

ORDINANCE NO. 2025-02-03-02

**AN ORDINANCE DECLARING OVERGROWN GRASS AND ABUNDANT WEEDS
AND OTHER VEGETATION THAT POSE A THREAT TO THE PUBLIC TO BE A
PUBLIC NUISANCE, PROVIDING FOR THE ABATEMENT OF SUCH CONDITIONS;
AND PROVIDING PENALTIES FOR VIOLATIONS; AND PROVIDING FOR AN
EFFECTIVE DATE OF SAID ORDINANCE**

BE IT ORDAINED BY THE CITY COUNCIL OF ASHLAND, ALABAMA AS FOLLOWS:

ARTICLE I. ADMINISTRATION

Section 1.1: Purpose. Pursuant to the authorities of Code of Alabama, including §§ 11-47-117, 11-47-131, 11-67-20 through -28, 11-67-60 through -68, and 11-47-130 through -140, Code of Alabama (1975), as such statutes now exist or as they may hereafter be amended or replaced, the City of Ashland, Alabama hereby declares that weeds and/or overgrown grass, as defined herein, constitute a public nuisance.

ARTICLE II. DEFINITIONS

Section 2.1. Definitions. For the purposes of this ordinance, the following terms, phrases, words, and their respective derivations shall have the meanings given herein:

A. Appropriate City Official. The term appropriate city official shall mean any law enforcement officer with the City’s Police Department and any city official or city employee designated by the mayor of the City as a person authorized to exercise the authority and perform the duties herein. In addition, any city employee whose title includes “Code Enforcement Officer” or is designated by the chief of police as a code enforcement officer is an appropriate city official.

B. City. The City of Ashland, Alabama.

C. County. Clay County, Alabama.

D. Owner. A person whether singular or plural, listed as the titleholder of record in the records of the City, County, or State, including the information on file with the County's revenue commissioner, or who is otherwise identified to be the owner of an equitable or beneficial interest in the subject property.

E. Person. Any individual, firm, corporation, or other entity or organization of any kind. The term "person" shall include, but not be limited to, any trustee, administrator, executor, personal representative, other legal representative, including guardians and conservators, and/or the heirs, successors, or assigns of such person where the text so permits.

F. Weeds or Overgrown Grass. Any abundance of overgrown grass or weeds within the City that is injurious to the general public health, safety, and general welfare by providing breeding grounds and shelter for rats, mice, snakes, mosquitoes, and other vermin, insects, and pests; any weeds and grass attaining such heights and dryness that constitute a serious fire hazard or threat; any weeds or vegetation bearing wingy or down seeds, that when mature, cause the spread of weeds and, when breathed, irritation to the throat, lungs, and eyes, of the public; any weeds or grass capable of hiding debris, such as broken glass or metal, that may inflict injury on a person going upon the property; or any weeds or grass that is otherwise noxious or dangerous. Any growth of grass or weeds, other than ornamental plant growth, that exceeds twelve inches (12") in height, is hereby deemed to have attained a growth so large that the same poses a serious fire hazard or threat and that is favorable to harboring of rats, mice, snakes, mosquitoes, and other vermin, insects, or pests.

Section 2.2. Exclusions. This ordinance shall be inapplicable to the following:

A. Any weeds or overgrown grass the City Council, after recommendation by an appropriate city official, deems necessary to control erosion; provided, however, that such a determination shall only apply prospectively.

B. Any property located beyond the corporate limits of the City of Ashland, Alabama;

C. Any property zoned AG-Agricultural;

D. Cultivated row crops and garden plants in their respective growing seasons, provided, however, this exception shall apply only to growing crops and garden plants and shall not be construed as allowing any crops or gardens to harbor weeds and overgrown grass in violation of the remaining terms of this ordinance; and

E. Ornamental shrubbery and ground cover, provided that such uses are part of a landscaping theme and not associated with a general deterioration of the property.

