

ORDINANCE 2024- 02

GRASS AND WEEDS

WHEREAS, the Town of Triana previously enacted Ordinance 1987-01 regulating weeds and grass, and;

WHEREAS, Alabama Code 11-67-20 through 11-67-28 provides for Class 8 Municipalities to abate weeds, and;

WHEREAS, the Town of Triana is desirous that the procedures in the Weeds and Grass Ordinance shall be in harmony with Alabama Code;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF TRIANA, ALABAMA AS FOLLOWS:

Section 1. Repeal of Prior Ordinances

Ordinance 1987-01 is hereby repealed.

Section 2. Definitions

- (a) *Weeds*: All weeds growing upon the streets, sidewalks, or upon private property, which bear seeds of a wingy or downy nature, which attain a large growth so as to become a fire menace when dry, or which are otherwise noxious or dangerous. (Ref. Alabama Code 11-67-21)
- (b) *Owner*: Any person, firm, or corporation holding title to real property, including individuals, corporations, partnerships, and other legal entities.
- (c) *Occupant*: Any person residing on or using the property, whether as owner or lessee.
- (d) *Code Enforcement Officer*: The official designated by the Town Council to enforce the provisions of this ordinance.

Section 3. Nuisance Weeds

Any growth of weeds more than twelve inches in height shall be deemed favorable to the harboring of mosquitoes or other insect, rats, or snakes, or rodents, or reptiles of like kind, within the meaning of this ordinance.

Section 4. Enforcement

- (a) *Inspection*: The Code Enforcement Officer shall periodically inspect properties within the town limits to ensure compliance with this ordinance.

(b) Notice of Violation: If weeds or grass on any property exceed the height limit, the Code Enforcement Officer shall issue a written notice of violation to the owner and occupant of the property. The notice shall be delivered by regular mail, and via attachment. The notice shall state the nature of the violation, the required corrective action, and a deadline for compliance, which shall be no less than 30 days from the date of the notice.

(c) Failure to Abate: If the owner, occupant or person(s) having charge of any such premises, fails to comply with the order of the Town Council requiring the cutting and/or removal of such weeds as defined by this ordinance, the Code Enforcement Officer shall prepare a report for the Town Council and Town Council shall proceed with abatement as described in the subsequent sections of this ordinance.

Section 5. Resolution declaring weeds to be public nuisance and ordering abatement

Whenever any weeds are growing upon any street, sidewalk, or private property the Town 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, 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. (Ref. Alabama Code 11-67-22)

Section 6. Notice to owner of public hearing; contents; publication in newspaper; posting of signs and form thereof.

After the passage of the resolution, notice of a public hearing on the matter shall be given by certified mail, return receipt requested, mailed 30 days prior to the date of the hearing and shall inform the owner of the time, date, and place of the hearing and the reason for the hearing. The notice shall be mailed to the owner of the property as the information appears on record in the office of the tax assessor.

All notices shall carry a list of names of persons or private contractors, or both, who perform the work and are registered with the city clerk. The names shall not constitute a recommendation and the failure to include a list shall in no way affect the operation of this article.

Notice 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 consecutive weeks, or if no newspaper is published in the county, notice shall be given by radio or television. The first notice shall be published at least 14 days prior to the date of the scheduled hearing.

In addition, two signs shall be conspicuously posted on the property. The wording of the signs shall not be less than one inch in height and shall be in substantially the following form:

NOTICE TO DESTROY WEEDS

Notice is hereby given that on the 9 day of Sept, 24 at ___ A.M./P.M. in the council chamber, the council of the Town of Triana will consider a resolution regarding the weeds growing upon or in front of the property 640th Street, in the Town of Triana, and more particularly described in the resolution, a copy of which is on file in the office of the Town Clerk; and at that time and place will determine whether the weeds constitute a public nuisance which shall be abated by the removal of the noxious or dangerous weeds; and, if so, will order the abatement and removal of the nuisance, in which case the cost of abatement and removal shall be assessed upon the lots and lands from which or in front of which the weeds are removed, and the cost shall be added to the next regular bills for taxes levied against the respective lots and lands for municipal purposes. The amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected. The amounts shall be subject to the same commissions and fees and the same procedure for foreclosure and sale in case of delinquency as provided for ordinary municipal taxes.

