

STATE OF KANSAS
RENO COUNTY
CITY OF THE HIGHLANDS

ORDINANCE NUMBER 2024-34

AN ORDINANCE REPEALING ORDINANCE 2021-23 COMPELLING THE LANDOWNERS IN THE CITY OF THE HIGHLANDS, KANSAS, TO MAINTAIN THEIR PROPERTY WHICH INCLUDES THE AREA BETWEEN THEIR PROPERTY AND THE TRAVELLED PORTION (RIGHT OF WAY) OF THE STREETS AND ALLEYS AS PRESCRIBED.

WHEREAS the Governing Body finds unmaintained trees and noxious vegetation growing on properties and in the Right of Way constitute a blighting and detrimental appearance on the city, and

WHEREAS while not totally inclusive, much of the dead, damaged, noxious and blighting vegetation has been caused by wildfires experienced by the area within the city limits, much of the property damaged over time has not been maintained by the property owners, and

WHEREAS the Governing Body requires that the area between the property and the travelled portion of the streets and alleys (Right of Way) be kept free of trees, fallen timber, overhanging branches, and brush to allow for city mowing, and

WHEREAS the Governing Body seeks to protect the public health and safety by eradicating conditions which may accelerate the spread of fire and which are conducive to the nesting and proliferation of rodents, snakes, mosquitos, vermin, or other pestiferous conditions, and to promote the general welfare by improving the physical environment, correcting blighted areas and preserving property values, and

WHEREAS the Governing Body has adopted the 2015 International Property Maintenance Code (Ordinance 2020-19), this ordinance identifies specific sections related to the maintenance of property.

NOW, THEREFORE, IT IS ORDAINED BY THE GOVERNING BODY OF THE CITY OF THE HIGHLANDS, KANSAS:

SECTION 1: That all persons and entities owning property in the CITY OF THE HIGHLANDS, KANSAS including areas which lie adjacent to a public street or alley shall be maintained in a neat appearing manner and free of dead or diseased trees, fallen trees or branches, and noxious vegetation. This ordinance is adopted in conjunction with the International Council International Property Maintenance Code (IPMC) Section 301.3 and Section 302.

SECTION 2: NOTICE OF VIOLATION

(a) Any person, corporation, partnership, association, owner, or occupant found by the public officer to be in violation of Section 1 above, or IPMC Section 301.3 or Section 302 shall be served a notice of such violation. The notice may be served by certified mail, return receipt requested, or by personal service.

(b) Should such person, corporation, partnership, association, owner, or occupant fail to accept delivery or otherwise fail to effectuate receipt of a notice sent pursuant to this section during the preceding twenty-four month period, the governing body may provide notice of the issuance of any further orders to abate or remove a nuisance from such property in the manner provided by subsection (a) or as hereinafter provided: the governing body may provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such

order on the property, personal notification, telephone communication, or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

SECTION 3: CONTENTS OF NOTICE

The notice required by Section 2 above shall state the condition(s) which is (are) in violation of Section 1 above, or IPMC Section 301.3 or Section 302. The notice shall also inform the person, corporation, partnership or association that

- (a) He, she or they shall have 10 days from the date of serving the notice to abate the condition(s) in violation of Section 1 above, or IPMC Section 301.3 or Section 302; or
- (b) He, she or they have 10 days from the date of serving the notice to request a hearing before the governing body of the matter as provided by Section 6 below;
- (c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by Section 4 below and/or abatement of the condition(s) by the city as provided by Section 5 below.

SECTION 4: FAILURE TO COMPLY; PENALTY

Should the person, corporation, partnership or association fail to comply with the notice to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the city against such person, corporation, partnership or association and upon conviction of any violation of provisions of Section 1 above, or IPMC Section 301.3 or Section 302, be fined in an amount not to exceed \$250 or be imprisoned not to exceed 30 days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

SECTION 5: ABATEMENT

In addition to, or as an alternative to prosecution as provided in Section 4 above, the public officer may seek to remedy violations of this section in the following manner. If a person to whom a notice has been sent pursuant to Section 3 above has neither alleviated the conditions causing the alleged violation nor requested a hearing before the governing body within the time periods specified in Section 3(b) above, the public officer may present a resolution to the governing body for adoption authorizing the public officer or other agents of the city to abate the conditions causing the violation at the end of 10 days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the nuisance was located as provided in Section 7 below. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- (a) Personal service upon the person in violation;
- (b) Service by certified mail, return receipt requested; or
- (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition exists.

SECTION 6: HEARING

If a hearing is requested within the 10 day period as provided in Section 3(b) above, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer before the governing body. The hearing shall be held by the governing body as soon as possible after the filing of the request therefore,

and the person shall be advised by the city of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. The governing body may grant extensions of the 10-day period for abate if the owner or agent of the property demonstrates that due diligence is being exercised in abating the nuisance. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the matter provided in Section 5 above.

SECTION 7: COSTS ASSESSED

If the city abates the nuisance pursuant to Section 5 above, the city clerk shall recover the costs in one of following manners:

- (a) The City may provide a notice made by certified mail to the owner of the subject property providing the cost incurred by the City for the abatement and stating that all costs are due and payable to the City within 30 days of the notice.
- (a) The cost of abatement may be charged against the lot or parcel of ground on which the nuisance was located. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.
- (b) The City may recover the cost of abatement through utilization of the State of Kansas's Set Off program.

SECTION 8: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 9: This ordinance shall be in full force and effect from and after its publication in the official city paper.

THIS ORDINANCE IS PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF THE HIGHLANDS, KANSAS THIS _____ DAY OF _____ 2024.

Mayor, Carol Moore

ATTEST

Zane Jackson, City Clerk

Approved as to form: _____
City Attorney, Mark Tremaine