

To: Mayor and Board of Aldermen, City of Ballwin
From: Robert E. Jones
Date: April 3, 2015
RE: DANGEROUS TREES

Following the last meeting of the Board of Aldermen, Tom Aiken communicated with other administrators in the St. Louis County area and received responses from Webster Groves, Maplewood, Brentwood, Dellwood, St. Ann, Olivette, O'Fallon, Ellisville and Wildwood with regard to dangerous trees. I reviewed the ordinances from each of these cities. Dellwood did not have such an ordinance. The City of Ellisville does not include dangerous trees within its nuisance section for debris and weeds and the City of Wildwood defines dangerous trees to include only those that overhang or impinge on any street, sidewalk, trail or other city right-of-way. However, the other cities did have ordinances that declared dangerous trees to be public nuisances, even if on private property. All have some sort of a notice and hearing procedure like that already contained in Ballwin's Code. Several have emergency procedures which will allow the City to dispense with a hearing, but I am not in favor of this. If the Board is so inclined, I can prepare a Bill, adding dangerous trees to the list of conditions that constitute a nuisance and provide for the same procedure as other nuisance abatements. I have attached copies of the ordinances to this Memorandum.

CHAPTER 31. NUISANCES**Article I. Nuisances****Section 31.010. Definition and Enumeration of Nuisances.**

Every act or thing done or made, permitted or allowed or continued on any property, public or private, by any person or corporation, its agents or servants, to the annoyance, detriment, damage or injury of the public, or which is injurious to the public health, safety or welfare is hereby declared to be a public nuisance and, as such, a misdemeanor punishable under Section 31.090.

The definition of "**public nuisance**," as set forth above, shall include, but not by way of limitation, the following:

- a. The accumulation upon any premises, lot or parcel of ground, or the discharge thereof upon any public street or private property, of stagnant or foul waste, water or liquids of any kind whatsoever.
- b. The maintenance of any outside toilet, privy water closet or private vault which is kept in such condition as to emit any offensive, noxious or disagreeable odor.
- c. All carcasses of dead animals which the owner or keeper thereof shall permit to remain unburied for a period exceeding twelve (12) hours after death.
- d. The keeping of animals of any kind, domestic or wild, upon any public or private place or premises in such a manner or condition that same constitutes a hurt, injury, annoyance, or danger to the public or the residents in the vicinity.
- e. Placing, causing, keeping, maintaining or permitting trash, garbage, rubbish, junk, decaying vegetable or animal matter, ashes, debris, obnoxious or filthy substances, or any kind of waste materials upon any public or private property or premises in such a manner and extent as to render the same unsightly, unclean or unsafe.
- f. The burning, ignition, setting afire or maintenance of the burning of garbage, refuse, waste, trash, straw, paper, wood, leaves, weeds, grass clippings or other combustible materials or other substances of any nature or description is prohibited, except in incinerators constructed in accordance with the St. Louis County air pollution control requirements and the building code of the City of Webster Groves.
- g. Ashpits or rubbish containers which are not emptied and contents removed from the premises when level full.
- h. Any unclean, stinking, foul, defective or filthy drain, ditch, tank or gutter or any leaking, broken slop, trash or garbage box or ashpit, or receptacle of like character.

THE CODE OF WEBSTER GROVES

Nuisances

Chapter 31

- i. The maintenance, upon public or private property, of dead or dying trees or tree limbs or branches, which by reason of their location, size, or state of deterioration, constitute a danger to the public health, safety or welfare, or the maintenance upon public or private property of trees which are infected with Dutch Elm or other contagious disease or blight, dangerous to persons, animals, or other trees or plant life.
- j. The parking or stopping of a motor vehicle in a yard or lot, as defined in the zoning ordinance of the City of Webster Groves, in any place other than a parking space, as defined in the zoning ordinance, or a durable surface including firmly placed and well-maintained rock, gravel or chat driveway. (Ord. No. 7974, § 1, 5-6-97; Ord. No. 8193, § 1, 2-6-01)
- k. Allowing trailers, junkers, wrecks, or dilapidated or abandoned automobiles, i.e., owner cannot be determined, whether the same are operable or not, to remain on any street, alley, roadway, public driveway or public parking lot for a period of time in excess of twenty-four (24) hours. (Ord. No. 7377, § 1, 4-1-86)
- l. The presence graffiti on private property exposed to public view. As used in this section the word "**graffiti**" shall mean and refer to any unauthorized inscription, word, phrase, motto, name, figure, symbol, picture or design which is written, scribbled, marked, etched, scratched, drawn or painted on any exterior surface or structural component of any building, structure, or other facility regardless of the nature of the material of that structural component. (Ord. No. 7945, § 1, 12-21-97)
- m. No unregistered or unlicensed motor vehicle or trailer shall be permitted on any premises. All motor vehicles and trailers shall display their current state licenses. Exception (1) motor vehicles or trailers within a fully enclosed structure, closed to public view and view of adjacent properties; or (2) motor vehicles or trailers stored or displayed as part of a licensed vehicle dealership business which is in compliance with the Webster Groves Zoning Code; or (3) motor vehicles or trailers on the premises of a state licensed vehicle inspection station or motor vehicle service station licensed in the City of Webster Groves, waiting for services or repairs; provided that such motor vehicle(s) or trailer(s) are not on the premises for more than five (5) consecutive days. (Ord. No. 8194, § 1, 2-20-01)
- n. No motor vehicle or trailer shall at any time be in a state of disassembly, disrepair or shall be in the process of being stripped or dismantled. A motor vehicle or trailer shall be defined as being in a state of disassembly or disrepair; or being stripped or dismantled if any one or more of the following conditions exist: (1) a motor vehicle containing no engine, or (2) a motor vehicle or trailer missing one or more wheels or tires, or (3) a motor vehicle or trailer missing a body part such as a hood, fender, door or trunk lid, or (4) a motor vehicle or trailer partly or entirely supported by a method other than its tires, such as ramps, jacks or blocks, or (5) a motor vehicle or trailer which exhibits a defective component or defective condition such as a missing windshield wiper, missing window glass; a convertible without top in adverse weather; missing bumper; a missing door handle; broken headlamp, tail light, or warning lights; and similar items. A current license and/or inspection certificate shall not be considered as exempting

