

## Chapter 51 - Nuisances

(The following Chapters were repealed by Ordinance No. 1037: The old Chapter 51, Chapter 65 and Chapter 68)

### Subchapter A - Definitions

51.100. Definitions. For the purposes of this Chapter, the following words and terms as used herein are defined to mean the following:

1. Nuisance is defined to mean any condition or use of premises or of building exteriors which is detrimental to the health, public welfare of individuals or property of others, or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which the premises are located or which is otherwise a menace to the public health, safety, or welfare;
2. Lumber, junk, trash, or debris;
3. Abandoned, discarded or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers;
4. Any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease-carrying pests, animals or insects, provided that the presence of earthworms in a compost pile shall not constitute a nuisance;
5. Any sewage or septic material unless such material is retained in containers which deny access to humans, flies, insects, rodents and animals;
6. Any uninhabited buildings or structures which are so dilapidated, decayed, or fire damaged as to have become dangerous to the life, safety, health, or welfare of the people of the City;
7. "Junk" means any old iron, steel, brass, copper, tin, lead, or other base metals; old cordage, ropes, rags, fibers, or fabrics; old rubber; old bottles or other glass, bones; wastepaper and other waste or discarded material which might be prepared to be used again in some form; and any or all of the foregoing; and motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts; interior home furnishings, dilapidated or broken lawn furniture or fixtures, cut or fallen trees or shrubs, but "junk" shall not include materials or objects accumulated by a person as by-products, waste, or scraps from the operation of his own business, or materials or objects held and used by a manufacturer as an integral part of his own manufacturing processes; **Ord. # (4-10-06)**

8. "Vehicle" is any machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides, including, but not limited to, automobiles, trucks, trailers, motorcycles, tractors, buggies, and wagons, or any part thereof;

9. "Damaged or inoperable vehicle" is any vehicle which is not registered or is improperly registered as defined by the State of Missouri, Department of Revenue, Division of Motor Vehicle, has been inoperable for more than 72 hours, or is in such a state of repair as to be inoperable, except those on the premises of a duly licensed automobile repair or sales business;

10. "Registered" means as defined by the State of Missouri, Department of Revenue, Division of Motor Vehicle;

11. "Vehicle Restoration" is any vehicle that is in the process of restoration such that it will be registerable by the State of Missouri, Department of Revenue, Division of Motor Vehicle.

### **Subchapter B - Regulations**

51.200. Waste water and sewage are nuisance. The discharge of sewage or waste water from any industry, office, building or residence, except into the public sewers or a private treatment system which is in compliance with state law, shall constitute a nuisance.

51.215. Putrid matter, garbage, trash, etc., accumulation. The accumulation or existence upon any premises, lot, or parcel of ground of any putrid or unsound meat, pork, fish, hides, decayed vegetables or food, filthy ash heaps, garbage, offal, rubbish, trash, dirt, any accumulation of dead weeds, grass, or brush, or filth of any kind which, by its decay or putrefaction, could or would become offensive to human beings, or detrimental to health, or which by its existence might harbor bugs, snakes, or rats or other rodents, shall constitute a nuisance.

51.230. Same, throwing into streets, public places or private property. The throwing or depositing, or causing to be deposited, in any street, alley, or other public place or on any private property of any garbage, refuse, filth, debris, offal, the carcass of any animal or part thereof, any filthy water or other offensive matter, or causing or permitting such or any offensive matter to collect or remain in any place to the prejudice or annoyance of others shall constitute a nuisance.

51.245. Damaged or inoperable vehicles are nuisances.  
1. Any damaged or inoperable vehicle, part thereof, or junk located on any property, street, or highway which presents a hazard to children, or harbors tall grass, weeds, or other vegetation, or creates fire hazard, or affords a breeding place or nesting place for mosquitoes, flies, rodents, rats, or other vermin; or any vehicle, part thereof, or junk

allowed to remain unmoved on any street or highway for 48 hours, is a public nuisance. No person in charge of or in control of premises, whether as owner, lessee, tenant, occupant or otherwise shall allow any partially dismantled, wrecked, junked discarded or otherwise non-operating motor vehicle to remain on such property for a longer time than 48 hours and no person shall leave any such vehicle on any property within the city for a longer time than 48 hours. No more than two vehicles offered for sale by a private owner shall be allowed to remain on any property for longer than fifteen (15) days within a six (6) month period in any zone, unless said person holds the proper licenses to operate a dealership located in the proper zone as stated in Chapter 42. **Ord. # (4-10-06)**

2. No person in charge of or in control of a business enterprise operated in a lawful place, shall allow any partially dismantled, wrecked, junked discarded or otherwise non-operating motor vehicle to remain on such property for a longer time than fourteen days. Subsection 2 applies to business enterprises operated in a lawful place, not in a residential district, and only when the keeping or maintenance of such vehicle is necessary to the operation of such business enterprise. (Revised 4-10-99, **Ord. 1170**)

51.260. Vehicles that are not considered damaged or inoperable. Is any vehicle that is in the process of restoration, that is properly secured, does not create a public health or safety hazard, and is located in the rear yard or in the side yard if covered by a weather resistant cover.