ARTICLE III. Weeds and Overgrown Grass Unlawful

Section 3.1: Weeds or Overgrown Grass Unlawful. It shall be unlawful and a violation of this Ordinance for any person having charge, control, or possession, whether actual or constructive, of property within the City to create, cause, permit, or maintain or allow the creation or maintenance of any weeds or overgrown grass upon such property. A person with a duty to abate any nuisance is liable for separate and distinct offenses for each day or part thereof the nuisance remains, such periods may be prosecuted as separate offenses.

Section 3.2: Citations Authorized; Summary Abatement not Required. An appropriate city official is expressly authorized to issue a municipal citation or complaint for a violation of this Ordinance regardless of whether summary abatement has been attempted.

ARTICLE IV. ABATEMENT & ASSESSMENT OF COSTS

Section 4.1. Initial Nuisance Finding. Whenever weeds or overgrown grass are growing upon any street, sidewalk, or private property, the City Council may, by resolution, declare the same to be a public nuisance and order its abatement. The resolution shall refer to the property by its commonly known name or street address or describe the property upon which or in front of which the weeds or overgrown grass are located by giving a legal description and no other description of the property is required. The resolution shall also state the date, time, and location at which the Council will hold a hearing to consider ordering the City to abate the nuisance at the Owner's costs and expense.

A. Numerosity. Any number of streets, sidewalks, or parcels of private property may be included in one resolution.

Section 4.2. Notice of Hearing. After adoption of the resolution, the appropriate city official shall give the Owner written notice of the time, date, and location of the public hearing and that the purpose of the hearing for the Council to consider whether to direct the City to abate the nuisance at the Owner's cost and expense. The appropriate city official shall mail the notice to the Owner by certified mail, return receipt requested, at least twenty-one (21) days prior to the hearing date, or as otherwise provided in Section 7.1.

A. Publication of Notice. Notice of the public hearing shall also be published in a newspaper of general circulation published within the County or City once a week for two consecutive weeks, with the first notice being published not less than fourteen (14) days prior to the hearing.

B. Posting Requirement. An appropriate city official shall, not less than seven (7) days prior to the hearing, post on the property upon which or in front of which the weeds or

overgrown grass are located two signs, each containing words that are not less than one inch (1”) in height, stating, in substance, as follows:

Notice is hereby given that on _____, 20__, at _____ am/pm, the City Council of the City of Ashland will hold a public hearing at City Hall to consider a resolution regarding the weeds or overgrown grass growing upon or in front of this property, which is more particularly described in an initial resolution dated _____, 20__, a copy of which is on file with the City Clerk.

At the hearing, the City Council will hear from interested persons to determine whether to order the City to abate the weeds or overgrown grass. If abatement is ordered, the cost of abatement and removal shall be assessed upon the property upon which or in front of which the overgrown grass or weeds are removed, and the cost shall be added to the next regular bill for taxes levied against the respective lots or parcels and collected at the same time and in the same manner as other property taxes are collected. Such costs shall be subject to the same commissions and fees and the same procedure for foreclosure and sale in the case of delinquency as provided for ordinary county and municipal taxes.

The failure to file an objection with the City Clerk at least five (5) days prior to the hearing and the failure to appear before the counsel at the hearing and show cause, if any, as to why abatement and removal shall not be ordered, shall result in a presumption the Owner accepts this notice as fact and waives any right the Owner may have to contest the abatement, and the City Council’s action shall be final unless good and sufficient cause can be otherwise shown.

Dated this ____ day of _____, 20__.

Ashland City Clerk or City Official

Section 4.3. Public Hearing. The City Council shall, at the date and time of the public hearing, hear the evidence, objections, and protests concerning the proposed removal of the weeds or overgrown grass. The City Council shall be permitted to continue the hearing from time to time. If the objections are overruled or if no objection is filed, the City Council shall at the conclusion of the hearing adopt a resolution ordering the weeds or overgrown grass abated. The City Council’s adoption of a resolution ordering the abatement or removal of weeds or overgrown grass shall vest the City with jurisdiction to either perform or have performed the abatement or removal

of the offending weeds or overgrown grass. The decision of the City Council shall be deemed final and conclusive.

