

ORDINANCE NUMBER 2567

**AN ORDINANCE OF THE CITY OF VESTAVIA HILLS TO
ESTABLISH A PROCEDURE FOR THE ABATEMENT OF
GRASS AND WEEDS AND FOR THE PROSECUTION OF
GRASS AND WEEDS VIOLATIONS.**

WHEREAS, Alabama Act Number 2010-562 allows Class 7 Municipalities, such as the City of Vestavia Hills, Alabama (“the City”) to adopt their own procedures for abating grass and weeds nuisances;

WHEREAS, the Mayor and City Council desire to establish procedures relating to the abatement of grass and weeds within the City and to establish procedures relating to the prosecution of grass and weeds violations within the City;

**BE IT ORDAINED BY THE MAYOR AND/OR CITY MANAGER AND CITY
COUNCIL OF THE CITY OF VESTAVIA HILLS AS FOLLOWS:**

Section 1. Definitions:

(a) Misdemeanor. It shall be the duty of every occupant of or person in possession of or in charge or control of the lower or ground floor or story of any house, building or structure, whether the same be used for dwelling or other purpose, and of every owner or agent or person in charge or control of any vacant lot abutting, situated on or facing any sidewalk that has been provided with curbing or that has been paved, macadamized or otherwise improved, to keep such sidewalk so bordering such premises and one-half of the street both in front and on the side thereof, free from grass, weeds or other voluntary or spontaneous growth of like nature, and any owner or agent, occupant or person in possession of or in charge or control of any of the premises described in this Section who shall permit such grass, weeds or other voluntary or spontaneous growth to obtain a height of over twelve (12) inches shall be guilty of a misdemeanor.

(b) Weed Defined. For purposes of this Article, a weed is defined as a plant of no value, undesirable and usually of rank

growth; grass, shrubs, underbrush, and other vegetable growth higher than twelve (12) inches.

(c) Agricultural Zoning Exception. The provisions of Ordinance Number 2567 of the City of Vestavia Hills, Alabama, shall not apply to any property that has been zoned agricultural property.

(d) Use of UNTCC Authorized. A law-enforcement officer may, in his or her sole discretion, choose to cite and release a defendant charged pursuant to this Article by utilizing the Uniform Nontraffic Citation and Complaint ("UNTCC") as the charging instrument. However, any defendant charged pursuant to this Article must appear in court to answer the charged offense and may not plead guilty before a magistrate.

Section 2. Applicability and Intent:

An abundance of overgrown grass or weeds within the corporate limits of the City that is injurious to the general public health, safety, and general welfare by providing breeding grounds and shelter for rats, mice, snakes, mosquitoes, and other vermin, insects, and pests; or attaining heights and dryness that constitute a serious fire threat or hazard; or bearing wingy or downy seeds, when mature, that cause the spread of weeds and, when breathed, irritation to the throat, lungs, and eyes of the public; or hiding debris, such as broken glass or metal, that could inflict injury on a person going upon the property; or being unsightly; or a growth of grass or weeds, other than ornamental plant growth, that exceeds 12 inches in height, may be declared to be a public nuisance by the City Council and abated as provided this Ordinance Number 2567, City of Vestavia Hills, Alabama. The term "corporate limits of the City" as defined in this Article does not include the police jurisdiction of the City.

Section 3. Weeds and Other Vegetation—Abatement":

(a) First Demand. Whenever there is a growth of weeds to a height of over twelve inches or otherwise constituting a nuisance pursuant to Sections 2 of this Ordinance Number 2567, the City Compliance Officer, the City Clerk, the Mayor and/or City Manager, or any police officer of the City may serve notice upon the owner, occupant, and/or agent of owner or occupant of any improved lot or the owner and/or agent of the

owner of any vacant lot where the nuisance is located demanding that the growth be cut within forty-eight (48) hours.

(b) **Setting of Public Hearing.** If any such person or entity fails or refuses to cut such vegetation within such time as provided in Subsection (a), then the City Compliance Officer, the City Clerk, the Mayor and/or City Manager, or any police officer of the City may set the matter for a public hearing to determine whether the nuisance should be abated. Said persons may set the matter for a public hearing by requesting that the Mayor and/or City Manager or City Clerk add the matter to the applicable meeting agenda of the City Council. Alternatively, whether or not the first demand provided for by Subsection (a) has been made, whenever there is a growth of weeds to a height of over twelve inches or otherwise constituting a nuisance pursuant to Section 2 of this Ordinance Number 2567, the City Clerk may, by resolution, set a public hearing to determine whether the nuisance should be abated. In either case, such public hearing shall be set for the next meeting of the City Council that is at least ten calendar days from the date that notice is served upon the owner, occupant, and/or agent of owner or occupant of any improved lot or the owner and/or agent of the owner of any vacant lot where the nuisance is located or at any meeting thereafter. Although notice of a public hearing need not adhere to any particular form, it should inform the person or entity served of the time, date, and place of the hearing and the reason for the hearing.

(c) **Service.** Service under this Section shall be made by delivering a copy to the owner, occupant, and/or agent of owner or occupant of any improved lot or the owner and/or agent of the owner of any vacant lot where the nuisance is located or by mailing it to the owner, occupant, and/or agent of owner or occupant of any improved lot or the owner and/or agent of the owner of any vacant lot where the nuisance is located at said person or entity's last known address. Delivery of a copy under this Section means: handing it to the owner, occupant, and/or agent of owner or occupant of any improved lot or the owner and/or agent of the owner of any vacant lot where the nuisance is located; or leaving it at said person or entity's office with a clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; or by leaving it in a conspicuous place at the lot or parcel (whether improved or not) where the nuisance is located. Service by mail is complete upon mailing. For purposes of this Article, the person making service may (but is not required to) rely upon any information appearing on record in the office of the Jefferson County Tax Assessor to establish the identity of an owner of

property or to establish a person or entity's last known address, which if utilized shall be deemed conclusive and sufficient proof of the same.