51.275. Duty of maintenance of private property. No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

### **Subchapter C - Notice and Abatement of Nuisance**

51.300. Duty to abate on order of Code Enforcement Officer or his duly authorized representative. It shall be the duty of the owner or occupancy of premises, or his agent, or the person causing or maintaining any nuisance thereof, to abate the same after an order by the Code Enforcement Officer or his duly authorized representative in accordance with the terms prescribed in such order.

51.310. Right of entry on premises for inspection. The Code Enforcement Officer or his duly authorized representative is hereby authorized to enter and inspect all premises for the discovery and abatement of nuisances thereon.

51.320. Right of entry on premises to abate nuisances. Any person or contractor employed or contracted with for the abatement of a nuisance and any agent or employee of such contractor shall have the right of entry for that purpose upon any premises, and it shall be unlawful to interfere with any police officer or any officer, agent, or employee of the City, for the purpose of the discovery or abatement of any nuisance. **Ord. #1337 (3-11-02)**

51.335. Notice. Whenever the Code Enforcement Officer or his duly authorized representative determines that any vehicle or junk is a nuisance as defined herein, he shall cause *one* written notice to be served upon the owner of the vehicle or junk if he can be located, or the person in custody of such vehicle or junk, stating that the nuisance shall be abated within ten (10) days from receipt of such notice or an extension of time permitted at the discretion of the Code Enforcement Officer or his duly authorized representative. A reoccurrence of the nuisance within a twelve month period shall be deemed as a continuing offense and an immediate summons to court shall be issued for the second and each such violation thereafter within the twelve month period. The notice shall be deemed sufficient proof that the same was deposited in the United States Mail first class postage prepaid. The notice shall state that the vehicle or junk is deemed to be a nuisance within the provisions of this Chapter, and shall briefly state facts deemed to constitute such vehicle or junk a nuisance within the terms of this Chapter. At no time shall the original notice require the offending party to abate said nuisance in less than ten (10) days.

51.340. Proceedings when owner or custodian cannot be located. When the owner or custodian of any nuisance as defined in this Chapter cannot be located by reasonable search, the notice shall be attached to the property, briefly stating facts deemed to constitute the property a nuisance and stating that the nuisance shall be abated within ten (10) days of the date notice was posted, or if the nuisance is on public property, within two (2) days of the date notice was posted.

51.350. Duty of the owner or custodian. Any person receiving the notice provided for in this Chapter shall comply with the provisions of the notice requiring abatement.

51.360. Disposition. If not removed within the times specified in the notice, the vehicle or junk shall be transported to a storage area by or at the direction of the chief of police or his duly authorized representative at the expense of the owner or person in custody thereof. It shall then be stored for a period of at least 90 days, and the person entitled to possession thereof may sell it to the highest bidder or, if it has no sale value, may redeem the property by payment to the City of the actual cost of its removal and a reasonable storage fee of \$1.00 per day. If the vehicle or junk is unredeemed after the expiration of the 90-day period, the Code Enforcement or his duly authorized representative may sell it to the highest bidder or, if it has no sale value, may otherwise dispose of it. Any money received from disposal of any vehicle or junk shall be applied to the expenses charged to the owner or person in charge thereof, and any excess held in escrow or returned to him. After another 90-day period, if the excess be unclaimed, it shall be paid over to the general fund of the City.

51.370. Notice of sale. Prior to the sale of any such property, the Code Enforcement Officer or his duly authorized representative shall cause to be posted in the City Hall, place of storage and at least one other public place in the City, a notice of sale stating:

1. that the City is selling abandoned property
2. the color, make, year, motor number, and serial number, if available, and any other information necessary for an accurate identification of the property
3. the terms of the sale
4. the date, time, and place of the sale

This notice shall be published not less than ten (10) nor more than twenty (20) days prior to the date of the sale.

51.380. City's right to civil action for cost. Nothing in this chapter shall be construed as abandoning or limiting the City's right to bring suit for all expenses attending the abatement of a nuisance, when performed by the City, in any court of competent jurisdiction in the name of the City against the person maintaining, keeping, creating, or refusing to abate the nuisance so abated.

