

ORDINANCE NO. 2051

AN ORDINANCE AMENDING CHAPTER VIII, ARTICLE 9, OF THE CITY CODE OF THE CITY OF EDGERTON, KANSAS AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

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

SECTION 1. Chapter VIII, Article 9, of the City Code of the City of Edgerton, Kansas, is hereby amended to read as follows:

ARTICLE 9. WEEDS

- 8-901 WEEDS TO BE REMOVED. It shall be unlawful for any owners, 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. (Ord. 2051, 2020; Ord. 795, 2005; Ord. 696, 1998; Ord. 683, 1997; Ord. 671, 1996; Ord. 659, 1995; Ord. 640, 1994; Ord. 482, 1980; Ord. 321, 1955)
- 8-902 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 bear or may bear seeds of a downy or wingy nature;
 - (d) 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;
 - (e) Weeds and grasses on or about property which, because of its height, has a blighting influence on the neighborhood. Any such weeds shall be presumed to be blighting if they exceed eight (8) inches in height. (Ord. 2051, 2020; Ord. 795, 2005; Ord. 696, 1998; Ord. 683, 1997; Ord. 671, 1996; Ord. 659, 1995; Ord. 640, 1994; Ord. 482, 1980; Ord. 321, 1955)
- 8-903 PUBLIC OFFICER; NOTICE TO REMOVE. (a) The Governing Body 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 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, 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 (10) days of the receipt of the 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 (5) days of the receipt of the notice or, if the owner is unknown or a nonresident, and there is no resident agent, ten (10) 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 thirty (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; and
 - (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 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 Article. (Ord. 2051, 2020; Ord. 795, 2005; Ord. 696, 1998; Ord. 683, 1997; Ord. 671, 1996; Ord. 659, 1995; Ord. 640, 1994; Ord. 482, 1980; Ord. 321, 1955)

- 8-904 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 8-903, the public officer, an authorized agent or a party contracted by the City shall abate or remove the conditions causing the violation.
- (b) If the City abates or removes the nuisance pursuant to this Section, the City or an authorized agent shall give notice to the owner, occupant or agent in charge of the property by certified mail, return receipt requested of the costs of abatement of the nuisance. The charge for the abatement of the nuisance shall be as established by the City Fee Resolution and shall increase for every subsequent violation within a calendar year. Additionally, the owner of the property shall be charged for any additional reasonable expenses incurred by the City or its agent to abate the condition, including, but not limited to, the costs of repair or replacement of City equipment which is damaged as a result of the abatement of the costs of providing notice, including any postage, required by this Section. The notice shall state that payment of the costs is due and payable within thirty (30) days following mailing of the notice. (Ord. 2051, 2020; Ord.

795, 2005; Ord. 696, 1998; Ord. 683, 1997; Ord. 671, 1996; Ord. 659, 1995; Ord. 640, 1994; Ord. 482, 1980; Ord. 321, 1955)

- 8-905 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, verifying the extent of and/or removing such weeds in a manner not inconsistent with this Ordinance. (Ord. 2051, 2020; Ord. 795, 2005; Ord. 696, 1998; Ord. 683, 1997; Ord. 671, 1996; Ord. 659, 1995; Ord. 640, 1994; Ord. 482, 1980; Ord. 321, 1955)
- 8-906 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 violation of this Article. (Ord. 2051, 2020; Ord. 795, 2005; Ord. 696, 1998; Ord. 683, 1997; Ord. 671, 1996; Ord. 659, 1995; Ord. 640, 1994; Ord. 482, 1980; Ord. 321, 1955)
- 8-907 NOXIOUS WEEDS. (a) Nothing in this Article shall affect or impair the rights of the City under the provision of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating 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 piicris*), 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*). (Ord. 2051, 2020; Ord. 795, 2005; Ord. 696, 1998; Ord. 683, 1997; Ord. 671, 1996; Ord. 659, 1995; Ord. 640, 1994; Ord. 482, 1980; Ord. 321, 1955)
- 8-908 AGRICULTURAL PROPERTY EXCLUDED; EXCEPTION. Any property, or part of property, used exclusively for agricultural purposes shall be exempt from the requirements of Section 8-901 *provided* the owner, agent, lessee, tenant or other person in possession of the property shall not permit weeds to remain upon said premises at any place on the property within twenty (20) feet of the property lines of any adjoining property, public or private, or of any alleys, sidewalks, streets or other public rights-of-way. Property shall be deemed to be used for "agricultural purposes" if it meets the following conditions:
(a) No residential structure is located on the property or, if a residential structure is located thereon, the structure is located on a part of the property that is separated by a fence from all other parts of the property upon which weeds are located; and
(b) The property is an area of at least three acres; and
(c) The property is lawfully used during the year for the purpose of keeping animals or production of a crop. (Ord. 2051, 2020; Ord. 795, 2005; Ord. 696, 1998; Ord.

683, 1997; Ord. 671, 1996; Ord. 659, 1995; Ord. 640, 1994; Ord. 482, 1980;
Ord. 321, 1955)

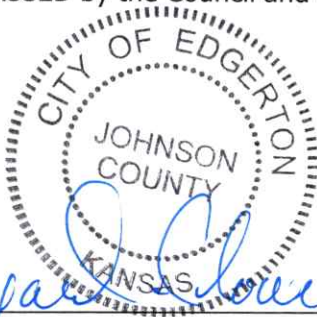
SECTION 2. REPEAL OF CONFLICTING ORDINANCES. All ordinances or sections of ordinances in conflict herewith are hereby repealed.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its passage, approval and publication once in the City's official paper.

PASSED by the Council and APPROVED by the Mayor on this 12th day of November, 2020.

ATTEST:


ALEXANDRIA CLOWER, City Clerk




DONALD ROBERTS, Mayor

APPROVED AS TO FORM:


LEE W. HENDRICKS, City Attorney