

ORDINANCE NUMBER 04-2021-05

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GENEVA, ALABAMA, AS FOLLOWS:

ARTICLE I

SHORT TITLE

Short Title. This Ordinance shall be cited as the "Vegetation Ordinance".

ARTICLE II

PURPOSE

Purpose. In order to serve the public health, safety and welfare, the declared purpose of this article is to prohibit and order the abatement of certain public nuisances within the city which are defined by this article.

ARTICLE III- VEGETATION

ARTICLE III. - IN GENERAL

Secs. 100-1—100-30. - Reserved.

ARTICLE IV. - WEED CONTROL

State Law reference— Weed abatement generally, Code of Ala. 1975, § 11-67-20 et seq.

Sec. 100-31. - Purpose of article.

In order to serve the public health, safety and welfare, the declared purpose of this article is to prohibit and order the abatement of certain public nuisances within the city which are defined by this article.

Sec. 100-32. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Excluded properties means those properties which are in a heavily wooded area, areas in their natural state (i.e., not previously developed in any manner), property under current construction and farm properties. A lot or premises of more than five acres, including subdivisions in which no lots have been sold or occupied, shall be considered farm property and exempt from cutting or mowing; except that each such designated farm property, when such property is not under cultivation for useful purposes, shall be required to maintain an area of 100 feet from the abutting property lines of abutting residential or business property, which area shall be in compliance with this article.

Owner or owners of property means the legal titleholder, lessee, occupant of property, agent of the legal titleholder or lessee, person in charge, possession or control of such property.

Private property means real property owned by any individual, partnership, association, syndicate, company, firm, trust, corporation, business or any entity recognized by law.

Public nuisance means any growth of weeds, scrub, wild bushes, grass or other vegetative growth which exceeds 12 inches in height and which is injurious to the general public health, safety and welfare by providing breeding grounds and shelter for rats, mice, snakes, mosquitoes and other vermin, insects and pests; which obtains such heights and dryness so as to constitute serious fire threats or hazards; which bear 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; which hides debris, such as broken glass or metal, which could inflict injury on any person going upon the property; or which is unsightly.

Insect-breeding conditions. All premises within the city limits or police jurisdiction thereof shall be kept free from conditions which permit or favor the reproduction, propagation, growth or development of mosquitoes, and the discovery in and about any premises or receptacles of any kind wherein water has been allowed to collect and become stagnant shall be prima facie evidence of the reproduction or propagation of mosquitoes and of the keeping or maintaining of such premises in violation of the provisions hereof. It is hereby declared that the maintenance within the city or the police jurisdiction thereof of any premises in a condition which permits or favors the reproduction, propagation or growth of flies or mosquitoes is a nuisance. It shall be the duty of all occupants, owners or persons in charge of lots or pieces of land within the city limits or police jurisdiction to keep said property free from insect-breeding conditions.

Litter, garbage or trash, and debris. "Litter, trash or garbage" shall include all putrescible and nonputrescible discarded materials, including, but not limited to, garbage, rubbish, street and highway cleanings, dead animals, including offal; putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, including wastes from markets, storage facilities, handling and sale of produce and other food products; nonputrescible solid wastes, paper, rags, cartons, wood, furniture, rubber, plastics, yard trimmings, leaves and similar materials, glass, crockery, metal cans, metal furniture and like materials. The existence of such uncut and undestroyed weeds and obnoxious growths of vegetation or the existence of litter, trash or garbage is hereby declared to be a nuisance. *Debris:* Those things or conditions existing on private property in the city which are hazardous or detrimental to the public health or safety or which constitute a fire hazard, including conditions which by their unsightly appearance can result in decreasing the value of other properties in the immediate area. Debris includes, but is not limited to, the following: Accumulation of rubbish, trash, refuse, junk, and other abandoned materials, such as pallets and lumber; partially dismantled, nonoperating, wrecked, junked, or discarded motor vehicles, major recreational equipment, semi-trailers, trailers, or construction equipment; motor vehicle parts or other equipment parts, including, but not limited to, tires; and other equipment, garden tools, building supplies, household appliances, toys, or furniture.