51.390. City's right to file civil action for abatement of nuisance and for recovery of costs and attorney's fees. In addition to any other remedy available at law or under this Chapter, the City shall have the right to file and prosecute a civil cause of action for abatement of any nuisance as defined in this Chapter, and upon successful prosecution of such cause of action, the City shall have the right to be awarded and recover from any defendant to such an action the City's legal costs incurred and reasonable attorney's fees incurred in connection with any and all such civil causes of action to abate any such nuisances, in accordance with Section 79.383, RSMo. (Cum. Supp. 1993), as amended from time to time.

#### **Subchapter D - Special procedures when structures constitute a public nuisance**

51.400. Special procedures when structures constitute a public nuisance.

1. In cases where a building or structure is a public nuisance, as defined in this section, then the procedures and remedies found in this section shall be followed in lieu of any inconsistent procedure or remedy found in this Chapter.

2. Any building or structure that is unsafe to its occupants or others or unfit for human occupancy as defined in this section, is hereby declared to be a public nuisance. The Code Enforcement Officer or his duly authorized representative, may order, using the procedures found in this section, the vacation, mandatory demolition, or mandatory repair and maintenance of any structure which constitutes a public nuisance under this section.

a. An unsafe structure is one that is found by the Code Enforcement Officer or his duly authorized representative to be dangerous or detrimental to the life, health, property, or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is likely or personal injury is reasonably foreseeable.

b. A structure is unfit for human occupancy whenever the Code Enforcement Officer or his duly authorized representative finds the structure to be

dangerous or detrimental to the life, health, property, or safety of the public or the occupants of the structure because of the degree to which the structure is in disrepair or lacks maintenance, is

unsanitary, vermin or rat-infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities, or other essential equipment required by the Holts Summit, Missouri City Code, or because the location of the structure.

3. In the event that the Code Enforcement Officer or his duly authorized representative determines that a structure is a public nuisance under this section, the Code Enforcement Officer or his duly authorized representative shall serve the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the structure, as shown by the land records of Callaway County, Missouri, with notice that such structure has been declared to be a public nuisance. Such notice shall specify that the property is to be vacated, if such be the case, or in what manner the structure must be repaired, reconditioned, or removed, and shall give a reasonable time for the commencement of such remedial measures. Such notice shall be served either by personal service or by certified mail, return receipt requested, but if service cannot be had by either of these modes of service then service may be had by publication. Failure to comply with the requirements of the notice of declaration of public nuisance within a reasonable time or failure to proceed continuously without unnecessary delay shall be an offense punishable by a fine of not less than Ten Dollars (\$10) and not more than Five Hundred Dollars (\$500), and each day shall be a new offense.

4. If the demolition or remedial work specified in the notice of public nuisance is not commenced within the time specified in such notice, or if such demolition or remedial work does not proceed continuously without unnecessary delay, the Board of Aldermen shall call and have a full and adequate hearing upon the matter, giving the parties who were entitled to notice of the declaration of public nuisance at least twenty-one (21) days' written notice of the hearing. Any party may be represented by counsel, and all parties shall have an opportunity to be heard. After the hearing, if evidence supports a finding that the building or structure is a nuisance or detrimental to the health, safety, or welfare of the residents of Holts Summit, Missouri, the Board of Aldermen shall issue an order making specific findings of fact, based upon competent and substantial evidence, which shows the building or structure to be a nuisance and detrimental to the health, safety, or welfare of the residents of Holts Summit, Missouri, and ordering the building or structure to be demolished and removed, or repaired. Any interested party may appeal any such order of the Board of Aldermen to the Circuit Court of Callaway County as established in sections 536.100 to 536.140 RSMo., if a proper record as defined in section 536.130 RSMo. is maintained of the hearing provided by this subsection; otherwise, the appeal shall be made pursuant to the procedures provided by section 536.150 RSMo. In any appeal to the Circuit Court of Callaway County, any person who owns or occupies property located within one thousand two hundred (1,200) feet of the perimeter of the building or structure which is the subject of the suit shall be allowed to present evidence to the court on behalf of the city whether or not such person presented such evidence at the hearing provided for in this section, and the appellant shall have the opportunity to cross-examine any such person presenting evidence to the court.

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5. If the Board of Aldermen issues an order whereby the building or structure is demolished, secured, or repaired, the costs of performance shall be certified to the city clerk, who shall cause a special tax bill or assessment therefor against the property to be prepared and collected. Except as provided in subsection 6 of this section, at the request of the

taxpayer the tax bill may be paid in installments over a period of not more than ten years. The tax bill from the date of its issue shall be deemed a personal debt against the property owner and shall also be a lien on the property until paid.

