

**ORDINANCE NUMBER: 962**

**AN ORDINANCE PROVIDING AN ADDITIONAL AND ALTERNATIVE MEANS FOR ABATING WEED NUISANCES FOUND TO EXIST UPON SIDEWALKS, STREETS OR PRIVATE PROPERTY PURSUANT TO ACT 2000-774, CODIFIED AT §§ 11-67-20, Et Sequentia, Of The CODE OF ALABAMA (1975), As Amended**

**BE IT THEREFORE ORDAINED** by the Fairfield City Council as follows:

**SECTION 1. "CITY" DEFINED.** The term "the City" appearing hereafter in this Ordinance shall be construed to mean the City of Fairfield. However, said term *shall not be construed to include* the Police Jurisdiction of the City of Fairfield, Alabama.

**SECTION 2. ACTS PROHIBITED HEREUNDER.** No person, corporation or entity owning or having charge of any property located within the City of Fairfield, Alabama shall permit the growth upon Sidewalks, Streets, or private property vegetative growth in violation of this Ordinance.

**SECTION 3. ILLEGAL "WEEDS"** as referenced throughout this Ordinance, shall refer to the following types of vegetative growths:

- a. An abundance of overgrown grass or weeds within the City of Fairfield that is injurious to the general Public Health, Safety, and Welfare by providing breeding grounds and shelter for rats, mice, snakes, mosquitoes, and other vermin, insects, and pests;
- b. An abundance of overgrown grass or weeds within the City of Fairfield that attains heights and dryness that constitute a serious Fire Threat or Hazard;
- c. An abundance of overgrown grass or weeds within the City of Fairfield that bears wingy or downy seeds, when breathed, irritates the throat, lungs, and eyes of Members of the Public;
- d. An abundance of overgrown grass or weeds within the City of Fairfield that hides debris, such as broken glass or metal, that could inflict injury on a person who lawfully enters upon the subject property; or
- e. An abundance of unsightly and overgrown grass, bushes, and vines—other than ornamental or legally cultivated vegetative growth—that exceed SIX INCHES (6") in height.

**SECTION 4. HOUSING OFFICIAL/PUBLIC WORKS SUPERINTENDENT.** Whenever any Official of the City shall discover on any premises in the City any growth of Weeds in violation of the provisions of this Ordinance, he shall report the growth of said Weeds to the Housing Official or to the Superintendent of Public Works.

Upon verifying the existence of same, the Housing Official or the Superintendent shall make a report of the offending Weeds to the City Council.

**SECTION 5. DECLARATION OF PUBLIC NUISANCE** Upon receiving the Report of the Superintendent or the Housing Official for the City of Fairfield, the Municipality, by Resolution, may declare the Weeds to be a Public Nuisance and may order the Abatement of same.

The Resolution shall refer to the Street Address, if known; shall describe the property upon which, or in front of which, the Nuisance exists by giving a Legal description of the property, if known; and shall provide the Parcel Identification Number, if known.

A Resolution may include any number of offending Streets, Sidewalks, or Parcels of Private Property.

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**SECTION 6. NOTICE.** Generally, Notice be given as required pursuant to § 11-67-23 of the Code of Alabama (1975), as amended. (a) Notice By Certified Mail. After the passage of a Resolution determining the existence of Nuisance conditions upon certain premises,

Notice of a Public Hearing on the matter and the purposes therefore shall be given by Certified Mail, Return Receipt Requested, at least Thirty (30) days prior to the Public Hearing.

Notice shall be mailed to the Owner of the offending premises, as the information identifying same appears on record in the Office of the County Tax Assessor for Jefferson County, Alabama (Bessemer Division); shall inform Owners of offending properties that a prohibited growth of Weeds exists upon the property; shall inform any such Owner of the time, date and place of the Public Hearing; and shall carry a List of Names of Individuals or private Contractors—or both—who are to perform the cutting and removal of prohibited Weed growth and who shall be registered with the Office of the City Clerk.

(b) Notice Of Public Hearing. Notice of Public Hearing on Nuisance Declarations shall also be given by Publication in a Newspaper normally read by all segments of the population published in the County once a week, for two (2) consecutive weeks. If no Newspaper is published in the County, Notice shall be given by Radio or Television. (i) The FIRST NOTICE shall be published at least fourteen (14) days prior to the date of the scheduled Hearing. (ii) The SECOND NOTICE of Public Hearing on Nuisance Declarations and Opportunity to present Defenses or Objections shall be posted in three (3) places around the City, at least, Seven (7) days prior to the Public Hearing.

(c) Notice By Posting. Notice shall be given by placing upon the offending properties two (2) CONSPICUOUSLY POSTED signs. The WORDING of the signs shall not be less than One Inch (1") in height and shall be in substantially the form prescribed by § 11-67-23 of the Code of Alabama (1975), as amended.

**SECTION 7. PUBLIC HEARING.** At the time and place appointed to conduct the Hearing regarding the Complaint of the existence of a prohibited growth of Weeds upon an offending property, Property Owners shall be given an opportunity to defend against the Complaint and to contest the Assessment. *The Decision of the Council as to the existence and declaration of a nuisance shall be deemed final and conclusive.*

The Notice shall be mailed to the owner of the property as the information appears on record in the Office of the Jefferson County Tax Assessor. The Notice shall be mailed, at least, thirty (30) days prior to the date set for the Hearing and shall inform the Owner of the time, date, and place of the Hearing and the reason for the Hearing.

**SECTION 8. RIGHT OF ENTRY OF PRIVATE OR AUTHORIZED CONTRACTORS.** If—after considering the evidence presented at a Public Meeting—the City Council sustains the Nuisance Complaints, the City Council shall pass a Resolution declaring the conditions upon any offending properties to constitute a Nuisance.