motor vehicles or trailers from this provision. Exemptions (1) one motor vehicle or trailer within a fully enclosed structure, closed to public view and view from adjacent properties; or (2) motor vehicles undergoing repairs on the premises of a service station licensed in the City of Webster Groves; provided that such motor vehicle(s) or trailer(s) are within a fully enclosed structure or fenced area, closed to public view and view from adjacent properties, unless the premises has been issued a special use permit which specifically provides otherwise. Structure and fenced area egress points shall be closed during non business hours. (Ord. No. 8194, § 2, 2-20-01)

Cross reference - Animals constituting a public nuisance, 33.010 (definitions of "nuisance," "public nuisance").

Section 31.020. Duty of Owner and Occupant to Maintain Premises in Safe and Sanitary Condition.

Every person who owns, occupies, or controls any building, residence, vacant lot, or other premises must maintain the same in such a manner that it will be safe and sanitary. The neglect, disregard, abandonment, or other act, or failure to act, so as to permit any building, residence, premises or lot to become unsafe, unsanitary or injurious to the public health, safety and welfare is a public nuisance and is prohibited.

Section 31.030. Inspection of Premises; Access.

The Chief of Police or Fire Chief, the Sanitarian or Health & Housing Inspector and the City Manager or any officer, agent or employee duly appointed by any of them are hereby authorized to enter and inspect all buildings and parts of buildings and other premises for the purpose of examining the sanitary conditions thereof and for the discovery and abatement of nuisances therein.

Section 31.040. Emergency Abatement.

Whenever it becomes necessary to abate a nuisance immediately, in order to protect the public health, safety or welfare, the City Manager may abate such nuisance without notice, and he may use any suitable means or assistance for such purpose. The City Manager shall certify the cost of abating such nuisance to the Council and the Council may by ordinance levy the cost thereof as a special tax against the property on which said nuisance is located, which said tax shall be collected as are other City taxes and shall constitute a first lien on the property until paid.

Section 31.050. Notice and Hearing; Abatement.

In the case of a nuisance the abatement of which is not immediately necessary for the protection of the public health, safety or welfare, the City Manager may, at his discretion, hold a hearing prior to declaring such condition to be a nuisance and ordering the abatement of same. Five (5) days notice of the time and place of such hearing shall be given to the owner or occupant of the premises upon which said alleged nuisance exists, or to his agent, or to the person causing or maintaining same. Such notice may be served personally or by first class mail. In the event that the whereabouts of the owner or occupant of the premises upon which said alleged nuisance exists, or his agent, or

NATIVE PLANTS: Shall include but not be limited to those listed, as may be amended from time to time, by the Missouri Department of Conservation on the Grow Native Website: www.grownative.org or subsequent such listings.

ARTICLE II. - TREES

Sec. 54-19. - Purpose and intent.

- (a) *Purpose.* It is the purpose of this article to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the city.
- (b) *Intent.* It is the intent of the city council that the terms of this article shall be construed so as to promote:
- (1) The planting, maintenance, restoration, and survival of desirable trees, shrubs, and other plants within the city; and
 - (2) The protection of citizens from personal injury and property damage, and the protection of the city from property damage, caused or threatened by the improper planting, maintenance, or removal of trees, shrubs, or other plants located within the city.

(Code 1982, § 23-50; Ord. No. 4924, § 1, 1-25-2000)

Sec. 54-20. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arboricultural specifications manual means a manual prepared by the city forester pursuant to the ordinance containing regulations and standards for the planting, maintenance, and removal of trees, shrubs, and other plants on city owned property. This manual shall be adopted from the publication of the American National Standards Institute entitled Arboricultural Specifications and Standards of Practice A3100.

City forester means the director of parks and recreation or other person so designated by the city manager or contracted by the city, assigned to administer the provisions of this article.

City-owned property means property within the city limits of the City of Maplewood, Missouri, and:

- (1) Owned by the city in fee simple absolute; or
- (2) Implied or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic, or for public sewer easements.

Park trees means trees, shrubs, bushes, and all other woody vegetation in public parks and all city owned property to which the public has free access as a park.

Parks and recreation commission means the parks and recreation commission of the City of Maplewood, Missouri.

Property owner means the record owner or contract purchaser of any parcel of land.

Street trees means trees lying between property lines on either side of all streets and all other public rights-of-way within the city.

(Code 1982, § 23-51; Ord. No. 4924, § 1, 1-25-2000)

Sec. 54-21. - Violation and penalty.

- (a) Any person who violates any provision of this article or who fails to comply with any notice issued pursuant to the provisions of this article, upon being found guilty of violation, shall be subject to a fine for each separate offense in accordance with the provisions set forth in section 1-11. Each day during which any violation of the provisions of this article shall occur or continue shall be a separate offense.
- (b) In addition, if, as the result of the violation of any provision of this article, the injury, mutilation, or death of a tree, shrub, or other plant located on city owned property is caused, the cost of repair or replacement of such tree, shrub, or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined by a local consulting arborist using the latest revision of A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens, as published by the International Society of Arboriculture. The consulting arborist's fee will be included in the cost of replacement.

