

**CITY OF CHERRYVALE**

**ORDINANCE NO. 13-4636**

**AN ORDINANCE AMENDING CHAPTER VI “ENVIRONMENTAL CONTROL”,  
ARTICLE 1 “NUISANCE REGULATION” AND REPEALING ANY CONFLICTING  
ORDINANCES.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHERRYVALE,  
KANSAS, THAT:**

**1. Article 1, Section 6-106 shall be amended as follows:**

**ARTICLE 1. NUISANCE REGULATION**

**6-106. WEEDS.**

(a) 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 except that no adjoining private landowner shall have the duty to mow all weeds or grass on public property where the bottom of a drainage ditch is eighteen inches or more below the surface of the roadway or alley. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.

(c) PUBLIC OFFICER; NOTICE TO REMOVE.

- (1) The Mayor shall designate a public officer to be charged with the administration and enforcement of this ordinance. The public officer or an authorized assistant shall notify in writing the owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this ordinance, by certified mail or by personal service, once per calendar year.
- (2) Such notice shall include the following:
  - (a) That the owner, occupant or agent in charge of the property is in violation of the city weed control law.
  - (b) That the owner, occupant, or agent in charge of the property is ordered to cut the weeds within five days of issuance.
  - (c) That the owner, occupant, or agent in charge of the property may request a hearing before the governing body or its designated representative within five days of issuance.
  - (d) That if the owner, occupant or agent in charge of the property does not cut the weeds, the city or its authorized agent will cut the weeds and assess the cost of the cutting including a reasonable administrative fee, against the owner, occupant or agent in charge of the property.

- (e) That the owner, occupant or agent in charge of the property will be given an opportunity to pay the assessment, and if it is not paid, it will be added to the property tax as a special assessment.
  - (f) That no further notice shall be given prior to removal of weeds during the current calendar year.
  - (g) That the public officer should be contacted if there are any questions regarding the order.
  - (h) Should the person fail to comply with the notice to abate the nuisance or request a hearing, the public officer may file a complaint in the municipal court of the city against such person and upon conviction of any violation of provisions of Section 6-106, be fined in an amount not to exceed \$500 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.
- (3) 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 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 section.

(a) ABATEMENT; ASSESSMENT OF COSTS.

- (1) Upon the expiration of five days after receipt of the notice required by Section (c), and in the event that the owner, or occupant or agent in charge of the premises shall neglect or fail to comply with the requirements of Section (a), the public officer or an authorized assistant shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.
- (2) The public officer or an authorized assistant shall give notice to the owner, occupant or agent in charge of the premises by mail, of the costs of abatement of the nuisance. The notice shall state that payment of the costs is due and payable within 30 days following receipt of the notice.
- (3) If the costs of removal or abatement remain unpaid after 30 days following receipt of notice, a record of the costs of cutting and destruction and/or removal shall be certified to the city clerk who shall cause such costs to be assessed against the particular lot or piece of land on which such weeds were so removed, and against such lots or pieces of land in front of or abutting on such street or alley on which such weeds were so removed. The city clerk shall certify the assessment to the county clerk at the time other special assessments are certified for spreading on the tax rolls of the county.

(h) PUBLICATION OF NOTICE TO PROPERTY OWNERS.

- (1) The City Clerk shall, at least once each year during the normal growing season, cause to be published in the official City paper a notice in substantially the following form:

Notice to Property Owners and persons in charge of property:


All property owners and persons in charge of property or possession of any tract, lot or piece of land in the City of Cherryvale, are hereby notified that all weeds, rank grass, and obnoxious vegetation now growing on private property in the City of Cherryvale, Kansas, Montgomery County, must be cut and removed in five (5) days.

(j) ALTERNATE OR SUPPLEMENTAL METHOD OF COLLECTING COSTS AND CHARGES

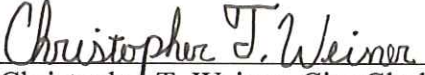
- (1) After determining the costs and charges for the city's cutting and removing weeds, rank grass, or obnoxious vegetable growth from each specific lot or piece of land, and the parkways in front thereof the City Clerk shall, within ten (10) days thereafter, mail a statement of costs to the last known address of the occupant or persons in charge of such property. If such costs are not paid within thirty (30) days from the date of mailing such notice City may file a civil action to enforce collection thereof.

**EFFECTIVE DATE.** This ordinance shall take effect and be in force upon its publication in the official City newspaper.

PASSED AND APPROVED by the Governing Body of the City of Cherryvale, Kansas, this 16<sup>th</sup> day of September, 2013.

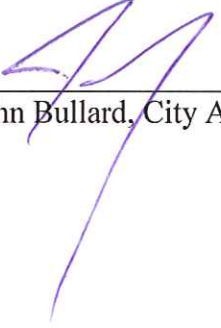
  
\_\_\_\_\_  
John M. Wright, Mayor

ATTEST:

  
\_\_\_\_\_  
Christopher T. Weiner, City Clerk



APPROVED TO FORM:

  
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John Bullard, City Attorney