At such time, the Superintendent of Public Works—by himself or by those under his direction or supervision, or with prison labor—may enter, within seven (7) days\*\* after the cutting and removal thereof has been ordered by the City—upon the offending premises and, at the expense of such person, shall proceed to cut and remove such illegal Weeds.

At its option, the Council may authorize—by Resolution—private Contractors, Companies, Enterprises, or Individuals to abate and remove declared Nuisances.

Having been duly authorized by the Council to abate declared Nuisances, private Contractors, Companies, Enterprises, or Individuals may enter upon offending properties and abate Nuisances, to the same extent as the Superintendent of Public Works is authorized to abate declared Nuisances.

\*\*The Notices To Destroy Illegal Weeds, directed to Owners or Possessors of Offending Properties pursuant to § 11-67-23 of the *Code of Alabama* (1975), as amended, shall state the time allowed by the Council to remove Illegal Weeds.

*The Initial Period of Time granted to Property Owners to Remove Weeds is hereby declared to be Twenty-One (21) days. The Council may, from time to time, by Resolution, change the number of days permitted to remove Illegal Weeds when the Council finds and determines that the circumstances require such a change.*

**SECTION 9. RIGHT OF OWNER/ONE IN LAWFUL POSSESSION OF OFFENSIVE PROPERTIES TO REMOVE ILLEGAL WEEDS.** any Property Owner—or one in lawful possession of property that he or she does not own—shall have the right to have Illegal Weeds removed at his or her own expense, *providing* the removal is done prior to the commencement of work to do same by Employees or Agents of the City.

**SECTION 10. ACCOUNTING OF COSTS FOR ABATEMENT.** The City of Fairfield shall keep an Accounting, prepared by the Superintendent of the Public Works Department and verified by the Housing Official, stating the Costs of abating and removing Nuisance conditions that exist upon or in front of each separate parcel of land or each separate lot—whether Nuisance Weeds are removed by the Public Works Superintendent; by the Superintendent's Employees; by Prison Laborers; or by private Contractors, Companies, Enterprises, or Individuals.

The Accounting shall be directed, in writing, to the City Council and shall render an Itemized Report showing the Costs of removing and abating Nuisances—on, or in front of, each separate Lot or Parcel of Land. *Such Cost shall be referenced as "Weed Lien Assessments."*

**AT LEAST FIVE (5) DAYS PRIOR TO THE DATE ON WHICH IT IS TO BE SUBMITTED TO THE COUNCIL FOR CONSIDERATION AND CONFIRMATION, a copy of the Cost Accounting shall be posted on, or near, the Door of the City Council Chamber—together with a Notice of the TIME and DATE at which the Council will receive and consider same.**

**SECTION 11. ENTRY OF WEED LIEN ASSESSMENTS.** Costs affirmed as "Weed Lien Assessments" shall be entered in the amount of ONE THOUSAND DOLLARS (\$ 1,000.00) FOR EACH ASSESSMENT. IF THE ACTUAL COSTS OF ABATING AND REMOVING WEED NUISANCES EXCEED ONE THOUSAND DOLLARS, THEN WEED LIEN ASSESSMENTS FOR SAME SHALL BE ENTERED IN THE ACTUAL AMOUNT OF THE COSTS OF ABATEMENT AND REMOVAL.

**SECTION 12. AUTHORIZATION TO EFFECTUATE PURPOSES OF ORDINANCE.** For the purpose of enforcing this Ordinance, the Superintendent of Public Works is hereby authorized to purchase such implements and employ such equipment and Laborers as may be necessary to effectuate the purposes stated herein.

**SECTION 13. ADMINISTRATIVE DISPOSITION.** The Housing Official, with the assistance and cooperation of the City Clerk are hereby authorized to resolve, administratively, Weed Lien Assessments. If satisfactory arrangements are not achieved—within SIX MONTHS (6) of any Final Notice to Destroy Weeds given herein—to resolve and dispose of Weed Lien Assessments, then such Weed Lien Assessments shall be forwarded to the City Council for disposition as specified herein.

**SECTION 14. REPEALER.** Any Ordinances, or parts thereof, that conflict with this Ordinance are hereby expressly repealed. *Even so, this Ordinance shall operate in conjunction with, and in addition to, the City's previous Weed Ordinance—Ordinance 320, as amended.*

**SECTION 15. SEVERABILITY.** If any Section or Provision of this Ordinance shall be held invalid, such holding shall not affect the validity of any Section or Provision hereof, which is not, of itself, invalid.

**SECTION 16. EFFECTIVE DATE.** This Ordinance shall become effective when approved and published in a Newspaper of general circulation in the City and surrounding County.

**SECTION 17. DELIVERY OF INFORMATION TO JEFFERSON COUNTY, ALABAMA TAX COLLECTOR.** A copy of the Resolution Confirming Costs to be assessed and other information as may be required shall be presented, upon request and within the time specified, to the Jefferson County Tax Collector (Bessemer Division), who shall collect the Costs of the Weed Lien Assessments ("Special Assessments") in the same manner as are collected *Ad Valorem* Taxes, as authorized pursuant to Article I, Division 2, Chapter 51 of Title 11 of the *Code of Alabama* (1975), as amended.

DONE and ADOPTED on this 19th day of May \_\_\_\_\_ 2003.

  
WILLIAM MURRAY, PRESIDENT  
CITY COUNCIL—FAIRFIELD, ALABAMA

ATTEST:

  
MELVIN TURNER, III, CLERK & TREASURER

APPROVED:

  
CHARLES L. WILLIS, SR., MAYOR