

ORDINANCE 16-01

AN ORDINANCE TO AMEND THE ABATEMENT PROCESS AND DEFINITIONS FOR TRASH, WEEDS, AND DEBRIS AS STATED IN CHAPTER THIRTEEN (13) ARTICLES ONE (1) OF THE CITY CODE BOOK, CITY OF KREBS, PITTSBURG COUNTY, STATE OF OKLAHOMA.

Chapter 13 Article 1 Section 13-8
TRASH AND WEEDS

Sections:

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Section 13-8 Accumulation of Weeds or Trash Unlawful.

It is unlawful for any owner or person otherwise in possession or control of any lot, tract or parcel of land situated wholly or in part within the corporate limits of the city to allow trash or weeds to grow, stand or accumulated upon such premises and it is the duty of such owner or person or control of any lot, tract or parcel of land to remove or destroy any such trash or weeds.

Section 13-9 Definitions.

As used in this chapter, the following terms shall have the meanings -respectively ascribed to them in this section:

"Cleaning" means the removal of trash from property.

"Owner" means the owner of record as shown by the most current tax rolls of the County Treasurer;

"Trash" means any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, waste, or matter of any kind or form which is uncared for, discarded or abandoned; and "Weeds" means and includes but is not limited to poison ivy, poison oak or poison sumac and all vegetation at any stage of maturity which:

1. Exceeds twelve (12) inches in height, except healthy trees, shrubs or produce for human consumption or grown in a tended and cultivated garden unless such trees, shrubbery, or produce by their density or location constitute a detriment to the health, benefit and welfare of the public and community or a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of the weeds;
2. Regardless of height, harbors, conceals or invites deposits or accumulation of refuse or trash;

3. Harbors rodents or vermin;
4. Gives off unpleasant or noxious odors;
5. Constitutes a fire or traffic hazard; or
6. Is dead or diseased.

The term "weed" does not include tended crops on land zoned for agricultural use which are planted more than one hundred fifty (150) feet from a parcel zoned for other than agricultural use. (Prior code § 8-402; Ord. 961, § 1, eff. December 20, 1999) 8-76

Section 13-10 Reports of accumulation of grass, weeds or trash on property.

Reports of accumulation of trash or the growth of grass and weeds, or both of these conditions, shall be received and investigated by the code enforcement officer, or any other person authorized by the City Mayor, upon citizen complaint or upon his or her own notice. The property where the resulting accumulation or growth is occurring shall be deemed a public nuisance if it appears to be:

- A. Detrimental to the health, safety or welfare of the public and the community;
- B. A hazard to traffic; or
- C. A fire hazard.

Section 13-11 Notice, hearing and abatement.

A. Upon receiving a report and making a determination that a public nuisance exists as provided for in Section 13-10 of this chapter, the code enforcement officer, or any other person authorized by the City Mayor, shall give at least ten (10) days' notice to the owner of the property by mail at the address shown by the current year's tax rolls in the County Treasurer's office before a hearing may be held or action taken.

B. The notice shall order the property owner to clean the property of trash, or to cut or mow the weeds or grass on the property, as appropriate, and such notice shall further state that unless such work is performed within ten (10) days of the date of the notice, the work shall be done by the city and a notice of lien shall be filed with the County Clerk against the property for the costs due and owing the city. At the time of mailing of notice to the property owner, the city shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer.

C. If the property owner cannot be located within ten (10) days from the date of mailing by the city, notice may be given by posting a copy of the notice on the property or by publication in a newspaper of general circulation, as provided for by state law, one time not less than ten (10) days prior to any hearing or action by the city.

D. The property owner, within ten (10) days from the date of the notice, may give his or her written consent to the city authorizing the removal of the trash or the mowing of the weeds or grass. By giving such written consent, the property owner waives his or her right to a hearing by the city.

E. A hearing may be held by the City Mayor or his or her designee upon filing written notice with the City Clerk by the property owner within ten (10) days from the date of the notice. A date and time shall be set for said hearing, and the property owner shall be notified of such hearing in writing. The filing of a written notice of hearing with the City Clerk shall operate to stay any action by the city against the

property. The City Manager or his or her designee shall then hear the matter and shall receive information thereon, including anything which may be presented by the owner of the property, personally or by agent or attorney. If the City Mayor or his or her designee determines that any of the conditions specified in Section 8.48.030 of this chapter exist upon the property, he or she may order the property to be cleaned of trash and/or the weeds or grass to be cut, removed or destroyed unless within ten (10) days from the issuance of his or her order, the property owner either:

1. Cuts, removes or destroys the trash or weeds in accordance with the notice; or
2. Gives written consent authorizing the city to abate the trash or weeds thereby waiving his or her right to further hearing; or
3. Appeals to the City Council from the order of the City Mayor or his or her designee.

