

ORDINANCE # 1642

AN ORDINANCE REPEALING ORDINANCE #1562 IN ITS ENTIRETY AND REQUIRING THE CUTTING OF WEEDS AND OTHER VEGETATION OR OTHER THINGS AND REQUIRING CORRECTION OF CONDITIONS FAVORABLE TO HARBORING OF MOSQUITOES OR OTHER INSECTS OF LIKE KIND OR RODENTS; PROVIDING FOR THE ABATEMENT OF SUCH CONDITIONS FAVORABLE TO THE HARBORING OF SUCH INSECTS OR RODENTS AND TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF; PURSUANT TO SECTIONS 11-47-131 AND 11-47-140 CODE OF ALABAMA, 1975, AND ALABAMA ACT 2000-774, AND AS MAY BE AMENDED.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TALLADEGA, ALABAMA, AS FOLLOWS:

SECTION 1. An ordinance repealing ordinance #1142 and #1562 in its entirety and requiring the cutting of weeds and other vegetation in its entirety and requiring the cutting of weeds and other vegetation or other things and requiring correction of conditions favorable to harboring of mosquitoes or other insects of like kind or rodents; providing for the abatement of such conditions favorable to the harboring of such insects or rodents and to provide penalties for the violation thereof; pursuant to sections 11-47-131 and 11-47-147 Code of Alabama, 1975, and Alabama ACT 2000-774, and as may be amended.

SECTION 2. The word "person" as used in this ordinance shall include and be applicable to firms, corporations and associations, as well as to individuals.

SECTION 3. Every person owning or having in charge any premises in the City of Talladega, Alabama, shall keep the same free of any growth of weeds favorable to the harboring of mosquitoes or other insects of like kind, and every such growth of weeds is hereby declared to be a nuisance, and every such person who shall allow any such growth of weeds to accumulate on the premises which such person owns or of which he is in charge, shall be guilty of a misdemeanor and if convicted, shall be punished as for a violation of this section in accordance with Section 14 of this ordinance.

SECTION 4. Any growth of weeds more than one foot in height shall be deemed favorable to the harboring of mosquitoes or insects of like kind, within the meaning of this ordinance.

SECTION 5. Whenever any Code Enforcement Officer of the City of Talladega, Alabama, shall discover on any premises in the city, any growth of weeds in violation of Section 3 of this ordinance, the officer shall give written notice to the owner or person having said premises in charge, requiring same to be cut and removed within seven (7) days from the date of service of said notice. Said notice shall be in substantially the following form:

"NOTICE"

To the owner(s) or person(s) having the premises located at (here describing the property) in the City of Talladega, Alabama:

You are hereby notified that there exists on the above mentioned property a growth of weeds or grass, in violation of Section 3 of Ordinance No. 1642

You are hereby further notified that if said growth is not cut and removed within seven (7) days from this date that a notice will be issued requiring you to appear before the Municipal Judge of the City of Talladega, Alabama, the time and place to be fixed in said notice, then and there to show cause why said growth should not be declared a nuisance and an order issued

SECTION 6. The notice provided for in the foregoing section shall be served upon the owner of said property (or the person having same in his charge, as the case may be), if he is known and can be found within the City of Talladega, Alabama; but, if such person is not known or cannot be found within the City of Talladega, Alabama service of said notice shall be effected by posting one copy thereof on the premises where said growth of weeds is found to exist; and the notice as herein provided for, shall be served or posted, as the case may be, at least seven (7) days before the issuing of the notice to appear before the Municipal Judge.

SECTION 7. After the issuance of the notice as provided for in Section 5 of this Ordinance and the failure of the weeds to be cut and removed within the time specified in Section 5 of this notice, then in such event the issuing officer shall give written notice to the owner or person having such premises in his charge, to appear before the Municipal Judge of the City of Talladega, Alabama, at a time and place to be fixed in said notice, and then and there to show cause why the said growth of weeds should not be declared a nuisance, and an order issued requiring same to be cut and removed. Said notice shall be in substantially the following form:

“NOTICE”

To the owner(s) of (here describing the property) in the City of Talladega, Alabama:

You are hereby notified that there exists on the above mentioned property a growth of weeds or grass or other vegetation, in violation of Section 3 of an Ordinance adopted by the City Council of the City of Talladega, entitled “Ordinance # 1642. And you are further notified that a hearing will be conducted by the Municipal Judge of the City of Talladega, Alabama, at City Hall at (time) on the (date), at which time and place you are directed to appear and show cause, if any you can, why the existence of said growth of weeds should not be declared a nuisance and an order issued requiring the same to be cut and removed.

