violation in a 12-month period. The fees to be doubled include all of the fees listed above and the administrative fees.
- (d) If the city abates or removes the nuisance pursuant to this section, the city shall give notice to the owner, occupant or agent in charge of the premises by certified mail, return receipt requested, of the total cost of abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section.
- (e) The notice shall also state that if the costs of removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as a special assessment for such cost against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and any applicable interest has been paid in full. (K.S.A 12-1617f)

Sec. 26-89 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 chapter.

Sec. 26-90 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 Class C Code violation.

Sec. 26-91 Noxious weeds.

- (a) Nothing in this ordinance shall affect or impair the rights of the city under the provisions of K.S.A. ch. 2, art. 13, relating to the control and eradication of certain noxious weeds.
- (b) For the purpose of this article, the term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea repens*), hoary cress (*Cardaria draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), bur ragweed (*Ambrosia grayii*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans L.*), Johnson grass (*Sorghum halepense*), and sericea lespedeza (*Lepedeza cuneata*). (K.S.A. 2-1314)

Section Two: Old Article V of Chapter 26 of the Neodesha City Code and all ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section Three: EFFECTIVE DATE. This ordinance shall be in full force and effect upon its publication in the official city newspaper.

Passed by the Governing Body of the City of Neodesha, Kansas and signed by the Mayor this 23rd day of March, 2022.

ATTEST:

/s/ Devin Johnson

Devin Johnson, Mayor

/s/ Stephanie Fyfe

Stephanie Fyfe, City Clerk