F. An appeal to the City Council from the order of the City Mayor or his or her designee shall be taken by filing written notice with the City Clerk within ten (10) days after the administrative order is rendered. The filing of written notice of appeal with the City Clerk shall operate to stay the enforcement of the order of the City Mayor appealed from. As soon thereafter as possible and upon not less than ten (10) days notice to the property owner, the City Council shall consider the matter de novo.

G. If the public nuisance continues to exist upon expiration of the notice, hearing or appeal processes as provided for in subsections A through F of this section, employees of the city or agents contracted by the city are granted the right of entry on the property for the removal of trash, mowing of weeds or grass, and performance of the necessary duties as a governmental function of the city.

H. Immediately following the cleaning and/or mowing of the property, the City Clerk shall file a notice of lien with the County Clerk describing the property and the work performed by the city, and stating that the city claims a lien on the property for the cleaning and/or mowing costs.

I. If a notice is given by the city to a property owner ordering the property within the city limits to be cleaned of trash and/or weeds or grass to be cut or mowed in accordance with the procedures provided for in the subsections A through H of this section, any subsequent accumulations of trash or excessive weed or grass growth on the property occurring within a six-month period may be summarily abated without further prior notice to the property owner provided the initial notice to the property owner shall state: "that any accumulations of trash or excessive weed or grass growth on the owner's property occurring within six months from and after the date of this notice may be summarily abated by the city, that the costs of such abatement shall be assessed against the owner, and that a lien may be imposed on the property to secure such payment, all without further prior notice to the property owner." At the time of each summary abatement, the city shall notify the property owner of the abatement and the costs thereof. The property owner may request a hearing regarding the costs of each summary abatement as provided for in Section 13-12(A) of this chapter. This subsection shall not apply if the records of the County Clerk show the property was transferred after notice was given.

Section 13-12 Determination and assessment of costs.

A. Upon completion of the work ordered to be performed under Section 13-11 of this chapter, the City Clerk shall determine the actual cost of such cleaning and mowing and any other expenses as necessary in connection therewith, including the cost of notice and mailing. The City Mayor or his or her designee shall examine the report and, after receiving appropriate information, shall determine the total cost of the work. Thereafter, the City Clerk shall forward by mail to the property owner at the 8-78 address shown by the current tax rolls of the County Treasurer of the county in which the property is located a statement of the actual costs and demand for payment. If the cleaning and mowing are done by the city, the cost to the property owner for the cleaning and mowing shall not exceed the actual cost of the labor, maintenance

and equipment required. If the cleaning and mowing are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

B. The property owner shall have a right to appeal to the City Council from the assessment rendered by the City Mayor or his or her designee. Such appeal shall be taken and held in accordance with the provisions of Section 13-11(F) of this chapter.

Section 13-13 Lien on the property – Civil remedy.

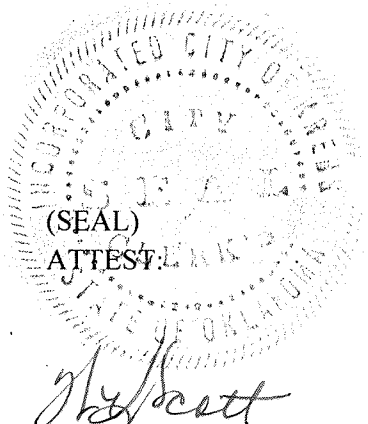
A. If payment is not made within thirty (30) days from the date of the mailing of the statement, the City Clerk shall forward a certified statement of the amount of the cost to the County Treasurer of the county in which the property is located, and same shall be levied on the property and collected by the County Treasurer as other taxes authorized by law. Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner from and after the date the cost is certified to the County Treasurer. In addition, the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the County Treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid.

B. At any time prior to collection as provided for in this section, the city may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, if any the City Clerk shall forward to the County Treasurer a notice of such payment and directing discharge of the lien.

Section 13-14 Uses and properties exempted.

The provisions of this section shall not apply to any property zoned and used for agricultural purposes, or to railroad property under the jurisdiction of the Oklahoma Corporation Commission. However, the City may cause the removal of weeds or trash from property zoned and used for agricultural purposes pursuant to the provisions of this section but only if such weeds or trash pose a hazard to traffic and are located in, or within ten (10) yards of, the public right-of-way.

PASSED AND APPROVED THIS 16th DAY OF February, 2016.



W. Kay Scott, Clerk/Treasurer

CITY OF KREBS

By: Bobby Watkins

Bobby Watkins, Mayor