CITY OF COFFEYVILLE
BOARD OF COMMISSIONERS AGENDA ITEM

MEETING DATE	November 10, 2015	
RESOLUTION OR ORDINANCE NUMBER	G-15-06	
AGENDA TITLE	Ordinance to amend Chapter 27 of the Code of Ordinances of the City of Coffeyville.	
REQUESTING DEPARTMENT	Administration	
PRESENTER	Paul Kritz & Kendal Francis	
FISCAL INFORMATION	Cost as recommended:	Publication of Ordinance
	Budget Line Item:	N/A
	Balance Available	N/A
	New Appropriation Required:	[ ] Yes [X] No
PURPOSE	Clarify the ordinance to make it equitable, easier to understand and to enforce.	
BACKGROUND	Review of the vegetation ordinance revealed inconsistencies in language, which led to confusion in enforcement. Staff compared ordinances from several cities and incorporated those best practices into a common sense approach to dealing with high grass and weeds.	
SPECIAL NOTES		
ANALYSIS		
PUBLIC INFORMATION PROCESS		
BOARD OR COMMISSION RECOMMENDATION		

STAFF RECOMMENDATION	Approve Ordinance G-15-
REFERENCE DOCUMENTS ATTACHED	

Comment: changes from our existing Ordinance (G-99-01) are highlighted for your review.

ORDINANCE NO. G-15-06

AN ORDINANCE AMENDING CHAPTER 27, VEGETATION, ARTICLE II, WEEDS ~~AND OBNOXIOUS VEGETABLE GROWTHS~~, SECTIONS 27-16 THROUGH 27-33 OF THE CODE OF ORDINANCES OF THE CITY OF COFFEYVILLE, KANSAS, AND REPEALING ORDINANCE NO. 99-01 AND ANY OTHER CONFLICTING ORDINANCES OR PARTS THEREOF. Comment: I removed the reference to "Obnoxious Vegetable Growths" from the title of the ordinance as discussed at the 10/13/15 meeting.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COFFEYVILLE, KANSAS:

SECTION 1. That Chapter 27, Vegetation, Article II, Weeds ~~and Obnoxious Vegetable Growths~~, Sections 27-16 through 27-33 of the Code of Ordinances of the City of Coffeyville, Kansas, be and is hereby amended, as follows:

Sec. 27-16. Weeds to be removed.

(a) It shall be unlawful for any owner, agent, lessee, tenant, or other person having legal title to, occupying, or having charge or control of any real property within the City to permit weeds to remain upon the property or any area between the property lines of the property 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. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided. Comment: G-99-01 used "lots, pieces of land" instead of "real property"

(b) Exceptions.

(1) Property, or portions thereof, designated by the City as controlled natural or native grass planting areas are exempt from the provisions of this ordinance. Such areas may include, without limitation, golf courses, forested areas, property within flood zones or storm water drainage areas, abandoned rail spurs, and undeveloped commercial or industrial parcels.

(2) Inaccessible drainage ways, easements, and rights-of-way, as determined by the public officer, are exempt from the provisions of this ordinance.

(3) Property in excess of three (3) acres, which is not included within a final plat of record with the Montgomery County Register of Deeds, are exempt from the provisions of this ordinance, except as to the areas within 200' of any public street or within 100' of any adjacent, improved property. The public officer, in consultation with the City Manager, and with the written agreement of all affected property owners, may deviate from the stated distances to allow for special circumstances that would otherwise not be effectively covered by this ordinance. Comment: these are all new

provisions and represent the only substantial changes to the existing ordinance. I also added the verbiage in red font for your consideration.

Sec. 27-17. Definitions.

(a) *Calendar year* as used herein, means that period of time beginning January 1 and ending December 31 of the same year.

(b) *Weeds* as used herein, means any of the following:

(1) Brush and woody vines shall be classified as weeds;

(2) Vegetation and indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;

(3) Vegetation which bears or may bear seeds of a downy or wingy nature;

(4) Vegetation which is located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety, or welfare;

(5) Vegetation and indigenous grasses on or about property which, because of its height, has a blighting influence on a neighborhood. Any such vegetation and indigenous grasses shall be presumed to be blighting if they exceed twelve inches (12") in height. Comment: G-99-01 uses the phrase "residential property" rather than "property" in this section.

(c) *Improved property* as used herein means real property containing any permanent structure thereon, which increases its value. Comment: this definition was added following the 10/13/15 meeting to better define the term.

(d) The term *weeds* shall not include cultivated flowers or plants, ornamental grasses, or gardens. Comment: this is a new provision.

Sec. 27-18. Public officer; notice to remove.

The city manager shall designate a public officer to be charged with the administration and enforcement of this article. The public officer shall notify in writing the owner, occupant, or agent in charge of any property in the city upon which weeds exist in violation of this article, by first class mail or by personal service, once per calendar year. Such notice shall include the following: Comment: the first sentence is new. The current ordinance states the "City Clerk or City Inspector" shall notify … so that was changed to "public officer".

(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 ten (10) days of the date of issuance of notice; Comment: changed from "receipt" to "issuance". We send the notices via first class mail and could not prove when the notice letter was "received".