(d) Optional Notice. The City Compliance Officer, the City Clerk, the Mayor and/or City Manager, and/or any police officer of the City is authorized within his sole discretion, but not required, to utilize any additional means of providing notice deemed appropriate. Specifically, said persons are authorized to, but not limited to, provide this additional, optional notice by placement of notice in a public place or places located within the City, by publishing notice in a newspaper of general circulation published in the City as often and for as long as deemed appropriate, or by the placement of a sign or signs upon the offending property. The additional, optional notice provided for in this Subsection may be provided in whatever form the person giving notice deems appropriate in his sole discretion. Any person, other than a City officer, agent, or employee, who removes a sign or notice placed pursuant to this Subsection prior to the time that the offending growth is cut or abated in its entirety shall be guilty of a misdemeanor.

(e) Public Hearing. At the time stated in the notice for the public hearing, the City Council shall hear and consider all evidence, objections, and protests regarding the proposed removal of weeds. The City Council (either by vote of simple majority of those present or through the direction of the Mayor and/or City Manager as chair of the meeting) may continue the hearing from time to time.

(f) Resolution to Abate. After public hearing, if it is found that there is a growth of weeds to a height of over twelve inches or otherwise constituting a nuisance pursuant to Section 2 of this Ordinance Number 2567, the City Council may, by resolution, declare the weeds to be a public nuisance and order its abatement. The resolution shall refer to the street by the name under which it is commonly known or describe the property upon which or in front of which the nuisance exists by giving a legal description of the property and no other description of the property shall be required. Any number of streets, sidewalks, or parcels of private property may be included in one resolution. The City Council, by passage of the resolution, shall be deemed to have acquired jurisdiction to proceed and either to perform or have performed the work of removal or abatement with respect to the property or part thereof. The decision of the City Council on the matter shall be deemed final and conclusive.

(g) Abatement of Nuisance. After the City Council passes the resolution finding the conditions of the property to be a nuisance and ordering its abatement, all officers, employees, and agents of the City may

enter upon the private property to abate the nuisance. Alternatively, the City Council may authorize private contractors, companies, enterprises, or individuals to abate and remove the nuisance. The City Council (by resolution), the Mayor and/or City Manager, and/or any other agent, officer, or employee of the City so authorized by the Mayor and/or City Manager shall designate the contractors, companies, enterprises, or individuals who may perform the work. Those persons so designated may enter upon private property for purposes of abating or removing the nuisance. For purposes of this Article, compliance with the competitive bid law is not required.

(h) City Compliance Officer. For purposes of this Article, this City Compliance Officer shall be the City Police Officer and/or any other agent, officer, or employee of the City so authorized by the Mayor and/or City Manager.

Section 4. Weeds and other vegetation—Reporting, Assessment, and Collection

of Costs of Abatement:

(a) Reporting of Costs. The City adopts Section 11-67-65 of the *Code of Alabama* (1975) as that section may be amended or renumbered over time as its procedures for the reporting of costs of abating or removing a nuisance. However, this Subsection (a) is merely directory, and failure to comply with this provision shall not render any weed lien void or otherwise invalidate an action or omission of a City officer, agent, or employee when he is exercising his discretion.

(b) Weed Lien: Generally. After the abatement of any overgrown grass or weeds pursuant to the procedures provided in Section 2 of this Ordinance Number 2567, the costs of abatement shall be assessed and collected as a weed lien in the same manner as provided in Section 11-67-66 of the *Code of Alabama* (1975).

(c) Weed Lien: State Land. The City may assess the costs authorized against any lot or lots or parcel or parcels of land purchased by the State of Alabama or any purchaser at any sale for the nonpayment of taxes and where an assessment is made against a lot or lots or parcel or parcels of land, a subsequent redemption thereof by a person authorized to redeem or sale thereof by the State, shall not operate to discharge, or in any manner affect the lien of the City for the assessment, but a person redeeming the property or purchaser at a sale by the State of any lot or lots or

parcel or parcels of land upon which an assessment has been levied, whether prior to or subsequent to a sale to the State or purchaser for the nonpayment of taxes, shall take the same subject to the assessment.

(d) Cumulative Effect. This Article is cumulative in nature and in addition to any and all power and authority that the City may have under any other law.

Section 5. That this Ordinance shall become effective upon its adoption as provided by law;

Section 6. That the provisions of this Ordinance shall be included in and incorporated in the Code of Ordinances of the City of Vestavia Hills as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code; and

Section 7. That the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section of this Ordinance shall be declared unconstitutional by a court of competent jurisdiction, then such ruling shall not affect any other paragraph and sections, since the same would have been enacted by the City Council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph or section.

ADOPTED AND APPROVED this the 11th day of May, 2015.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION OF CITY CLERK

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, Rebecca Leavings, City Clerk of the City of Vestavia Hills, Alabama, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance duly adopted by the City Council of the City of Vestavia Hills, Alabama, on the 11th day of May, 2015.

The above and foregoing ordinance was published on the _____ day of _____, 2015, by posting copies thereof in three public places within the City of Vestavia Hills, one of which was the post office or the Mayor and/or City Manager's office in the City of Vestavia Hills.

Witness my hand and seal of office this _____ day of _____, 2015.

Rebecca Leavings, City Clerk