

ORDINANCE NO. 09112023-02

**AN ORDINANCE PROVIDING FOR THE REMOVAL OF NUISANCE
GREENERY AND OVERGROWN WEEDS**

WHEREAS, Illinois law grants the corporate authorities of each municipality the power to regulate and provide for the health in sanitation within each municipality and for the removal of certain conditions which are unhealthy, unsanitary, or not consistent with the public good or public interest; and

WHEREAS, Illinois law (65 ILCS 5/11-20-7) grants the corporate authorities of each municipality the power to provide for the removal of nuisance greenery and overgrown weeds from any parcel of private property within the municipality if the owners of the parcel, after reasonable notice, refuse or neglect to remove the nuisance greenery.

WHEREAS, Illinois law (65 ILCS 5/11-20-15) grants the corporate authorities of each municipality the power to obtain a lien, upon any property located in the municipality, for the costs of removal of nuisance greenery and overgrown weeds.

WHEREAS, on September 9, 2013, the Board of Alderman enacted Ordinance No. 0992013 entitled "City of Shawneetown Weed Control" to deal with said problem; and

WHEREAS, the Board of Alderman feels it is in the best interest of the City to pass a new ordinance establishing all rules and regulations for maintaining and removing noxious greenery and overgrown weeds located on

any premises within the municipality, and revoking, superseding, and replacing Ordinance № 0992013.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE BOARD OF ALDERMAN OF THE CITY OF SHAWNEETOWN, GALLATIN COUNTY, ILLINOIS, AS FOLLOWS:

ARTICLE I- NOXIOUS GREENERY AND OVERGROWN WEEDS

A. Definitions:

The term "nuisance greenery" as used in this Article, is hereby defined to mean and include any weed or plant such as jimson, burdock, ragweed, thistle, cocklebur, European barberry, other noxious weed or plant, including poison ivy, poison oak and overgrown plants, weeds, grass, other than trees, shrubs, bushes, flowers or other ornamental plants. It shall also include dead grass, dry weeds or other similar combustible plant growth or other material that is permitted to remain or lay on the property.

The term "overgrown weed", as used in this Article, shall mean any weed, grass or plant in excess of 8 inches in height. The term "overgrown weed" shall not include any cultivated ornamental shrubs, bushes and flowers, sagebrush and edible vegetables.

The terms "removal of nuisance greenery" or "removal of overgrown weeds" shall mean the cutting of weeds or grass, the trimming of trees or bushes, and the removal of nuisance bushes or trees.

The term "removal cost" means the total cost of the removal of nuisance greenery or overgrown weeds, as defined in this Article.

B. Prohibited: It shall be unlawful for any owner, occupant, tenant or other person or entity in control or possession of any real estate or real property, whether public or private, located within the corporate limits of the City of Shawneetown, to permit or allow the existence of any nuisance greenery or overgrown weeds, as defined in this Article, on any such real estate or property

C. Nuisance Declared: All nuisance greenery and overgrown weeds, as above defined, are prohibited from existing on any real estate or real property within the corporate limits of the City of Shawneetown, Illinois. Permitting the same to exist on such property is hereby declared to be a nuisance.

D. Removal: Any owner, occupant, tenant, or other person or entity in control or possession of real estate or property shall have fourteen (14) days from the date of Notice or seven (7) days after the Notice is served upon them, whichever is later that nuisance greenery and/or overgrown weeds exists on the subject real estate or property, to remove and dispose of such nuisance greenery and overgrown weeds.

If not removed within that time period, the City may remove and dispose of, or arrange for such removal and disposal of, the nuisance greenery and overgrown weeds. All owner(s), occupant(s), tenant(s), or other person(s) or entity(ies) in control or possession of the real estate, and each of them, are jointly and severally liable for the reasonable removal costs.