(Code 1982, § 23-57; Ord. No. 4924, § 1, 1-25-2000)

Sec. 54-22. - Parks and recreation commission; designation; duties.

- (a) *Designation.* The parks and recreation commission is hereby designated as the advisory commission for the effectuation of the objectives set forth in the tree ordinance. Nothing in this article shall be construed as vesting legislative authority in the parks and recreation commission regarding the tree ordinance.
- (b) *Duties.* The primary duty of the parks and recreation commission relating to the tree ordinance shall be to advise the city council and the city forester as to the planting, care, maintenance and removal of all trees in city parks and on public rights-of-way. In addition, the parks and recreation commission shall have the following duties:
- (1) Review of the city forester's comprehensive plan for the planting and maintenance of trees in all city parks and on all streets and other public rights-of-way within the city;
 - (2) Establishment of educational and informational programs to inform citizens of any matters pertaining to the city tree ordinance and to the Arboricultural Specifications Manual, and the proper selection, planting, care, maintenance and removal of trees on private property;
 - (3) Suggest amendments to the city tree ordinance and revisions to the Arboricultural Specifications Manual as needed;
 - (4) Development of policies and procedures regarding the city forester's duties.

(Code 1982, § 23-52; Ord. No. 4924, § 1, 1-25-2000)

Sec. 54-23. - City forester; establishment, appointment, duties.

- (a) *Establishment.* The position of the city forester is hereby established.
- (b) *Appointment.* The city forester shall be appointed by the city manager, and shall serve at the pleasure of the city manager until such time as he shall be removed by the city manager.
- (c) *Duties.* The city forester shall perform the following duties:
- (1) The city forester shall administer the city tree ordinance and the provisions of the Arboricultural Specifications Manual.
 - (2) The city forester shall prepare, or cause the preparation of a comprehensive plan for the planting, care and maintenance of all street trees and park trees and trees and shrubs on all city owned property.
 - (3)

The city forester shall cause and superintend the planting and maintenance of trees, including the removal of undesirable trees, shrubs, and other plants located on city owned property, to insure that all trees, shrubs, and other plants located on city owned property conform to the comprehensive plan for planting within the city parks, and on streets and other public rights-of-way in the city and comply with the regulations and standards of the Arboricultural Specifications Manual, and with the requirements of this article.

- (4) The city forester, with the advice and assistance of the parks and recreation commission, shall develop and periodically review and revise, as needed, the Arboricultural Specifications Manual. The city forester shall cause the Arboricultural Specifications Manual, and all revisions and amendments to it, to be published and promulgated and shall cause three copies of the manual, and all revisions and amendments to it, to be available for public inspection at the office of the city clerk.
- (5) The city forester shall make available to any interested person all information pertaining to the tree ordinance, to the activities of the parks and recreation commission regarding trees, and to the Arboricultural Specifications Manual.
- (6) The city forester shall establish a program of public information and education that will encourage the planting, maintenance, or removal of trees, shrubs, and other plants on private property in furtherance of the program for promoting the forestation of the city.
- (7) The city forester, in accordance with the provisions regarding nuisance abatement set forth in chapter 34 and regarding code enforcement administration contained within the property maintenance code set forth in chapter 12, may remove, cause or order to be removed, any tree or part thereof which is dead or dying, or is in an unsafe condition, or which by its condition is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest.

(Code 1982, § 23-53; Ord. No. 4924, § 1, 1-25-2000)

Sec. 54-24. - Public nuisances; abatement; permit required for removal.

(a) *Declaration of public nuisances.* The following are hereby declared public nuisances under this article:

- (1) Any dead or dying tree, shrub, or other plant, whether located on city owned property or on private property.
- (2) Any otherwise healthy tree, shrub, or other plant, whether located on city owned property or on private property, which harbors insects or diseases which reasonably may be expected to injure or harm any tree, shrub, or other plant.
- (3) Any tree, shrub, other plant, or portion thereof, whether located on city owned property or on private property, which by reason of location or condition constitutes an imminent danger to the health, safety, or welfare of the general public.
- (4) Any tree, shrub, or other plant or portion thereof whether located on city owned property or on private property which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a street light.
- (5) Any tree, shrub or other plant or portion thereof whether located on city owned property or on private property which dangerously obstructs the view of traffic as determined by the city forester.

(b)

Abatement. The city forester may cause the removal of any tree, shrub or other plant declared a public nuisance if the owner of the land on which the tree is located fails to abate the nuisance, using the procedure set forth in section 34-242

(Code 1982, § 23-54; Ord. No. 4924, § 1, 1-25-2000)

Sec. 54-25. - Interference with city forester.

No person shall unreasonably hinder, prevent, delay, or interfere with the city forester or his agents engaged in the execution of enforcement of this article.

(Code 1982, § 23-55; Ord. No. 4924, § 1, 1-25-2000)

Sec. 54-26. - Prohibited acts.

It shall be unlawful and a violation of this article for any person to do any of the following:

- (1) Deposit, store, or maintain on city owned property any stone, brick, sand, concrete, lumber, tile, pipe, or other material which reasonably may be expected to impede the free passage of water, air or fertilizer to the roots of any tree, shrub, or other plant;
- (2) Cause any gaseous, liquid, or solid substance which, because of the nature or amount, reasonably may be expected to be toxic or otherwise harmful to trees, shrubs or other plants to be located where such substance reasonably may be expected to affect trees, shrubs, or other plants located on city owned property;
- (3) Cause any fire to burn on city owned or private property if such fire, or the heat, smoke, or ash therefrom reasonably may be expected to injure any portion of any tree, shrub, or other plant located on city owned property; provided, however, this subsection shall not be construed to exempt any person from complying state laws or ordinances of the city with respect to burning;
- (4) Cause injury to any tree on city owned property by any means including, but not limited to, removing tree limbs by any means, driving nails into the tree trunk, removing bark or carving on the trunk; or remove or cause the removal of a tree on city owned property without authorization from the city forester.