6. If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion, or other casualty loss, then up to ten percent of such insurance proceeds shall be paid to the city as provided in subdivisions (a) and (b) of this subsection. This provision shall only apply to a covered claim payment which is in excess of fifty percent (50%) of the face value of the policy covering a building or other structure:

a. The insurer shall withhold from the covered claim payment up to ten percent (10%) of the covered claim payment, and shall pay such moneys to the city to deposit into an interest bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under this section.

b. The city shall release the proceeds and any interest which has accrued on such proceeds received under subdivision (a) of this subsection to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after receipt of such insurance moneys, unless the city has instituted legal proceedings under subsection 5 of this section. If the city has proceeded under the provisions of subsection 5 of this section, all moneys in excess of that necessary to comply with the provisions of subsection 5 of this section for the removal of the building or structure, less salvage value, shall be paid to the insured.

7. If there are no proceeds of any insurance policy as set forth in subsection 6 of this section, at the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from date of its issuance shall be a lien on the property until paid.

#### **Subchapter E - Penalty**

51.500. Penalty for failure to abate nuisance. Any person who, having received a notice as provided for in this Chapter, fails to abate the nuisance within the period provided in said notice, upon conviction thereof, shall be fined not less than Twenty Dollars (\$20) nor more than Five Hundred Dollars (\$500) for each offense and a separate offense shall be deemed committed on each day during or on which such nuisance is permitted to exist beyond the period given in the aforementioned notice.

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#### **Subchapter F - Weeds**

51.600. Cutting and removal of grass, weeds, etc. It shall be unlawful for any owner, lessee, or occupant, or any agent, servant, representative, or employee of any such owner, lessee, or occupant having control of any occupied lot or land or any part thereof in the City, or

for any owner, lessee, or occupant, or any agent, servant, representative, or employee of any such owner, lessee, or occupant having control of any unoccupied lot or land or any part thereof in the City, to permit or maintain on any such lot or land, any growth of weeds, grass, and poisonous or harmful vegetation to a greater height than twelve (12) inches on the average, and it shall also be unlawful for any person or persons to cause, suffer, or allow poison ivy, ragweed, or other poisonous plant, or plants detrimental to health to grow on any such lot or land in such manner that any part of such ivy, ragweed, or other poisonous or harmful weed shall extend upon, overhang, or border any public place or allow seed, pollen, or other poisonous particles or emanations therefrom to be carried through the air into any public place, and the growth of such weeds, grass, and poisonous or harmful vegetation of a height of more than twelve (12) inches is and hereby is declared to be a nuisance. Any parcel of land equal to or greater five acres and which is used for agricultural purposes, is exempt from the above, but no weeds, grass, or poisonous or harmful vegetation of a height of more than twelve (12) inches may exist within 25 feet of any property lines. The provisions of Section 51.600 shall not pertain to right-of-ways.

**Ord. #1145 (1-10-00)**

51.610. Duty of owner, lessee, or occupant. It shall be the duty of any owner, lessee, or occupant of any lot or land to cut and remove or cause to be cut and removed all such weeds, grass, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of this Section.

51.620. When City to do work. If the provisions of this Chapter are not complied with, the Code Enforcement Officer or his duly authorized representative, shall hold a hearing after five (5) days notice thereof given to the owner of the lot or his agent, the occupant if any, and the lessee if any. Following the hearing, the Code Enforcement Officer or his duly authorized representative may declare the weeds to be a nuisance and order the same to be abated within five (5) days. In the event that the weeds are not cut down and removed within five (5) days, the Code Enforcement Officer or his duly authorized representative shall have the weeds cut down and removed and shall certify the cost of the same to the city clerk. The city clerk shall cause a special tax bill therefor against the property to be prepared and to be collected by the county collector, with other taxes assessed against the property. The tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. Each special tax bill shall be issued by the city clerk and delivered to the county collector on or before the first day of June of each year. Such bills if not paid when due shall bear interest at the legal rate of interest as provided by state statute.

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51.630. Penalty. Each person who shall neglect to cut and remove weeds, grass, or other vegetation as directed in this Chapter, or who shall fail, neglect, or refuse to comply with the provisions of any notice herein provided or who shall resist or obstruct the Code Enforcement Officer or his duly authorized representative in the cutting and removal of weeds, grass, and other vegetation, shall upon conviction thereof, be guilty of a misdemeanor. The preparation of a

tax bill, as authorized by Section 65.030, shall not relieve any person of liability under this Section.

1. Each person convicted of a violation of this Section shall be penalized as provided in Section 13.010 of this Code.

2. As provided in Section 13.020 of this Code, each day on which a violation of this Chapter continues shall constitute a separate offense.

51.640. Repealed on January 10, 2000, by Ordinance No. 1145.