

ORDINANCE NO. 303

AN ORDINANCE RELATING TO THE CUTTING OF WEEDS AND VEGETATION, PROVIDING FOR NOTICE AND PROVIDING FOR CUTTING BY THE CITY OF MELVERN, KANSAS, AND PROVIDING FOR CHARGES THEREFORE; AND AMENDING ORDINANCE NO. 190 OF THE CITY OF MELVERN, KANSAS IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MELVERN, 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, right-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.

(a) Calendar Year as used herein, means that period of time beginning January 1st and ending December 31st of the same year.

(b) Weeds.

1. Brush and woody vines shall be classified as weeds;
2. Weeds and indigenous 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. Weed 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 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 approval 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 is may request a hearing before the governing body or its designated representative within 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 with 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 receipt of the notice required by Section 3, and/or after thirteen (13) days of mailing said notice 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 1, 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 ordinance.

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 an ordinance violation.

SECTION 7. Noxious Weeds.

- (a) Nothing in this ordinance shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated (KSA), relating to the control and eradication of certain noxious weeds.
- (b) For the purpose of this section, the term noxious weed shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea Picris*), hoary cress (*Lepidium draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), burragweed (*Franseria tomentosa* and *discolor*), pignut (*Hoffmannseggia densiflora*), musk (nodding), thistle (*Carduus nutans* L.), and Johnson grass (*Sorghum halepense*).

SECTION 8. That any and all provisions of Ordinance No. 190 of the City of Melvern, Kansas, in conflict herewith are hereby repealed.

SECTION 9. This ordinance shall be in full force and effect from and after its adoption and publication in the official city newspaper.

ADOPTED AND APPROVED by the Governing Body, this (4th) day of August, 1997.