Section 4.4. Abatement and Removal. After adopting a resolution providing for the abatement and removal of any offending weeds or overgrown grass, all City employees and duly authorized agents or contractors of the City are authorized to enter upon the property upon which the offending weeds or overgrown grass are located for the purpose of abating and removing the same. Notwithstanding the provisions of this section, the Owner shall be permitted to remove at his or her own expense the weeds or overgrown grass provided the Owner completes such removal before the City or its employees, agents, or contractors, commence work on such removal.

A. **Contractors.** The City Council may, by resolution, authorize private contractors, companies, or individuals to abate and remove the weeds and overgrown grass. Any such resolution shall identify the names of the contractors, companies, or individuals authorized to perform the work, and for the purposes of this ordinance, the City shall not be required to comply with the Alabama Competitive Bid Law when contracting for such work.

Section 4.5. Abatement Costs. The city official responsible for abating or managing the abatement of the weeds or overgrown grass upon or in front of each separate parcel of land shall keep accurate records of all costs and expenses associated with the abatement and removal for each separate parcel or lot and render to the City Council an itemized report showing such costs. Such costs shall include, but not be limited to, total wages paid, value of the use of equipment, advertising expenses, postage, and recording costs.

A. **Notice of Assessment & Hearing.** Such report shall be posted at City Hall for at least seven (7) days prior to submission of the same to the City Council for confirmation,

and the City shall, at least seven (7) days prior to the assessment hearing, send to the Owner via first class mail addressed to the Owner's last known address, postage prepaid, an itemized statement of the abatement costs and written notice stating the date, time, and location of the assessment hearing.

Section 4.6. Hearing on Assessment. The City Council shall, at the time fixed for considering the report of costs, consider the same and any objections raised by any Owner who may be liable for the costs of abatement or removal. The Council may sustain such objections, whether in whole or in part, and assess a sum less than the total reported to the extent it deems appropriate. Upon overruling any such objections or making such modifications, if any, the City Council shall adopt the report of costs by resolution.

Section 4.7. Lien for Costs. The amount of the cost for abating each nuisance arising due to weeds or overgrown grass upon or in front of each parcel of land identified in the report shall constitute a "weed lien" upon said parcel for the amounts of the costs assessed, respectively. Upon confirmation of the report, the City Clerk shall deliver to the county tax collector or other person responsible for collecting the City's municipal taxes a copy of the report, and 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 or parcels. The tax collector shall thereafter collect said amounts at the same time and in the same manner as ordinary municipal *ad valorem* taxes are collected and said amounts shall be subject to the same penalties and the same procedure under foreclosure and sale in the case of delinquency.

Section 4.8. Effect of Assessment; Prior Tax Sale. Where an assessment is made against a lot or parcel of land that has been sold at a tax sale, a subsequent redemption thereof by a person authorized to redeem or a sale thereof by the state shall not operate to discharge or in any manner

affect the City's lien for the assessment. A redemptioner, or purchaser at a sale by the state, of any lot or parcel upon which an assessment has been levied, whether prior to or after the sale to the state for the nonpayment of taxes, shall take the same subject to the assessment.

Section 4.9. Notice of Lien. The City Clerk shall record in the Office of the Judge of Probate a certified copy of the resolution assessing the abatement costs. The Clerk or the City Attorney may cause a satisfaction of the lien to be recorded in the Office of the Judge of Probate upon the City's receipt of the sums so assessed.

ARTICLE V. ALTERNATIVE ABATEMENT PROCEDURES FOR REPETITIVE VIOLATIONS

Section 5.1. Repeat Violations. If, within thirty-six (36) months of abating or attempting abatement pursuant to Article III of this Ordinance, an appropriate city official finds weeds or overgrown grass on a lot or parcel on which the same have been abated or on which abatement was attempted, the appropriate city official may proceed to abate the same as provided in this Article.