(Code 1982, § 23-56; Ord. No. 4924, § 1, 1-25-2000)

Secs. 54-27—54-55. - Reserved.

City of Brentwood, MO

Tuesday, March 31, 2015

Chapter 230. Trees and Shrubs

Article II. Diseased or Dead Trees

Section 230.100. Infected Trees Declared Public Nuisance.

[R.O. 2009 §24-16; Code 1969 §41-6]

Any tree, whether living or in a dead or dying condition, wherever located within the City which shall be infected with the fungus *Coratostomella Ulmi* or with the virus disease Phloem Necrosis is hereby declared to be a public nuisance and shall be removed as provided in this Article.

Section 230.110. Dead or Dying Trees Declared to Be Public Nuisances.

[R.O. 2009 §24-17; Code 1969 §41-7]

Any tree in a dead or dying condition, wherever located within the City, whether or not the same is then infested with any disease referred to in Section **230.100**, is hereby declared to be a public nuisance and shall be removed as provided in this Article.

Section 230.120. Removal of Infected or Dead Trees.

[R.O. 2009 §24-18; Code 1969 §41-8]

If the Public Works Official shall determine that any tree within the City is in a dead or dying condition or is infected with any of the diseases referred to in Section **230.100**, he/she shall, if the tree is in any public street, ground or place or upon any property owned by the City, immediately remove the same in such manner as to prevent as fully as possible the occurrence or spread of any such disease. If such tree is located on private property, a written notice shall be served upon the owner of record of such property, a written notice that such tree is so infected or in a dead or dying condition and that the same shall be removed under the supervision of the Public Works Official within ten (10) days after the service of such notice. Such notice shall also notify the owner that unless an appeal is filed as provided by this Article or unless the tree is removed as provided in this Article, the City will proceed with the removal of such tree, causing the cost to be assessed as a special tax bill against the property. If such owner cannot be found, a copy of such notice shall be posted upon the tree designated in such notice.

Section 230.130. Appeals From Decision of Public Works Official.

[R.O. 2009 §24-19; Code 1969 §41-9]

Any owner of record of property upon which is located any tree determined by the Public Works Official to be in a dead or dying condition or infected with any of the diseases referred to in Section **230.100** may, by

notice in writing served upon the Director of Planning and Development or his/her designee within the time limited for removal of the tree as provided in the notice served or posted as provided in Section **230.120**, request a hearing upon the determination. The hearing shall be at such time and place within the City as the Director of Planning and Development shall determine, upon at least four (4) days' prior written notice to the appellant. The hearing shall be informal and the appellant and the City representatives may submit such testimony or other evidence bearing upon any question presented by the appellant's request for hearing. At the conclusion of such hearing the Director of Planning and Development shall render a written finding; and if such finding is that the tree in question is in a dead or dying condition or is infected with any of the diseases referred to in Section **230.100**, then such owner shall remove the tree as provided in Section **230.120**, within three (3) days of service upon him/her or of posting as provided in Section **230.120** of a copy of such finding.

Section 230.140. Abatement by City — Assessment of Cost as Special Tax Bill.

[R.O. 2009 §24-20; Code 1969 §41-10]

If any tree subject to removal as provided in this Article, shall not be removed after the notice and within the time limited in Section **230.120** or, in the event of appeal, in Section **230.130**, then the Public Works Official shall cause the tree to be removed and burned in such manner as to prevent as fully as possible the occurrence or spread of any disease referred to in Section **230.100**. He/she shall certify the cost of the same to the City Clerk/Administrator, who shall cause a special tax bill therefore against the property to be prepared and collected with other taxes against the property. The tax bill from the date of its issuance shall be a lien upon the property with the same priority as general taxes assessed against the property for the current calendar year. The lien shall continue until the tax is paid. The special tax bill 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 to its issuance shall be a defense thereto. Such tax bills, if not paid by December thirty-first (31st) of the calendar year in which issued, shall bear interest of the rate of eight percent (8%) per annum from and after such date.

Section 230.150. Enforcement of Article — Right of Entry.

[R.O. 2009 §24-21; Code 1969 §41-11]

The Departments of Public Works and Planning and Development are charged with the enforcement of this Article and, to that end, the Public Works Superintendent, Director of Planning and Development and their representatives may enter upon private property at all reasonable hours for the purpose of inspecting trees thereon and may remove such specimens as they deem necessary for purposes of analysis to determine whether or not the same are infected with any of the diseases referred to in Section **230.100**.

City of St. Ann, MO
Tuesday, March 31, 2015

Chapter 220. Nuisances

Article I. In General

Section 220.010. Public Nuisances Designated.

[CC 1988 §11-61; Ord. No. 11 §1, 5-3-1948; Ord. No. 1971 §1, 9-2-1997; Ord. No. 2590 §1, 4-9-2009]

A. Public nuisances are hereby designated as follows:

[Ord. No. 2877 §1, 11-4-2013]

1. Any act done or committed or suffered to be done or committed by any person, or any substance or thing kept or maintained, placed or thrown on or upon any public or private premises which is injurious to the public health, safety or welfare.
2. All pursuits followed or acts done by any person to the hurt, injury, inconvenience or danger of the public.

