

ORDINANCE NO. 582-14

AN ORDINANCE REQUIRING LANDOWNERS TO REMOVE WEEDS WITHIN THE CITY OF NORTH NEWTON, KANSAS; PROVIDING A PROCEDURE FOR REMOVAL THEREOF BY THE CITY; PROVIDING FOR PENALTIES FOR VIOLATIONS THEREOF; PROVIDING FOR THE ADOPTION OF SUBSTITUTE PROVISIONS; AND REPEALING ORDINANCE NO. 244.

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

SECTION I. 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 II. DEFINITIONS.

Weeds as used herein, means any of the following:

- (a) Brush and woody vines shall be classified as weeds;
- (b) Weeds and grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (c) 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;
- (d) Weeds and 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.
- (e) An exception to the definition of weeds is made for prairie restoration or other intended natural habitat areas.

SECTION III. PUBLIC OFFICER; NOTICE TO REMOVE.

(a) The mayor shall designate a public officer to be charged with the administration and enforcement of this article. The public officer or authorized assistant shall give written notice to the owner, occupant or agent of such property by first class mail, 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, return receipt requested, to the last known address of the owner. Such notice shall only be given once per calendar year, with a calendar year being January 1 to December 31.

(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 (10) days of mailing of the notice, plus any additional time granted under subsection (d);
- (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 (5) days of mailing of the notice or, if the owner is unknown or a nonresident, and there is no resident agent, 10 days after notice has been published by the city clerk in the official city newspaper, plus any additional time granted under subsection (d);
- (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 will be given during the current calendar year prior to the removal of weeds from the property;

(7) That the public officer should be contacted if there are 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 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 article.

(d) Provided, however, that the governing body or its designee named herein shall grant one or more extensions to the time periods stated in subsections (b)(2) and (b)(3), above, if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions which have caused the violation.

SECTION IV. PENALTY.

The public officer may file a complaint in the municipal court against any person found to be in violation of Section I, provided however, that such person shall first have been sent a notice as provided in Section III and that the person has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified. Upon such complaint in the municipal court, any person found to be in violation of Section I shall upon conviction be punished by a fine of not less than \$50 nor more than \$100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment.

SECTION V. 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 Section III (b), the public officer or an authorized assistant shall abate or remove the conditions causing the violation.

(b) If the city abates or removes the nuisance pursuant to this section, the city shall give notice to the owner or his or her agent by first class mail, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following mailing of the notice. The city also may recover the cost of providing notice, including any postage, required by this section.

(c) The notice shall also state that if the cost of the 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 special assessments and charged 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 applicable interest has been paid in full.

SECTION VI. SUBSTITUTE PROVISIONS.

The Governing Body of the City of North Newton, Kansas, is hereby authorized to adopt by Resolution a schedule of costs to be imposed for the abatement or removal of weeds incurred by the City, which rates will go into effect upon the passage of such Resolution.

SECTION VII. 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 VIII. 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 IX. 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.

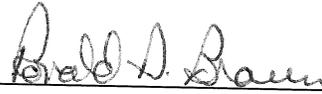
SECTION X. REPEAL.

Ordinance No. 244 and any ordinances or parts of ordinances of the City of North Newton, Kansas in conflict herewith are hereby repealed.

SECTION XI. EFFECTIVE DATE.

This ordinance shall take effect and be in force from and after its summary publication in THE NEWTON KANSAN, the official newspaper of said City.

PASSED AND ADOPTED by the Governing Body of the City of North Newton, Kansas, this 14th day of July, 2014.



RONALD D. BRAUN, Mayor

ATTEST:



PATRICIA S. REDDING, City Clerk

(SEAL)