(c) That the owner, occupant, or agent in charge of the property may request a hearing before the city manager, or the city manager's designee, within five (5) days of the issuance of notice; Comment: changed from "receipt" to "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 or otherwise destroying the weeds, including a reasonable administrative fee in accordance with the City's fee schedule adopted by separate Resolution, against the owner, occupant, or agent in charge of the property; Comment: current ordinance states " … cutting, including a reasonable administrative fee, …"

(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, and become a personal debt; Comment: this is new verbiage and would allow the City to refer unpaid mowing charges for debt collection.

(f) That no further notice shall be given prior to removal of weeds during the current calendar year;

Comment: the current ordinance states "The City Clerk should be contacted if there are any questions regarding the order." That requirement has been removed from this ordinance. The City Clerk is not involved in the administration of this ordinance.

If there is a change in the record owner of title to real property subsequent to the giving of notice pursuant to 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 against the new record owner of the real property, unless such owner is provided notice as required by this section.

Sec. 27-19. Abatement; assessment of costs.

(a) Upon the expiration of the ten (10) day period established in Section 27-18(b), and in the event that the owner, occupant or agent in charge of the property shall neglect or fail to comply with the requirements of this ordinance, the public officer shall cause to be cut, destroyed, and/or removed all weeds and abate the nuisance created thereby at any time during the current calendar year.

(b) The public officer shall give notice to the owner, occupant, or agent in charge of the property, by first class mail, of the costs of abatement of the nuisance. The notice shall state that the payment is due and payable within thirty (30) days following mailing of the notice.

(c) If the costs of removal or abatement remain unpaid after thirty (30) days following mailing 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 parcel of land on which the weeds were so removed, and against such lots or parcels 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. In addition to remedies available to the city to collect assessments levied against property, if any assessments for costs of abatement levied by the city in accordance with this section remain unpaid by the owner of a lot or parcel of ground, the city may collect the amount due in the same manner as a personal debt of the property owner to the city, by bringing an action in the appropriate district court.

Comment: these are new provisions.

Sec. 27-20. Right of entry.

The public officer, and the public officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing weeds in a manner consistent with this article.

Sec. 27-21. Unlawful interference.

It shall be unlawful for any person to interfere with, or to attempt to prevent, the public officer or the public officer's authorized representative from entering upon any lot or parcel of land, or from proceeding with cutting and destruction of weeds. Such interference shall constitute an ordinance violation. Comment: This is a new provision.

Sec. 27-22. Penalty.

A violation of Section 27-21 shall be punishable as follows: upon a first conviction, a person shall be fined $100.00; for a second conviction within a five-year period of time, a fine of $300.00; and for a third and subsequent conviction within a five-year period of time, a fine of $500.00 shall be imposed. Comment: This is a new provision.

Sec. 27-23. Noxious weeds.

(a) Nothing in this article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.

(b) For the purpose of this action, the term noxious weeds shall mean kudzu (Pueraria lobata), field bindweed (Convolvulus arvensis), Russian knapweed (Centaurea picris), hoary cress (Lepidium draba), Canada thistle (Cirsium arvense), quackgrass (Agropyron repens), leafy spurge (Euphorbia esula), burragweed (Franseria tomentose and discolor), pignut (Hoffmannseggia densiflora), musk (nodding) thistle (Carduus nutans L.), and Johnson grass (Sorghum halepense).

Sec. 27-24 through 27-33. RESERVED.

SECTION 2. This Ordinance shall be in full force and effect from and after its adoption and publication as provided by law.

SECTION 3. That Ordinance No. 99-01 and any other conflicting ordinances or parts thereof are hereby repealed.

PASSED AND APPROVED this 24th day of November, 2015.

_____
Christopher V. Williams, Mayor

ATTEST:

_____
Cindy Price, City Clerk

APPROVED AS TO FORM:

_____
Paul Kritz, City Attorney

ORDINANCE NO. G-15-06

AN ORDINANCE AMENDING CHAPTER 27, VEGETATION, ARTICLE II, WEEDS, SECTIONS 27-16 THROUGH 27-33 OF THE CODE OF ORDINANCES OF THE CITY OF COFFEYVILLE, KANSAS, AND REPEALING ORDINANCE NO. 99-01 AND ANY OTHER CONFLICTING ORDINANCES OR PARTS THEREOF.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COFFEYVILLE, KANSAS:

SECTION 1. That Chapter 27, Vegetation, Article II, Weeds, Sections 27-16 through 27-33 of the Code of Ordinances of the City of Coffeyville, Kansas, be and is hereby amended, as follows:

Sec. 27-16. Weeds to be removed.

(a) It shall be unlawful for any owner, agent, lessee, tenant, or other person having legal title to, occupying, or having charge or control of any real property within the City to permit weeds to remain upon the property or any area between the property lines of the property 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. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.

(b) Exceptions.

(1) Property, or portions thereof, designated by the City as controlled natural or native grass planting areas are exempt from the provisions of this ordinance. Such areas may include, without limitation, golf courses, forested areas, property within flood zones or storm water drainage areas, abandoned rail spurs, and undeveloped commercial or industrial parcels.

