Passed

Bill No. 101215 **Ordinance No. 101512**

AN ORDINANCE DECLARING ANY GROWTH OF TREES, SHRUBS, BUSHES, GRASS, WEEDS, PLANTS, DEBRIS OR OTHER VEGETATION WHICH OBSTRUCTS STREET OR HIGHWAY SIGNS, STREET LIGHTS, FIRE HYDRANTS OR VISIBILITY OF AN OPERATION OF A MOTOR VEHICLE UNDER CERTAIN CIRCUMSTANCES TO BE A NUSIANCE; WEEDS OVER TWELVE INCHES IN HEIGHT TO BE A NUISANCE: PRESCRIBING THE ABATEMENT AND CREATION OF A LIEN ON REAL PROPERTY OF ABATEMENT COSTS BY THE CITY OF SAID NUISANCE; PROVIDING FOR THE ENFORCEMENT OF THIS ORDINANCE; AND PRESCRIBING THE PENALTIES FOR VIOLATIONS OF THIS ORDINANCE, AND EXEMPTING CERTAIN LANDS FROM THE PROVISIONS OF THIS ORDINANCE.

BE ORDAINED BY THE BOARD OF ALDERMAN OF THE CITY OF WOOD HEIGHTS, MISSOURI, AS FOLLOWS:

Section 1. Unlawful growth of vegetation: Nuisance declared.
No person, association, corporation, partnership, or other entity, owning, possessing or controlling or leasing any real property within the City of Wood Heights, Missouri shall cause, permit or maintain upon any such property any growth of trees, shrubs, bushes, grass, weeds, plants, or any vegetation (hereafter collectively referred to as vegetation) which obstructs any street or highway sign, or a street light, or which obstructs any motor vehicle operator's ability to observe traffic approaching within 25 feet of any street or highway intersection within the City of Wood Heights, Missouri; and the existence of any such trees, shrubs, bushes, grass, weeds, plants, or any vegetation is hereby declared to create a dangerous and hazardous condition and to be public nuisance.

Section 2. Debris Defined. Any condition on any lot or land that has the presence of debris of any kind is hereby declared to be a public nuisance, subject to abatement. Debris includes weed cuttings, cut and fallen trees and shrubs, overgrown vegetation and noxious weeds which are 12 inches or more in heights, rubbish and trash, lumber not piled or stacked, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, and/or any flammable material. The word "debris" also includes any other material which is found on any lot or land that is unhealthy or unsafe. Any debris within three (3) feet of any fire hydrant shall be a public nuisance.

Section 3. No person, firm or corporation occupying, owning or controlling or leasing any real estate within the City of Wood Heights, Missouri, shall allow or maintain upon any such lot, real estate or premises any growth of weeds to a height over twelve (12) inches or allow any weeds over the heights of twelve (12) inches to remain on said real estate or premises.

Section 4. Exceptions to this ordinance. All property zoned as agricultural such as farm land, pasture land, or other land used for agricultural purposes or as grazing land for livestock, horses, or other animals shall be exempt from and not controlled by the

provisions set forth in this Ordinance.

Section 5. Notice to abate or remove weeds and violation.
Whenever any weeds in violation of this Ordinance are allowed on any lot or premises within the City of Wood Heights, Missouri, the Judge of the Municipal Court of Wood Heights, Missouri, Chief of Police for the said City may declare the same to be a nuisance and order the abatement thereafter giving the owner, occupant, lessee, or other person in charge of said a written notice to abate the weeds. Written notice shall be seven (7) days to cut or trim said vegetation and if the owner is a non-resident of the City of Wood Heights, Missouri or said owner, possessor, or lessee's whereabouts is unknown, said notice may be given by posting on the premises for seven (7) consecutive days. (If sent by mail, there will be a refutable presumption that the letter was delivered 5 days after the date it was sent.) If said weeds are not cut in accordance with the order of the Chief of Police then the Chief of Police shall proceed to have the weeds cut by some responsible person or by regular employees of the City. The cost of cutting the weeds may be a part of the judgment of the Municipal Court Judge, or the costs and expenses incurred by the City in cutting said weeds shall be assessed against the occupant or owner of the said real estate by the Board of Alderman as a special tax bill against said person's property, which tax bill shall be a special lien against said property and tax bill shall be collected as other taxes. The Chief of Police shall be responsible to keep an accurate account of the costs of the cutting of said weeds to be maintained upon his records and shall certify said costs to the Municipal Judge or the Mayor and Board of Aldermen, whichever the case may be.

A. Any owner who wishes to challenge the order of abatement may do so, provided that within the seven (7) day period he/she/it requests a hearing on the validity of the order under the state Administrative Procedure Act, RSMo. Chapter 536. If no such request is made within that time period, the order becomes final and is not subject to challenge elsewhere. If such request is made, the hearing shall be conducted by the Board of Aldermen. The request for a hearing must be in writing, but otherwise no particular formality is required. Notice to the property owner of his right to request such hearing shall be given by including a copy of this ordinance with any notice sent under authority of this section. Once a request for a hearing is received, the hearing shall be conducted in accordance with the "contested" provisions of the state Administrative Procedure Act. The city attorney shall represent the City at such a hearing.

Section 6. Fire Hydrants.
All vegetation shall be cleared a distance of three (3) feet from any fire hydrant.

Section 7. Unlawful to fail to comply with notice to cut weeds.
Any property owner or person occupying or in possession of real estate, whether he be the owner or not, who shall fail or refuse to cut weeds on his property with seven (7) days after service of the notice as herein provided in this Ordinance, shall be deemed guilty of this Ordinance.

Section 8. Penalty.
Any person violating any provision of this Ordinance shall upon conviction thereof, be fines in an amount not to exceed Five Hundred Dollars ($500.00) or by imprisonment for not more than ninety (90) days or both such fine and imprisonment. Each day such violation is committed shall constitute a separate offense and shall be punishable as such hereunder.

Section 9. Repeat violations.
If, more than once during the same growing season, repeat violations of the same provision by the same person at the same property are reported, the city may, without further notification, have the weeds removed and the cost of the same shall be billed to the owner.

Section 10. Authority of Police, etc., to enter upon premises, etc., for purpose of cutting weeds. Police Officers and other employees of the City authorized by the Chief of Police are hereby authorized and required to go, in the daytime, upon any lot, premises, or real estate, whether public or private, for the purposes of cutting any weeds defined to be a nuisance in this Ordinance, when said weeds are ordered to be cut under the provisions of this Ordinance. If any person refuses to allow entry onto his private property, the Chief of Police may obtain a warrant from proper official and proceed in accordance therewith.

Section 10. This Ordinance shall be in full force and effect from and after the date of its passage and approval. All Ordinances or parts of Ordinances in conflict hereafter are hereby repealed (Ordinance 383 and 460 are repealed).

Read two times and passed by the Board of Aldermen of the City of Wood Heights, Missouri this 15th day of December, 2010.

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John D. Allen, Mayor

ATTEST:

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Kimberly Easley, City Clerk