B. Said definitions shall include, but not by way of limitation, the following:

[Ord. No. 2877 §1, 11-4-2013]

1. Accumulation of weed cuttings, fallen or cut trees or shrubs or parts thereof, rubbish and trash, lumber not piled or stacked twelve (12) inches off the ground, rocks or bricks, tin, steel, derelict cars or trucks or parts thereof, or broken furniture.
2. Any flammable materials.
3. The growth of weeds or grass of any type to a height of nine (9) inches or more on any property.
4. Any tree deemed by the Director of Public Services to be dead, diseased or decayed.
5. Any pool of stagnant water standing on any premises.
6. Leaking sanitary sewer lateral.
7. Encroachments in any street, alley, sidewalk or other public place.
8. Repetitive emission of noise, odors or fumes beyond the property owned or occupied by the party responsible for such condition.

C. Any owner or occupant who permits a nuisance as described by this Section shall be deemed to have committed an offense.

[1]: Cross Reference — Definitions and rules of construction generally, §100.020.

Section 220.020. Notice and Hearing.

[CC 1988 §11-62; Ord. No. 11 §2, 5-3-1948; Ord. No. 1971 §1, 9-2-1997]

- A. The Director of Building and Planning, or his/her designee, shall give written notice to the owner or occupant of the premises upon which the nuisance is located, describing the nature of the nuisance, the location and directing the owner or occupant to abate the nuisance within a designated time period, which shall not be longer than seven (7) days from receipt of such notice. Such notice may be delivered by personal service, by certified mail or regular mail to the last known address of the owner or by leaving a copy of such notice for the occupant.
- B. The owner or occupant shall have the right to a hearing on the existence of the nuisance condition, by written notification to the Director of Building and Planning prior to the expiration of the time specified in the notice for abatement. The Director or his/her designee shall hold a hearing, if so requested, with at least four (4) days' notice given to the owner or occupant of the premises. The Director or his/her designee shall make a determination as to the existence of the nuisance condition and if such nuisance condition is found to exist, shall order abatement and designate the time within which such abatement is to be completed.

Section 220.030. Abatement of Nuisance.

[CC 1988 §11-63; Ord. No. 11 §3, 5-3-1948; Ord. No. 1971 §1, 9-2-1997; Ord. No. 2590 §§2 — 3, 4-9-2009]

- A. In addition to the penalty provided in Section **100.090**, an owner or occupant who permits a nuisance as described by Section **220.010** shall be subject to the following provisions:
 1. If the nuisance is not abated within the time specified, the Director or his/her designee may cause the nuisance condition to be abated pursuant to this Section. The cost of such abatement shall be certified to the City Clerk and the City Clerk shall issue a special tax bill therefor against the property, which shall be a first (1st) lien on the property from the date of issuance until paid and shall be prima facie evidence of the recitals therein and of its validity. No clerical error or informality in such tax bill, or in the proceedings leading to its issuance, shall be a defense. Any such tax bill, if not paid when due, shall bear interest at the rate of ten percent (10%) per annum until paid. Such special tax bill shall be enforced in the manner provided by law and in addition shall be deemed a personal debt against the owner or occupant, as the case may be.
 2. In lieu of issuance of a special tax bill, said certified cost may be added to the annual real estate tax bill for the property and shall be collected in the same manner and procedure for collecting real estate taxes.

Chapter 220. Nuisances

Article I. Nuisances in General

Section 220.010. Defining and Enumerating Nuisances.

[R.O. 2008 §§100.110, 160.010, 170.105; Ord. No. 32, 7-17-1940; Ord. No. 757, 9-20-1966; Ord. No. 1706, 6-11-1991; Ord. No. 1757, 7-14-1992; Ord. No. 2079, 2-13-2001; Ord. No. 2277, 5-24-2005]

- A. "Public nuisances" of the City of Olivette are hereby defined and declared to be as follows:
1. Any act done or committed or suffered to be done or committed by any person or any substance or thing kept or maintained, placed or thrown on or upon any public or private place or premises which is injurious to the public health, safety or welfare.
 2. All pursuits followed or acts done by any person to the hurt, injury, annoyance, inconvenience or danger of the public.
- B. The above definitions shall include, but not by way of limitation, the following:
1. All bawdy houses or buildings or rooms to which any persons are allowed or permitted by the owner, tenant, keeper or occupants thereof to resort for the purpose of prostitution or other immoral purposes.
 2. All slaughterhouses.
 3. All ponds or pools of stagnant water and all foul or dirty water or liquid when discharged through any drain pipe or spout into or upon any street, alley or thoroughfare or lot to the injury and annoyance of the public.
 4. All privies or private vaults kept in such condition as to emit any offensive, noxious or disagreeable odor and all substances emitting an offensive, noxious, unhealthy or disagreeable effluvia in the neighborhood where they exist.
 5. All carcasses of dead animals which the owner or keeper thereof shall permit to remain within the limits of the City exceeding twenty-four (24) hours after death.
 6. The keeping of animals of any kind, domestic or wild, upon any public or private place or premises in such a manner or condition that same constitute a hurt, injury, annoyance, inconvenience or danger to the public or the residents of the vicinity.
 7. Causing, keeping, maintaining or permitting debris of any kind including, but not limited to, weed cuttings, cut and fallen trees and shrubs, overgrown vegetation and noxious weeds which are seven (7) inches or more in height, rubbish and trash, lumber not piled or stacked at least twelve (12) inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, any flammable material upon any public or private property or premises which may endanger public safety or any material which is unhealthy or unsafe.

