

ORDINANCE NUMBER 15-10767

AN ORDINANCE AMENDING SALINA CODE SECTIONS 31-900 AND 31-1006 PERTAINING TO MAINTENANCE OF TALL GRASS AND WEEDS AND REPEALING THE EXISTING SECTIONS.

BE IT ORDAINED by the Governing Body of Salina, Kansas:

Section 1. Amendment of Salina Code Section 31-900. Salina Code Section 31-900 is amended to provide as follows:

Sec. 31-900. Weeds.

- (a) It shall be the duty of an owner, agent or occupant to maintain all premises free from weeds or turf grass in excess of eight (8) inches and free from all growth of noxious or poisonous weeds.
- (b) The duty of an owner, agent, or occupant described in subsection (a) shall extend to the area within any right-of-way abutting the premises, up to the curb line or edge of any street, with the following exceptions:
- (1) In a residential district, subject to the maintenance requirements of subsection (c), the portion of a right-of-way situated between the rear or side yard of a premises and an arterial or a collector street, which is:
 - i. Beyond the first fifteen (15) feet of right-of-way nearest the premises; or
 - ii. Between the curb line or edge of a street and the edge of an oversized paved sidewalk of at least ten (10) feet in width (hike-and-bike trail), or within six (6) feet of the edge of such oversized sidewalk nearest the premises.
 - (2) Any portion of a right-of-way located in a residential or commercial district, upon a written finding by the city manager that a barrier, open ditch, rough terrain, steep grade, or similar condition related to the topography of the site makes access to the right-of-way for purposes of complying with this section unsafe or unduly burdensome.
 - (3) Any portion of a right-of-way designated by the city manager to be maintained by the city due to the close proximity of a public improvement, including public landscape improvements.
 - (4) In an agricultural district, subject to the maintenance requirements of subsection (c), the first fifteen (15) feet of right-of-way nearest an abutting arterial or collector street without an established curb and gutter.
- (c) Notwithstanding the right-of-way maintenance exceptions set forth in subsections (b)(1) and (b)(4), it shall be the duty of an owner, agent, or occupant of a premises to maintain all portions of the abutting right-of-way located within one (1) foot of any temporary or permanent building, structure, improvement, utility facility, tree, vegetation (excluding weeds), landscaping material, or any other object of any kind or character.
- (d) Premises located in the following areas shall be presumed exempt from the above stated maintenance requirements, unless the city manager determines, in writing, and on the basis of public health, safety and welfare, that such premises should be subject to the above stated maintenance requirements as contributing to weed, rodent or pest infestation of an adjoining occupied property:
- (1) Pond, creek, or stream banks, and dedicated stormwater detention or retention areas.
 - (2) Undisturbed areas of grassland ecosystems or forest ecosystems greater than 2,000 square feet in area and maintained less than eight (8) inches in height a minimum of fifteen (15) feet from maintained areas on an abutting property under separate ownership.

- (3) Homogenous agricultural crops grown on vacant lots qualifying for agricultural classification for ad valorem property tax purposes provided that the agricultural crop is not grown:
 - i. Within fifteen (15) feet of the property line of an abutting property that is either occupied or under separate ownership; or
 - ii. Within a required front, side or rear yard abutting a right-of-way or a property that is either occupied or under separate ownership.
- (4) Areas of vegetation within public parks or park-like settings owned by governmental or educational entities.

Section 2. Amendment of Salina Code Section 31-1006. Salina Code Section 31-1006 is amended to provide as follows:

Sec. 31-1006. Abatement of nuisance by City; assessment and collection of costs.

- (a) If the recipient of the notice and order fails to comply with the order either (1) within the period of time designated in the order or in the published notice (if applicable); (2) in the event of any subsequent violation within the same year, without further notice, then the City may go onto the property to abate the violation in a reasonable manner. The City shall not be responsible for damage to property due to reasonable methods of gaining entrance onto the property or for damages to property in the reasonable exercise of its duty to the public to abate the violation(s). The City may use its own employees or contract for services to abate the violation.
- (b) If the City takes action to abate the violation, it shall provide a notice of costs to the person responsible for the violation. The notice of costs shall be delivered by certified mail, return receipt requested, at the last known mailing address; or if the property is vacant or unoccupied, the notice of costs shall also be posted on the property in a reasonable manner. The recipient shall have 30 days from the date of the notice of costs to make full payment. The notice of costs shall state:
 - (1) The description of the subject premises or exterior property sufficient for identification;
 - (2) The nature of the work performed to abate the violation;
 - (3) The costs incurred for the abatement of the violations in either a lump sum or in itemized form;
 - (4) That the notice is a demand for payment within 30 days from the date of notice;
 - (5) That failure to pay the entire amount within 30 days shall allow the City to file a tax lien against the property or to pursue personal judgment for the recovery of the costs, or both;
 - (6) That such additional remedies to recover costs shall include additional amounts including additional administrative costs, attorneys' fees when applicable, and interest; and
 - (7) The payments shall be made by check or money order made payable to the City of Salina, Kansas, with no post-dating of the check, and sent to the address as stated within the notice with a written indication of the purpose for the payment and the address of the property where the violations occurred. Partial payments will not be accepted and shall be considered as non-payments, unless a payment arrangement has been agreed to and approved in writing by the code official.

(c) If the payment of costs is not made within the 30-day period, the City may levy a special assessment for such costs against the subject real estate (or the real estate abutting the right-of-way from which the violation was abated). The City Clerk at the time of certifying other city taxes to the county clerk shall certify such costs, and the county clerk shall extend the such cost on the tax roll of the county against the subject real estate, and it shall be collected by the county treasurer and paid to the City as other city taxes are collected and paid. Provided further, the City may collect the costs in the manner provided at K.S.A. 12-1,115, as amended, by bringing an action in the district court as a personal debt. The City may pursue both assessment and collection at the same time until the full cost, including applicable interests, court costs, attorneys' fees, and administrative costs, including but not limited to, investigative cost as well as the cost of providing notice, including any postage, have been paid in full.

(d) The abatement of a violation of this chapter by the City shall not be a defense or excuse to any person in violation of this article.

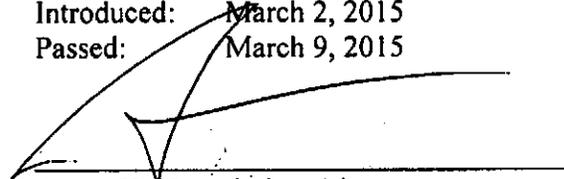
Section 3. Repealer. Existing Salina Code Sections 31-900 and 31-1006 are repealed.

Section 4. Effective. This ordinance shall be in full force and effect from and after its adoption and publication once in the official city newspaper by the following summary:

Ordinance No. 15-10767 Summary

On March 9, 2015, the City Commission passed Ordinance No. 15-10767. The Ordinance amends Salina Code Sections 31-900 and 31-1006 pertaining to maintenance of tall grass and weeds and repeals the existing sections. A complete copy of the Ordinance can be found at www.salina-ks.gov or in the office of the City Clerk, 300 W. Ash, free of charge. This summary is certified by the City's legal counsel.

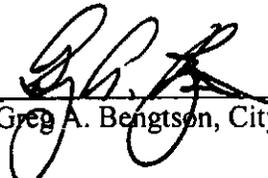
Introduced: March 2, 2015
Passed: March 9, 2015


Aaron K. Householter, Mayor

[SEAL]
ATTEST:


Shandi Wicks, CMC, City Clerk

Certification of Publication Summary:


Greg A. Bengtson, City Attorney