E. Notice to Remove: Upon determining that nuisance greenery or overgrown weeds exists, within the corporate limits of the City of Shawneetown,

the Chief of Police, the City Mayor, the City Clerk, or any authorized agent of said officers, shall cause written notice of the violation to be served to at least one of the property owner(s) of the property upon which the noxious growths or overgrown weeds exists,

Notice shall be deemed to be properly served by:

- (1) depositing the notice in the U.S. Mail, prepaid First Class postage regardless of whether the addressee accepts or refuses delivery; or
- (2) Personal service; or
- (3) Posting of a sign upon the property in a place where it can reasonably be observed. The posted sign shall state the words "ORDINANCE VIOLATION" in large letters and reference this Ordinance.

Such notice shall specifically describe the nuisance greenery or overgrown weeds and shall direct the property owner to abate such nuisance greenery or overgrown weeds, as specified herein. The notice shall state that unless the nuisance is so abated by the property owner, or person in possession of the property, within fourteen (14) days after the date of Notice or within seven (7) days after the Notice is served, whichever is later, the City shall cause it to be abated and such costs relating to the same, including, but not limited to, administrative costs, and/or fines shall be charged to the property owner.

F. Contents of Notice

Said Notice shall be in substantially the following form:

NOTICE – ORDINANCE VIOLATION

To: _____

You are hereby notified that the City of Shawneetown, through its authorized Officer, has determined that property of which you are the owner, occupant, tenant, or other person in control or possession, located at _____ (address), within the corporate limits of the City of Shawneetown, Illinois contains nuisance greenery and/or overgrown weeds, as defined in Ordinance No. 09112023-02, of the City of Shawneetown, Illinois. The nuisance greenery or overgrown weeds located upon the real estate is generally described as follows:

You are hereby required to remove all such nuisance greenery or overgrown weeds within fourteen (14) days from the date of this Notice or within seven (7) days from the date of service of this Notice upon you, whichever is later.

If you refuse or neglect to remove such nuisance greenery or overgrown weeds within the time limit provided herein, the corporate authorities of the City of Shawneetown may remove and dispose of the same, or provide for the removal and disposal of the same. The removal cost and/or fines shall be paid by you. A lien may be attached and imposed upon the real estate that is the subject of the Notice for all reasonable removal costs.

DATED: _____, 20__.

By: _____

G. Penalty for Violation

Any person convicted of a violation of this ordinance is guilty of a petty offense and shall be fined for the first conviction One Hundred dollars (\$100); For each subsequent conviction, Two Hundred dollars (\$200).

Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

In addition, to any fine imposed under this Ordinance, the Court may order that the person convicted of such violation to remove the nuisance greenery or overgrown weeds or assess the City's costs of removal in addition to the fine.

ARTICLE II - LIEN FOR REMOVAL COSTS

A. Notice of Lien: If within one (1) year after the removal costs, as defined in Article I, of this Ordinance, are incurred, the City files a Notice of Lien in the office of the Gallatin County Recorder of Deeds, such costs and expense shall be and become a lien upon the real estate which contained the nuisance greenery and/or overgrown weeds and such lien shall be superior to all subsequent liens and encumbrances, except tax liens.

If, for any one parcel, the municipality engaged in any removal activity on more than one occasion during the course of one year, then the municipality may combine any or all of the costs of each of those activities into a single notice of lien.

B. Form: The Notice of Lien to be filed with the Gallatin County Recorder of Deeds shall be in substantially the following form:

Notice

To: _____

You are hereby notified that the City of Shawneetown, through its authorized Officer, has filed a Notice of Lien in the Office of the Gallatin County Clerk and Recorder, upon the following premises, _____, located in the City of Shawneetown, pursuant to 65 ILCS 5/11-20-15, and City of Shawneetown Ordinance No. _____ for the removal of nuisance greenery and/or overgrown weeds.

Said Removal Activity took place on the following date(s) _____.

C. Validity of Lien: A lien under this Section is not valid as to: (i) any purchaser whose rights in and to the underlying parcel arose after the removal activity but before the filing of the notice of lien; or (ii) any mortgagee, judgment creditor, or other lienor whose rights in and to the underlying parcel arose before the filing of the notice of lien.