8. Any dog, cat, puppy, kitten or other animal soiling or depositing waste or defecation on urban property, other than the property of a person responsible for the animal, unless such waste is immediately removed by a person responsible for the animal and deposited in a waste container or buried on ground where the person responsible for the animal has permission or the right to bury it.
9. All trees, bushes or vegetation located on private property which overhang a street or sidewalk not kept properly trimmed to avoid obstruction of the view of traffic and pedestrians.
10. All dead or damaged trees or plant materials.
11. Any hedge, shrub, plant or other growth to a height greater than three (3) feet or a tree having any portion of a limb less than seven (7) feet above the ground within a triangle formed by the curb lines of intersecting streets and a line drawn between two (2) points located twenty-five (25) feet along each curb line measured from the point of intersection of the curb lines. At intersecting private streets, this requirement shall apply only to locations at which a traffic control sign or device has been installed by the City or other public authority.

Section 220.020. Notice Ordering Abatement — Service of Notice.

[R.O. 2008 §160.020; Ord. No. 2079, 2-13-2001]

- A. When a public nuisance as described in Section **220.010** exists, the Building Official or other designated officer shall so declare and shall give to the owner of the property on which the nuisance exists written notice by at least one (1) of the following methods: personal service, certified mail, publication or posting a copy thereof on the property involved.
- B. Such notice shall, at minimum:
 1. Declare that a public nuisance exists;
 2. Describe the condition which constitutes such nuisance with reference to Section **220.010** of this Article;
 3. Order the removal or abatement of such condition within seven (7) days of receipt of service of notice; and
 4. Inform the owner that if the owner fails to begin removing the nuisance within seven (7) days of receipt of the notice or fails to pursue the removal of such nuisance without unnecessary delay, the Building Official shall have the duty to pursue the applicable remedies provided in Sections **220.030**, **220.040** or **220.050** of the Municipal Code.
- C. In the event the owner of such property following seven (7) days from receipt of service of notice provided above fails to begin removing the nuisance condition specified or fails to pursue the removal of such nuisance without unnecessary delay, the Building Official or other designated officer shall have the nuisance condition removed and abated on behalf of the City.

Section 220.030. Removal of Nuisances By City — Expenses Chargeable To Occupant of Property — Penalty For Violation.

[R.O. 2008 §160.030; Ord. No. 32, 7-17-1940; Ord. No. 2079 §4, 2-13-2001]

In all cases when the Building Official or other person under the direction of the Building Official shall remove public nuisances, cleanse and lime cellars, back yards and privies, he/she shall charge the occupants

of the property or premises upon which said nuisance existed or was maintained with the expenses incurred in the performance of said duty and should said occupant refuse or neglect to pay the amount of expenses incurred by said Building Official or other person in and about the property or premises, then said occupant shall be deemed guilty of an ordinance violation and shall forfeit and pay to the City of Olivette a sum equal to the amount of said expenses incurred by the Building Official, together with a sum not exceeding twenty-five dollars (\$25.00) to be recovered as other penalties before the City Court for each and every offense; and it shall be the duty of said Building Official or other designated person to draw up the amount of the expenses thus incurred and file same in the office of the Judge of the City Court and said Judge of the City Court shall immediately issue his/her summons against said delinquent occupant of said property or premises and the case shall be tried and the above penalties inflicted as in other cases of violations of City ordinances.

Section 220.040. Recovery of Costs of Removal or Abatement of Debris.

[R.O. 2008 §160.035; Ord. No. 2079, 2-13-2001]

In addition to any other remedy provided by law, if, following procedures set forth in Section **220.020** of this Article, the Building Official abates and removes one (1) or more of those nuisance conditions which are described in Section **220.010(B)(7)** of this Article, upon completion of such abatement and removal, the Building Official shall certify the cost of such abatement and removal to the City Clerk. The City Clerk shall cause the certified cost to be added to the annual City real estate tax bill for the property and such costs shall be collected in the same manner and procedure for collecting City real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent and the collection of the delinquent tax bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against such owner and shall also be a lien on the property until paid.

Section 220.050. Penalty For Violation.

[R.O. 2008 §160.050; Ord. No. 32, 7-17-1940]

Any person failing to remove or cause to be removed any nuisance upon any property or real estate owned or occupied by him/her within the corporate limits of the City of Olivette within five (5) days from the service of the notice aforesaid shall be deemed guilty of an ordinance violation and punished in accordance with Section **100.180** of this Code.

Section 220.060. Prosecution in City Court.

[R.O. 2008 §160.080; Ord. No. 32, 7-17-1940; Ord. No. 2079, 2-13-2001]

It shall be the duty of the Building Official or any City Officer to make complaint before the Judge of the City Court against all persons who shall refuse or neglect to remove or abate nuisances after service of said notice as is required by this Article, and any person interested in the removal or abatement of any nuisance may also in like manner make such a complaint and in either case it shall be the duty of the said judge to summon such owner or occupant of said property or real estate before him/her to answer such complaint of a violation of this Article and the said judge, upon such complaint, shall have jurisdiction of the case and proceed in all respects as in other cases of violation of City ordinances.

Chapter 220. Nuisances

Article I. Generally

Section 220.010. Nuisances Prohibited.

[Ord. No. 5315 §1, 4-10-2008]

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 of O'Fallon or within one-half ($\frac{1}{2}$) mile of the corporate limits of the City of O'Fallon, Missouri, to cause, permit or maintain a nuisance on any such lot or land. Additionally, it is unlawful for any person or his/her agent, servant, representative or employee to cause or maintain a nuisance on the land or property of another with or without permission. Each day that a nuisance shall be maintained is a separate offense.

Section 220.020. Conditions and Acts Which Constitute A Nuisance.