If no objections are filed with the Town Clerk at least five days before the meeting of the council and unless the person appears before the council in person or through his or her representative to show cause, if any, why his or her objection should be sustained, it shall be presumed that the person accepts the notice as fact and waives any rights he or she may have to contest the removal of the weeds and the action of the council shall be final unless good and sufficient cause can be otherwise shown.

Reference is hereby made to the resolution, on file in the office of the Town Clerk, for further particulars.

Dated this 9 day of Sept, 24.

Mary C. C. C.

Town of Triana, Alabama

By: Sharon Humphrey

Town Clerk

The notice shall be posted at least seven days prior to the time for hearing objections by the Town Council of the municipality. (Ref. Alabama Code 11-67-23)

Section 7. Hearing procedure; decision of council; jurisdiction to remove weeds; finality of decision.

If objections are filed, at the time stated in said notice, the Town Council of Triana shall hear and consider all evidence, objections, and protest regarding the proposed removal of weeds. The council may continue the hearing from time to time. Upon the conclusion of said hearing, the council, by resolution, shall decide whether a public nuisance exists and, if so, shall order it to be removed or abated with respect to any property or part thereof described. The Town Council, by passage of said 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 such property or part thereof. The decision of the Town Council on the matter shall be deemed final and conclusive. (Ref. Alabama Code 11-67-24)

Section 8. Entry of municipal employees and agents on property to abate nuisance; abatement by private contractor; right of owner to have weeds removed at owner's expense.

After the council passes the resolution finding the conditions of the property to be a nuisance and ordering its abatement, all employees and duly authorized agents of the Town of Triana may enter upon private property for that purpose.

The council may at its option authorize private contractors, companies, enterprises, or individuals to abate and remove the nuisance. The council, by resolution, 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.

Any property owner shall have the right to have any weeds removed at his or her own expense providing the removal is done prior to the commencing of the work by the employees or agents of the municipality to do the same. (Ref. Alabama Code 11-67-25)

Section 9. Account of cost of abatement or removal of nuisance; report to Town Council; posting of report.

The Town Clerk shall keep an account of the cost of abating or removing the nuisance in front of or on each separate lot or parcel of land where the work is done by it or its employees, or by a duly authorized private contractor, company, enterprise, or individual, and shall render an itemized report in writing to the Town Council showing the cost of removing the nuisance on each separate lot, or in front of the lot and before the report is submitted to the Town Council, a copy of the report shall be posted for at least five days prior thereto on or near the chamber door of the Town Council, together with a notice of the time when the report shall be submitted to the Town Council for confirmation. (Ref. Alabama Code 11-67-26)

Section 10. Hearing on cost of abatement or removal of nuisance; costs to constitute weed liens; report to tax collector; amounts to be included in tax bills; collection.

At the time fixed for receiving and considering said report, the Town Council shall hear the same, together with any objections which may be raised by any of the property owners liable to be assessed for the work of abating said nuisance and thereupon make such modifications in the report as they deem necessary, after which by motion or resolution said report shall be confirmed. The amounts of the cost for abating such nuisance in front of or upon the various parcels of land mentioned in said report shall hereinafter be referred to as "weed liens," and as thus made and confirmed shall constitute a weed lien on said property for the amount of such weed liens, respectively. After confirmation of said reports, a copy shall be turned over to the Madison Council Tax Collector who, under the "Optional Method of Taxation," is charged with the collection of the city's municipal taxes pursuant to Sections 11-51-40 through 11-51-74; whereupon it shall be the duty of Madison County Tax Collector to add the amounts of the respective weed liens to the next regular bills for taxes levied against the said respective lots and parcels of land, and thereafter said amounts shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency. (Ref. Alabama Code 11-67-27)

Section 11. Severability

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 12. Effective Date

This ordinance shall take effect thirty days after adoption and publication as required by law.

APPROVED and ADOPTED this [day] of [month], 2024

9 Sept.



MARY CAUDLE,
MAYOR, TOWN OF TRIANA

ATTEST:



SHARRON HUMPHREY
CLERK