D. Service of Notice: The Mayor, or his authorized agent, shall cause the Notice of Lien to be served upon the person to whom was sent the tax bill for the general taxes on the property for the taxable year immediately preceding the removal activities, by personal service or certified mail.

E. Foreclosure of Lien: A lien under this Section may be enforced by proceedings to foreclose as in case of mortgages or mechanics' liens. An action to foreclose a lien under this Section must be commenced within 2 years after

the date of filing notice of lien. However, a failure to file a foreclosure action does not, in any way, affect the validity of the lien against the underlying parcel.

F. Third Party Lien for Removal Costs: Any person, or entity, who performs a removal activity by the authority of the City of Shawneetown may, in his or her own name, file a lien and foreclose on that lien in the same manner as prescribed by this ordinance.

G. Release of Lien: Upon payment of the lien cost by the owner of the underlying parcel after notice of lien has been filed, the municipality (or its agent) shall release the lien, and the release may be filed of record by the owner at his or her sole expense as in the case of filing notice of lien.

The Release of Lien shall be in substantially the following form:

RELEASE OF MUNICIPAL LIEN

STATE OF ILLINOIS)
)
COUNTY OF GALLATIN)

FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHOULD BE FILED WITH THE RECORDER OF DEEDS OR THE REGISTRAR OF TITLES OF GALLATIN COUNTY, ILLINOIS.

The undersigned, City of Shawneetown, Gallatin County, Illinois, states that:

1. The real property generally located at _____
_____ in the City of Shawneetown, Illinois
is now owned by _____.

2. On _____ (date), the City of Shawneetown
filed a claim of lien in the office of the recorder of Gallatin County,
Illinois, (Claim No.____), against the premises described above and

against _____ (owner of premises) for \$_____ (removal costs), said sum being the amount due the City of Shawneetown for the removal of nuisance greenery and/or overgrown weeds.

3. The City of Shawneetown acknowledges receipt of the amount mentioned above, together with costs for filing the claim of lien.

4. Pursuant to Section 11-20-15 of the Illinois Municipal Code (65 ILCS 5/11-20-15, and City of Shawneetown Ordinance No. _____, the City of Shawneetown, hereby releases here all liens or claims or rights of lien against the premises described above by reason of having filed a claim for lien, and releases and waives all liens or claims or rights to lien on the premises and the improvements on them by reason of having incurred removal costs associated with nuisance greenery and/or overgrown weeds.

Date: _____

Name: _____
City of Shawneetown, Authorized Officer

ARTICLE III

A. Effective Date: This Ordinance shall be in full force and effect from and after its passage by the Board of Alderman, and its publication as required by law.

B. Repealer: Any Ordinance of the City of Shawneetown, Illinois, in conflict herewith is hereby repealed.

C. Saving Clause: Should any part or parts of the Ordinance be declared to be invalid and void, it shall not operate to invalidate to void those

parts not declared to be invalid or void, and the remaining parts of this Ordinance shall remain valid and in full force and effect.

Passed, approved, and adopted by the Board of Alderman of the City of Shawneetown, Gallatin County, Illinois, this 11 day of September, 2023, on roll call vote as follows:

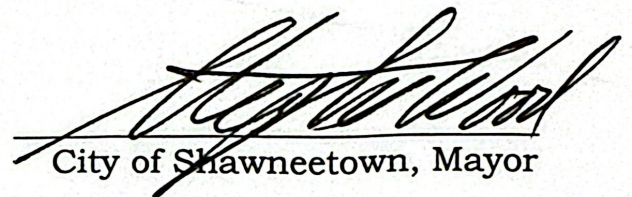
AYES: 6 Vickery, Smith, Golden, Scherrer, Wood, Rushing

NAYS: _____

ABSTAIN: _____

ABSENT: _____

THIS ORDINANCE ADOPTED THIS 11th DAY OF SEPTEMBER, 2023.



City of Shawneetown, Mayor

ATTEST:



City Clerk