Wrecked, damaged or demolished motor vehicles or junk shall mean any wrecked, damaged, demolished or disabled vehicle, or part or portion thereof, or junk which is left or permitted to remain upon any property or street, which is accessible to children or where weeds, grass and other vegetation is allowed to grow in or around such vehicle or junk is hereby declared to be a nuisance in that such vehicle, or part or portion thereof, or junk may create a fire hazard or afford a nesting place or breeding place for mosquitoes, flies, rodents, rats, and other vermin, and also may be an attractive nuisance to children, constituting a serious danger and threat to such children, and may be an additional costly obstruction to the care and maintenance of such property or street when weeds, grass or other vegetation must be removed by private individuals or the City of Geneva.

Vacant lots means any area of land that either has no structure upon it or has an unoccupied structure, whether that unoccupied structure is business or residential, upon the premises. A vacant lot will encompass adjoining and/or included easements, ditches and alleyways.

Enforcing Official shall be the code enforcement officer, any official of the city police department, or any other city employee designated by the Mayor as the person to exercise the authority and perform the duties delegated by this article to the enforcing official.

Sec. 100-33. - Maintenance of vacant property.

- (a) It shall be unlawful and a public nuisance in violation of this article for the owner of any private property situated within the corporate limits of the city to allow such private property to become overgrown with tall grass or with any weed or plant or other vegetable matter which exceeds a height of 12 inches, other than ornamental plant growth. This section does not apply to excluded properties.
- (b) Private property in violation of this article is a public nuisance and will be dealt with by the city pursuant to the provision of this article and Code of Ala. 1975, § 11-67-20 et seq. The city may also initiate criminal proceedings against the owner of such property. The institution of one procedure does not preclude the subsequent or simultaneous institution of the other procedure.
- (c) A criminal prosecution within the purview of this article shall constitute a misdemeanor and shall be punishable, upon conviction, Wherever in this Code or in any of the city ordinances any act is prohibited or is made or declared to be unlawful or an offense or misdemeanor or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful and no specific penalty is provided, the violation of any such provision of this Code or any such ordinance shall be punished by a fine of not less than \$50.00 nor more than \$500.00 or by imprisonment in the jail or at hard labor for a period of not exceeding six months or by both such fine and imprisonment, at the discretion of the judge trying the case. Each day any violation of this Code or any such city ordinance shall continue shall constitute a separate offense.

State Law reference— Municipalities authorized to abate nuisances, Code of Ala. 1975, §§ 11-47-117, 11-47-118.

Sec. 100-34. - Notification and enforcement.

- (a) *Nuisance declaration.* All weeds, scrub, wild bushes, grass or other vegetable growth located upon the streets, sidewalks or upon private property in the city which bear seeds of a wingy or downy nature or which attain such growth of 12 inches or taller which becomes a fire menace when dry or which are otherwise noxious or dangerous may be declared a public nuisance by the Geneva City Council and, thereafter, abated as provided in this section.
- (b) *Nuisance resolution.* Whenever any such weeds are growing upon any street, sidewalk or private property, the Geneva City Council may, by resolution, declare the weeds to be a public nuisance and order its abatement. Such 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 thereto, 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 and the same resolution.
- (c) *Notice of hearing.* After passage of such 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 therefor. The notice shall be mailed to the owner of the property as the property appears on record in the tax assessor's office for the county. All notices shall carry a list of names of persons and/or private contractors who perform such work and are registered with the city clerk. Such names shall not constitute a recommendation, and the failure to include such 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 for once a week for two consecutive weeks. The first notice shall be published at least 14 days prior to the date of the scheduled hearing. In addition thereto, two signs shall be conspicuously posted on the property. The wording of such 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 _____ day of _____, 19____, at _____ a.m./p.m. in the Geneva City Council Chambers, the Geneva City Council Members of the City of Geneva will consider a resolution regarding the weeds growing upon or in front of the property on _____

Street in the City of Geneva and more particularly described in said resolution, a copy of which is on file in the office of the city clerk; and at that time and place will determine whether the weeds constitute a public nuisance which must 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 such abatement and removal shall be assessed upon the lots and lands from which or in front of which such weeds are removed, and such cost will constitute a lien for weed removal upon such lots or lands until paid.