Section 5.2. Notice to Owner. If in the opinion of an appropriate city official, weeds or overgrown grass constituting a public nuisance exist on any property on which weeds or overgrown grass have been abated or on which abatement has been attempted pursuant to Article III within the preceding thirty-six (36) months, the official shall send to the Owner of the property via certified mail, return receipt requested, or as otherwise provided in Section 7.1, written notice of such conditions and demand the Owner abate the weeds or overgrown grass within fourteen (14) days. The notice shall contain: (a) a description of the real property, by street address or otherwise, on which or in front of which the weeds and overgrown grass exist; (b) a statement that the Owner may file with the City Clerk within five (5) days a request for a hearing before the City Council to determine if a violation exists and that the failure to timely file such notice shall waive

the Owner's rights to contest any subsequent action by the City concerning the abatement; and (c) a statement that, if the Owner fails to timely abate or remove the weeds or overgrown grass, the City will abate or remove the same at the Owner's cost and expense, with such amounts being assessed against the property and added to the next regular bill for taxes levied against the property.

Section 5.3. Owner's Appeal. An Owner may appeal the decision of the appropriate city official by filing with the City Clerk a written request for a hearing not more than five (5) days after the date of the notice. If a request for a hearing is timely filed, the City's abatement efforts shall be stayed until the City Council conducts a hearing.

A. **Conduct of Hearing.** The hearing date and time shall be set by the City Clerk or City Council, and the hearing shall occur not less than ten (10) days after the date on which the Owner's request for a hearing is submitted to the City Clerk. The Clerk shall send to the Owner via first class mail, postage prepaid, written notice stating the date, time, and location of the hearing. The hearing shall be open to the public, and any interested person shall have the right to present evidence and testimony to the City Council. After the hearing, the City Council shall adopt a resolution or written finding on the merits of the proposed abatement, which shall be sent to the Owner by first class mail. The City Council's decision shall be final. If the Council finds the weeds or overgrown grass constitute a public nuisance, the resolution or decision shall direct the Owner to abate or remove the weeds or overgrown grass within ten (10) days of the date of the resolution or decision.

Section 5.4. Abatement by City. If the Owner fails to abate or remove the offending weeds or overgrown grass within the time permitted by the appropriate city official's notice or, if such time was suspended by a request for a hearing, within ten (10) days of the Council's resolution, The City shall proceed to abate the nuisance as provided in Section 4.4.

Section 5.5. Assessment of Costs. The code enforcement officer or other City official responsible for abating or managing the abatement of the weeds and overgrown grass upon or in front of each separate parcel of land shall keep accurate records of all costs and expenses associated with the abatement or removal for each separate parcel or lot, and the officer or official shall proceed to present to the City Council a report of such costs for confirmation and assessment pursuant to Article IV after such abatement or removal is complete.

ARTICLE VI. ENFORCEMENT

Section 6.1. Enforcement. Any violation of any section of this Ordinance may be redressed by either summary abatement, the issuance or a municipal citation or complaint to the responsible person, or any combination of the foregoing, in addition to all other enforcement rights and remedies available to the City.

Section 6.2. Violation is Misdemeanor. Each person convicted of violating any section of this Ordinance shall be guilty of a misdemeanor, which shall be punishable by a fine of not less than \$50.00 nor more than \$500.00, by imprisonment for not more than thirty (30) days, or both for each conviction. Any person convicted of violating this Ordinance shall also be responsible for payment of court costs.

A. **Continuous Violation.** A person with a duty to prevent or abate any weed or overgrown grass nuisance is liable for separate and distinct offenses for each day or part thereof the nuisance remains, and such periods may be charged as separate offenses.

Section 6.3. Authority to Issue Citation or Complaint. Only an appropriate city official is and shall be authorized to issue a citation or complaint for a violation of this Ordinance.

Section 6.4. Remedies Cumulative. The requirement to abate or remove weeds or overgrown grass is not a penalty for violating this Ordinance but is an additional remedy available to the City.

Nothing in this Ordinance shall be construed as limiting the City's rights and remedies, including rights and remedies not expressly identified in this Ordinance, with respect to any nuisance or the abatement thereof, and nothing in this Ordinance precludes the issuance of a citation for any weed or overgrown grass nuisance without the City first attempting summary abatement.

Section 6.5. Injunctive Relief. The City shall be permitted, but not required, to seek in a court of appropriate jurisdiction injunctive relief concerning any violation of this Ordinance.