You are hereby further notified that if said growth is not removed by your court date and the Municipal Judge of the City of Talladega, Alabama orders that the said property is a nuisance. The City of Talladega Code Enforcement Officer shall enter upon premises and at the expense of owners shall proceed to cut and remove said weeds at your cost and expense, and will certify the cost and expense, and will assess the said cost against you and the above described property, and that said expense will constitute a lien on said property.

Dated this the _____ day of _____, _____.
City of Talladega, Alabama
By: _____
Code Enforcement Officer

(If said premises are in charge of a person other than the owner, then the notice aforesaid shall be addressed to such person.)

SECTION 8. The notice provided for in the foregoing section shall be served upon the owner(s) of said property (or the person having same in charge, as the case may be), if he is known and can be found within the City of Talladega, Alabama; but if such person is not known or cannot be found within the City of Talladega, Alabama service of said notice shall be effected by posting one copy thereof on the premises where said growth of weeds is found to exist; and the notice, as herein provided for, shall be served or posted, as the case may be, at least seven (7) days before the date fixed for hearing before the Municipal Judge.

SECTION 9. At the time and place appointed in the notice provided for in Section 7 hereof, the Municipal Judge shall conduct a hearing for the purpose of determining whether the growth of weeds complained of exists in violation of this ordinance; and if he finds the same constitutes a violation of this ordinance, he shall so declare the same and shall make an order requiring the cutting and removal of said growth immediately from the making of said order.

SECTION 10 The owner(s) or person having in charge any such premises, who, having been served notice in accordance with Sections 5 and 7 of this ordinance, shall fail to comply with the order of the Municipal Judge requiring the cutting and removal of such weeds, shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in this ordinance.

SECTION 11. If the owner or person having in charge any premises whereon there exists any growth of weeds or vegetation in violation of this ordinance shall fail to cut and remove by the court date, and the order of the Municipal Judge of the City of Talladega, Alabama, a Code Enforcement Officer, may enter upon said premises, and at the expense of owner(s) may proceed to cut and remove said weeds, at his discretion, by the most efficient means, and the said Code Enforcement Officer is directed to keep an account of the expense of cutting and removing such weeds from each separate lot or premises; and in certifying the same to the City Council of the City of Talladega, Alabama, he shall report separately as to each piece of property where from he has cut and removed weeds, together with a description of said premises and the name of the

owner or persons having same in charge thereof (if known) and the total expense incurred in abating each such nuisance.

SECTION 12. It is the intention of this ordinance to regulate and by said regulation to cause the removal of all growth of weeds which constitute a health hazard by the harboring of mosquitoes, other insects or rodents. It is not the intention of this ordinance to regulate the height of growth of crops or vegetation grown for the production of food or vegetation grown in a properly fenced pasture, or undeveloped woodlands. However, should it be properly demonstrated to the Court that same, even though intended to be a garden, pasture or crop producing plot of land, is harboring mosquitoes, other insects or rodents, then that Court shall enforce fully the terms and provisions of this ordinance in that instance.

SECTION 13. At times determined by the City Council of the City of Talladega, Alabama, said City Council shall set a time and place when such owner(s) or persons who had charge of the premises from which weeds have been removed, to appear and show cause, if any they can, why the said expense should not be assessed against them and their respective premises; and shall cause said notice to be published one time in newspaper published in the City of Talladega, Alabama, the Said publication to be made at least ten (10) days in advance of the date fixed for hearing. The City Council shall, unless good cause shall be shown against the right of the City to assess the same, proceed to levy, by resolution, an assessment against said owner(s) and their respective premises (from which weeds have been cut and removed) for the total expense of cutting and removed, to include administrative costs of \$100.00, and the assessment, so made, shall be final. A copy of the resolution shall be filed in the Office of Probate and a copy submitted to the Revenue Commission to place said assessment as a lien against said premises.

SECTION 14. Persons violating provisions of this ordinance are guilty of a misdemeanor, and if convicted, shall be punished as follows: For first time violations of any section or provisions of this ordinance, the Municipal Judge shall impose a fine of not less than \$50.00 for the first offense with maximum allowable by law; for the second violation of the same premises, a fine of not less than \$100.00 shall be imposed with maximum allowable by law; and, for the third violation on the same premises, a fine of not less than \$200.00 shall be imposed with maximum allowable by law, plus appropriate court costs.

SECTION 15. All sections of this ordinance are hereby declared to be severable; and if any word, phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional or invalid by the judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs, and sections of this ordinance.

SECTION 16. This ordinance shall take effect immediately upon its passage and publication, as provided by law.

Adopted this the 4th day of August, 2008.

Members of Council

Attested:

City Clerk