If no objections are filed with the city clerk at least five days before the meeting of the Geneva City Council, and unless such person appears before the Geneva City Council in person or through his representative to show cause, if any, why his objection should be sustained, it shall be presumed that the person accepts the notice as fact and waives any rights he may have to contest the removal of the weeds. The action of the Geneva City 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 city clerk, for further particulars.

Dated this ____ day of _____, 20__.

City of Geneva, Alabama By: _____ City Clerk
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The notice shall be posted at least seven days prior to the time for hearing objections by the Geneva City Council.

- (d) *Objections.* If objections are filed at the time stated in the notice, the Geneva City Council shall hear and consider all evidence, objections and protest regarding the proposed removal of weeds. The Geneva City Council may continue the hearing from time to time. Upon the conclusion of the hearing, the Geneva City 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 of such property described. The Geneva City Council by passage of such 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 of such property. The decision of the Geneva City Council on the matter shall be deemed final and conclusive.
- (e) *Abatement.* After the Geneva City 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 city are hereby expressly authorized to enter upon private property for that purpose. The Geneva City Council may at its option authorize private contractors, companies, enterprises or individuals to abate and remove the nuisance. The Geneva City Council by resolution shall designate the contractors, companies, enterprises or individuals who may perform the work. Those persons so designated are hereby authorized to 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 such weeds removed at his own expense providing that the removal is done prior to the commencing of the work by the employees or agents of the city to remove such weeds.

- (a) The city shall keep and account for the costs of abating or removing such nuisances 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 Geneva City Council showing the cost of removing the nuisance on each separate lot or in front thereof, or both; provided, however, that before the report is submitted to the Geneva City Council, a copy of the report shall be posted for at least five days prior thereto on or near the chamber door of the Geneva City Council, together with a notice of the time when the report shall be submitted to the Geneva City Council for confirmation.
- (b) At the time fixed for receiving and considering the report, the Geneva City Council shall hear the report, together with any objections which may be raised by any of the property owners liable to be assessed for the work of abating the nuisance and, thereupon, make such modifications in the report as they deem necessary after which by motion or resolution the 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 the report shall hereinafter be referred to as "weed liens" and, as thus made and confirmed, shall constitute a weed lien on the property for the amount of such weed liens, respectively. After confirmation of the reports, a copy shall be turned over to the county tax collector who, under the optional method of taxation, is charged with the collection of the city's municipal taxes pursuant to Code of Ala. 1975, §§ 11-51-40—11-51-74, as amended; whereupon, it shall be the duty of the county tax collector to add the amounts of the respective weed liens to the next regular bills for taxes levied against the respective lots and parcels of land. Thereafter, such 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.
- (c) Private contractors seeking to participate in this program in accordance with this article shall be required to provide proof of liability insurance in the amounts routinely required by the city for similar projects, prior to being listed as a private contractor with the City of Geneva, and will provide proof of current liability insurance coverage, upon request, and will accept responsibility for any damages to the subject lots and surrounding areas which may occur during the cutting/cleaning of the subject property. The insurance policy shall contain an endorsement that such policy shall not be cancelled without giving to the city ten days' written notice of any proposed cancellation of such policy.
- (d) If the subject property is brought into complete compliance with this article after the property is declared a public nuisance and prior to the private contractor or city crew being dispatched for cutting, the property will not be cut; however, the assessed owner will be subject to and liable for the administrative charges which will be collected in the same manner as other charges in accordance with this article.
- (e) If the subject property is not brought into complete compliance with the article prior to the day designated by the Geneva City Council for the property to be delegated to a private contractor or city crew for cleaning, the subject property will be cleaned, and a weed lien shall be assessed against the property in the amount of administrative charges and cleaning costs.