ARTICLE VII. MISCELLANEOUS PROVISIONS

Section 7.1. Notice & Service. Service of notices required by this Ordinance shall, unless otherwise set forth above, be made via personal delivery or by certified mail, postage prepaid, return receipt requested, to the Owner's last known address. In absence of contrary information known to the appropriate city official, the Owner shall be conclusively presumed to be the person last assessing the subject property for payment of *ad valorem* taxes as shown by the records of the County's revenue commissioner. When service herein is permitted or required by mail, the mailing of such notice by certified or first-class mail as required herein, properly addressed and postage prepaid, shall constitute notice.

Section 7.2. Cumulative. This ordinance is cumulative in its nature and in addition to any and all power and authority the City has or may have under any other law.

Section 7.3. Severability. Is it the intention of the City Council that each separate provision of this Ordinance shall be deemed independent of all provisions herein, and it is the further intention of the City Council that if any provision of this ordinance be declared invalid, all other provisions shall remain valid and enforceable.

Section 7.4. Repeal. The 2005 Ashland Nuisance Ordinance, adopted on April 4, 2005, Ordinance No. 2005-04-04-01, shall be and hereby is repealed to the extent necessary to give this

Ordinance full force and effect. The partial repeal of the 2005 ordinance shall have no effect on pending cases concerning a violation of said ordinance. This Ordinance does not repeal any provision of the Ashland Nuisance Ordinance of 2025, Ordinance No. 2025-02-03-01, or any portion thereof.

Section 7.5. Pending Proceedings. Nothing in this ordinance shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired or liability incurred, nor any cause or causes of action or existing, under any code section or ordinance hereby repealed, nor shall any right or remedy of any character be lost, impaired or affected by this ordinance.

Section 7.6. Effective Date. This Ordinance shall take effect upon its due adoption and publication as required by law.

ADOPTED AND APPROVED this _____ day of _____, 2025.

CITY OF ASHLAND, ALABAMA

LARRY J. FETNER, its Mayor

ATTEST:

CHELSEY WYNN, Ashland City Clerk

DIANNE BALLARD, Council
Member, District 1

BOBBIE STEED, Council Member,
District 2

KIM CAIN, Council Member,
District 3

ANNETTE GAITHER, Council
Member, District 4

TOMMY CANTRELL, Council
Member, District 5

STATE OF ALABAMA)
)
COUNTY OF CLAY)

CERTIFICATION OF PUBLICATION

I hereby certify the Ashland Nuisance Ordinance of 2025, passed and adopted on the ____ day of _____, 202__ as Ordinance No. 2025-__-__-__, was published by posting at the following locations on the ____ day of _____, 2025, at ____ o'clock __.m.:

1. Ashland City Hall (Mayor's office);
2. Ashland Public Library;
3. Ashland Post Office;
4. the Clay County Courthouse; and
5. City of Ashland website (<https://www.cityofashlandal.com/>).

All notices will remain posted for not less than thirty (30) days after posting.

CERTIFIED this ____ day of _____, 2025.

CITY OF ASHLAND, ALABAMA

CHELSEY WYNN
City Clerk/Administrator

CERTIFICATION

I, Chelsey Wynn, the duly appointed, qualified, and acting Clerk of the City of Ashland, Alabama, do hereby certify the foregoing is a true, correct, and complete copy of Ordinance No. 2025-_____ adopted by the City Council of the City of Ashland, Alabama, at a regular meeting held on the ___ day of _____, 2025, and at which a quorum was present and acting throughout, the original of which is on file and of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of the City of Ashland, Alabama on this the ___ day of _____, 2025.

CHELSEY WYNN, Ashland City Clerk

State of Alabama)
County of Clay)

SUBSCRIBED and SWORN to before me, this ___ day of _____, 2025.

(NOTARY SEAL)

Notary Public
My Commission Expires: _____

Ordinance & Certification Prepared By:
Spencer P. Waddell
Gregory Varner & Associates
Post Office Box 338
Ashland, Alabama 36251