[Ord. No. 5315 §1, 4-10-2008; Ord. No. 5589 §1, 4-22-2010; Ord. No. 5657 §1, 1-13-2011; Ord. No. 5886 §1, 5-24-2013]

- A. The following conditions, acts and business operations are hereby declared to be nuisances affecting public health:
1. Stagnant water and water collected and allowed to stand for more than thirty-six (36) hours and the presence of containers, old tires, debris or other conditions which lend themselves to the collection and retention of pools or puddles of water which may become stagnant. This Subsection shall not include swimming pools, decorative or patio ponds or fountains or other containers where the water is continuously filtered, cleaned or cycled.
 2. Accumulations, wheresoever they may occur, of manure, rubbish, garbage, refuse and human and industrial, noxious or offensive waste, except the normal storage on a farm of manure for agricultural purposes.
 3. Any storage or accumulation on any premises or any open lot of any lumber, bricks, stones, gravel, concrete, dirt, sand or similar materials, unless the same shall be stored in permanently constructed structure which is fully enclosed.
 4. The presence of debris of any kind including, but not limited to, weed cuttings, cut and fallen trees and shrubs, rubbish and trash, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, any flammable material which may endanger public safety, or any material which is unhealthy or unsafe.
 5. Any accumulation, deposit or outside storage or any vehicular or equipment parts, inoperable appliances and other equipment, junk or material of any nature where said accumulation, deposit

or outside storage may constitute an attractive nuisance danger to children, provide a breeding or nesting area for vermin, rodents and other animals, or collect stagnant water.

6. Any and all infestation of flies, fleas, roaches, lice, ticks, rats, mice, fly maggots, mosquito larvae and hookworm larvae.
7. The keeping of animals and fowls in any area within the City where the keeping of such animals is not permitted or in any unclean or filthy pen, shed or other enclosure.
8. All diseased animals running at large.
9. Carcasses of dead animals not buried or destroyed within twenty-four (24) hours after death.
10. Unless otherwise provided in this Code, grass, brush, vegetation and weeds more than eight (8) inches in height along any public or private street for a minimum depth of twenty (20) feet back from the outer edge of the curbing or the outer edge of the pavement if no curbing exists; and eight (8) inches in height elsewhere on improved property on which a building or structure is located, and eight (8) inches in height elsewhere on property on which no building or structure is located; provided however, that these height limitations shall not apply:
 - a. On land designated as being within a floodplain pursuant to Chapter **415** of this Code of Ordinances;
 - b. Within fifteen (15) feet of the top of the bank of a creek or larger waterway; and
 - c. On land which has a slope of more than 2.5 to 1.
Whenever private property abuts a public right-of-way or easement belonging to the City of O'Fallon or any public entity, and there exists in such right-of-way or easement a lawn or grassy area between the private property line and the midline of said right-of-way or easement, then such lawn or grassy area shall be considered, for purposes of this Section requiring the cutting of grass and weeds, to be a part of the private lot which abuts the right-of-way or easement, and it shall be the duty of those responsible for the maintenance of the private lot to equally maintain the lawn or grassy area within the abutting right-of-way or easement, and all of the provisions of this Section shall apply with equal force and effect to said lawn or grassy area.
11. Dead or dying trees.
12. The shining of artificial light onto public or private property as to be an annoyance, hurt, injury or inconvenience to other persons.
13. Any noise which exceeds the limitations or which is otherwise in violation of the provisions of Section **215.237** or Section **400.555** of this Code.
14. The presence on any property of any steel-jawed animal traps or similar devices, unless authorized by the Police Department.
15. Buildings in such a state of disrepair as to affect the health, safety and welfare of the citizens of O'Fallon or which are maintained in violation of the zoning or building codes of the City.
16. Any accumulation or storage of firewood in the front yard of any lot, other than in a commercially manufactured decorative firewood rack on the front porch, or in the rear yard of any lot unless evenly piled or stacked either on open racks elevated not less than six (6) inches above the ground or on a durably paved surface.
17. The maintenance, storage or use of any furniture outside a fully enclosed structure, unless the furniture is designed and built for exterior use and to resist damage and deterioration by the elements.

18. Water or other liquid diverted from a sump pump which flows onto streets and sidewalks.
19. Any land disturbance activity or area where vegetation has been cleared or has not been maintained or other condition which results in the runoff of mud, dirt, rocks or any other material onto sidewalks, streets or other rights-of-way or into creeks, streams, drainage ditch or any stormwater system or facility.
20. The discharge onto any street, sidewalk or right-of-way or into any creek, stream, drainage ditch or stormwater system of any waste materials, liquids, vapor, fat, gasoline, benzene, naphtha, oil or petroleum product, mud, straw, lawn clippings, tree limbs or branches, metal or plastic objects, rags, garbage or any other substance which is capable of causing an obstruction to the flow of water drainage or the storm system or interfere with the proper operation of the system or which will pollute the natural creeks or waterways or cause a hazard to the public.
21. Every privy, privy vault, cess pool, septic tank or other receptacle of any kind containing human excrement which is overflowing, full, insecure or in a defective condition or which emits offensive, noxious or unhealthful odor to the neighborhood or which permits discharges in violation of State law or ordinance.
22. Garbage and recycle cans which are not securely covered, which are leaking, which are unsanitary or which do not prevent the entry of flies, insects and rodents and garbage and recycle cans which have been left or stored along public roads, sidewalks and rights-of-way in the City of O'Fallon for anytime outside the thirty-six (36) hours beginning at 6:00 P.M. on the evening prior to that resident's scheduled service day and ending at 6:00 A.M. the day following the scheduled service. Holidays occurring during the week can affect the resident's normally scheduled service day.
23. The pollution of any well, cistern, spring, underground water, stream, lake, canal or body of water by sewage or industrial wastes or other substances harmful to human beings.
24. Dense smoke, noxious fumes, gas and soot, or cinders in unreasonable quantities, or the presence of any gas, vapor, fume, smoke, dust or any other toxic substance on, in or emitted from the equipment of any premises in quantities sufficient to be toxic, harmful or injurious to the health of any employee or to the premises, occupant or to any other person.
25. Any vehicle used for septic tank cleaning which does not meet the requirements of the Code of Ordinances for the City of O'Fallon.
26. Any vehicle used for garbage or rubbish disposal which is not equipped with a watertight metal body and provided with a tight metal cover or covers and so constructed as to prevent any of the contents from leaking, spilling, falling or blowing out of such vehicle at any time, except while being loaded, or not completely secured and covered so as to prevent offensive odors from escaping therefrom or exposing any part of the contents at any time.
27. The parking or storage of any derelict, unlicensed or non-functional vehicle, trailer, boat, camper or other recreational vehicle unless such storage is within an enclosed garage.
28. The parking or storage of any vehicle, trailer, boat, camper or other recreational vehicle anywhere other than on a durably-paved surface; for the purposes of this Section, "durably-paved surface" shall mean asphalt or concrete. However, any residence or business establishment with a legally permitted gravel parking surface may use such surface for parking of licensed and functional vehicles.
29. All decayed or unwholesome food offered for sale to the public or offered to the public at no charge.
30. Common drinking cups, roller towels, combs, brushes or eating utensils in public or semi-public