(2) Inaccessible drainage ways, easements, and rights-of-way, as determined by the public officer, are exempt from the provisions of this ordinance.

(3) Property in excess of three (3) acres, which is not included within a final plat of record with the Montgomery County Register of Deeds, are exempt from the provisions of this ordinance, except as to the areas within 200’ of any public street or within 100’ of any adjacent, improved property. The public officer, in consultation with the City Manager, and with the written agreement of all affected property owners, may deviate from the stated distances to allow for special circumstances that would otherwise not be effectively covered by this ordinance.

Sec. 27-17. Definitions.

(a) *Calendar year* as used herein, means that period of time beginning January 1 and ending December 31 of the same year.

(b) *Weeds* as used herein, means any of the following:

(1) Brush and woody vines shall be classified as weeds;

(2) Vegetation and indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;

(3) Vegetation which bears or may bear seeds of a downy or wingy nature;

(4) Vegetation which is located in an area which harbors rats, insects, animals, reptiles, or any other creature which either may or does constitute a menace to health, public safety, or welfare;

(5) Vegetation and indigenous grasses on or about property which, because of its height, has a blighting influence on a neighborhood. Any such vegetation and indigenous grasses shall be presumed to be blighting if they exceed twelve inches (12”) in height.

(c) *Improved property* as used herein means real property containing any permanent structure thereon, which increases its value.

(d) The term *weeds* shall not include cultivated flowers or plants, ornamental grasses, or gardens.

Sec. 27-18. Public officer; notice to remove.

The city manager shall designate a public officer to be charged with the administration and enforcement of this article. The public officer shall notify in writing the owner, occupant, or agent in charge of any property in the city upon which weeds exist in violation of this article, by first class mail or by personal service, once per calendar year. 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 ten (10) days of the date of issuance of notice;

(c) That the owner, occupant, or agent in charge of the property may request a hearing before the city manager, or the city manager’s designee, within five (5) days of the issuance of notice;

(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 or otherwise destroying the weeds, including a reasonable administrative fee in accordance with the City's fee schedule adopted by separate Resolution, 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, and become a personal debt;

(f) That no further notice shall be given prior to removal of weeds during the current calendar year;

If there is a change in the record owner of title to real property subsequent to the giving of notice pursuant to 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 against the new record owner of the real property, unless such owner is provided notice as required by this section.

Sec. 27-19. Abatement; assessment of costs.

(a) Upon the expiration of the ten (10) day period established in Section 27-18(b), and in the event that the owner, occupant or agent in charge of the property shall neglect or fail to comply with the requirements of this ordinance, the public officer shall cause to be cut, destroyed, and/or removed all weeds and abate the nuisance created thereby at any time during the current calendar year.

(b) The public officer shall give notice to the owner, occupant, or agent in charge of the property, by first class mail, of the costs of abatement of the nuisance. The notice shall state that the payment is due and payable within thirty (30) days following mailing of the notice.

(c) If the costs of removal or abatement remain unpaid after thirty (30) days following mailing 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 parcel of land on which the weeds were so removed, and against such lots or parcels 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. In addition to remedies available to the city to collect assessments levied against property, if any assessments for costs of abatement levied by the city in accordance with this section remain unpaid by the owner of a lot or parcel of ground, the city may collect the amount due in the same manner as a personal debt of the property owner to the city, by bringing an action in the appropriate district court.

Sec. 27-20. Right of entry.

The public officer, and the public officer's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing weeds in a manner consistent with this article.

Sec. 27-21. Unlawful interference.

It shall be unlawful for any person to interfere with, or to attempt to prevent, the public officer or the public officer's authorized representative from entering upon any lot or parcel of land, or from proceeding with cutting and destruction of weeds. Such interference shall constitute an ordinance violation.

Sec. 27-22. Penalty.

A violation of Section 27-21 shall be punishable as follows: upon a first conviction, a person shall be fined $100.00; for a second conviction within a five-year period of time, a fine of $300.00; and for a third and subsequent conviction within a five-year period of time, a fine of $500.00 shall be imposed.

Sec. 27-23. Noxious weeds.

(a) Nothing in this article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.

(b) For the purpose of this action, the term noxious weeds shall mean kudzu (Pueraria lobata), field bindweed (Convolvulus arvensis), Russian knapweed (Centaurea picris), hoary cress (Lepidium draba), Canada thistle (Cirsium arvense), quackgrass (Agropyron repens), leafy spurge (Euphorbia esula), burragweed (Franseria tomentose and discolor), pignut (Hoffmannseggia densiflora), musk (nodding) thistle (Carduus nutans L.), and Johnson grass (Sorghum halepense).

Sec. 27-24 through 27-33. RESERVED.

SECTION 2. This Ordinance shall be in full force and effect from and after its adoption and publication as provided by law.

SECTION 3. That Ordinance No. 99-01 and any other conflicting ordinances or parts thereof are hereby repealed.

PASSED AND APPROVED this 24th day of November, 2015.

Christopher V. Williams, Mayor

ATTEST:

Cindy Price, City Clerk

APPROVED AS TO FORM:

Paul Kritz, City Attorney