Sec. 100-36. - Abatement of lot and parcel groups.

Groups of lots and parcels to be abated under this article and Code of Ala. 1975, § 11-67-20 et seq., will be established fairly and equitably taking into consideration the following criteria:

- (1) A comparable disbursement of property to begin with, based upon square footage, within each group; and
- (2) As minimal a traveling distance between lots and parcels within each group as possible.

Sec. 100-37. - Verification and payment of private contractor.

- (a) Upon the private contractor bringing all lots/parcels in a group into complete compliance within the required 15 days, the private contractor will submit a request for payment along with verification of cutting/cleaning (i.e., dated before and after photographs).

- (b) Payment will not be made for any cutting within a group unless the entire group is brought into complete compliance within the specified period of time allowed following all requirements of this article, Code of Ala. 1975, § 11-67-20 et seq., and established policies and procedures.
- (c) Upon compliance with the requirements as set forth, payment will be made by the city to the private contractor at an established rate per square foot as set by the Geneva City Council from time to time and for debris removal as applicable.

Secs. 100-38—106-60. - Reserved.

ARTICLE V. - REPEAT OFFENDERS

Sec. 100-61. - Notification and enforcement.

- (a) *Notice of violation.* Pursuant to Act 2014-303, whenever a nuisance exists that was previously abated pursuant to article IV of this chapter, the owner of the property on which the nuisance is located shall remove all weeds, scrub, wild bushes, grass or other vegetative growth located upon the streets, sidewalks or upon private property in the city which; bear seeds of a wingy or downy nature, or which attain a growth height of 12 inches or taller, or which becomes a fire menace when dry, or which provide habitat to rats, snakes or other disease vectors, or which are otherwise noxious or dangerous. A notice of violation shall be sent by certified mail, return receipt requested, to the owner of the property ordering the condition be abated within ten calendar days.
- (b) *Abatement.* Should the owner fail, neglect, or refuse to abate the condition by the date in the notice, the city official shall cause the offending grass or weeds to be cut either by city forces or as contracted. Those persons so designated are hereby authorized to 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 such weeds removed at his own expense providing that the removal is done prior to the commencing of the work by the employees or agents of the city to remove such weeds. Further, should the conditions warrant, criminal proceedings may be initiated against the owner of such property and docketed for expedited hearing.
- (c) *Appeal.* A property owner shall have seven calendar days following issuance of notice to request a hearing before the administrative official to appeal the determination of the city official. The administrative official shall be appointed by the governing body of the municipality. Requested hearings before the administrative official shall be held no more than 14 days following receipt of the appeal by the administrative official. After the hearing, the administrative official shall notify the owner by personal service or by first class mail of his or her determination. If the administrative official determines that a nuisance does not exist, the abatement process shall be terminated.

Sec. 100-62. - Administrative procedures.

The administrative procedures for this article shall be the same as specified for article IV, section 100-35.

ARTICLE VI

VIOLATIONS

Any person violating any of the provisions of this Ordinance shall, for each such offense, be punished by a fine of not less than Fifty (\$50.00) and not more than Five Hundred Dollars (\$500.00).

ARTICLE VII

REPEALER

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

ARTICLE VIII

PUBLICATION

This Ordinance shall be published in the Geneva County Reaper, a newspaper published in Geneva County, Alabama as required by law.


ADOPTED AND APPROVED on this 5th day of April, 2021.

The City of Geneva, Alabama

By: 

David Hayes, Mayor

ATTEST:



Lisa Johnson, City Clerk