places where not properly sanitized after use.

31. Unlicensed dumps and licensed dumps not operated or maintained in compliance with the ordinances of the City of O'Fallon or State law.
32. The presence of any graffiti displayed on exterior surfaces of property. "*Graffiti*" is hereby defined as any word, phrase, motto, name, design, symbol or picture written, scribbled, painted, drawn, etched or scratched directly onto any portion of public property or onto an exterior surface on private property.
33. Any obstruction or encumbrance of any street, curb, alley, cul-de-sac, sidewalk or right-of-way within the City by placing or causing to be placed barricades, objects or other obstructions including, but not limited to, signs, boxes, stones, junk, portable basketball hoops, etc., on such streets, curbs, alleys, cul-de-sacs, sidewalks or right-of-way unless such placement is permitted by the City or permitted under the provisions of this Code.
34. Any business operation or establishment, although licensed or permitted, which is operating in violation of any law, ordinance or permit or plan condition or which is causing or maintaining any condition which is detrimental to the health, safety and welfare of the inhabitants of the area.
35. All other acts, practices, conduct, business, occupation callings, trades, uses of property and all other things detrimental or certain to be detrimental to the health of the inhabitants of the City of O'Fallon.

Section 220.030. Inspections.

[Ord. No. 5315 §1, 4-10-2008]

- A. For the purpose of examining the sanitary condition thereof and for the discovery and abatement of public nuisances therein, any Code Enforcement Officer, Police Officer or other official, agent or employee of the City are hereby authorized to:
 1. Inspect property from any adjoining public property or from adjoining private property if the owner of the neighboring private property has given consent to such entry; and
 2. Enter and inspect all property, buildings and parts of buildings and other premises pursuant to lawful authority which shall include consent of the owner of the property, valid administrative search warrant or in areas where the owner of which has no expectation of privacy.

Section 220.040. Notice of Nuisance and Hearing.

[Ord. No. 5315 §1, 4-10-2008]

- A. Before any action is taken with respect to any nuisance, the Code Enforcement Official shall give written notice to the person or persons causing or maintaining such nuisance and shall order such person or persons to abate the same within a reasonable time to be specified in such notice. If the City contemplates abatement of the nuisance, then the notice shall also set forth the date, time and place for hearing and shall order such person to appear before the Director of Community Development, or his or her designee, at such time and place as the Code Official may direct to show cause, if any, why the nuisance should not be abated.
- B. Such notice may be served by the Code Enforcement Officer or any Police Officer of the City. A copy of such notice shall be kept by the officer serving the same who shall make his or her written return thereon stating how, when, on whom and where he or she served the same and subscribe his or her

name thereto. Such notice may be served by delivering the same to the person or persons to be notified or a copy thereof left at the usual place of abode of such person with a member of the family over the age of fifteen (15) years, unless otherwise provided in this Chapter.

- C. Provided that if the nuisance is being maintained upon property to which record title is held by a person or corporation not a resident of this City, a notice prescribed in this Section may be served by posting a copy thereof in plain view upon such property at least ten (10) days before any further action be taken by the City with regard to said nuisance and mailing a copy to the person maintaining the nuisance at the address as reflected in the County tax or real estate records.

Section 220.045. Penalty For Causing or Maintaining A Nuisance — Proceedings in Municipal Court.

[Ord. No. 5315 §1, 4-10-2008]

- A. Every person, occupant, tenant, owner or every officer or agent or employee of any corporation or other entity who shall cause or maintain any nuisance and who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice of the Code Enforcement Officer shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in Section **100.010** of this Code. Each and every day such nuisance is maintained after such notice shall constitute a separate and distinct offense punishable in such manner.
- B. Any Code Enforcement Officer or Police Officer of this City is hereby authorized to issue a citation requiring an appearance before the Municipal Judge at the date and time as specified in the citation. The citation shall, in sufficient detail, describe the nuisance and state the name of the person to appear. The form of the citation shall be approved by the Municipal Judge. In lieu of a citation, any Code Enforcement Officer or Police Officer of this City is hereby authorized to file a complaint with the municipal prosecutor detailing the circumstances of the nuisance and the person responsible therefor; such complaint shall serve as a basis to file and issue an appropriate Information and Summons to the person maintaining a nuisance in order to charge and proceed in all respects in the Municipal Court as in other cases involving violations of City ordinance.

Section 220.050. Ordinances Not To Be Construed As Limiting Any Official's Power of Abatement.

[Ord. No. 5315 §1, 4-10-2008]

Nothing in this Chapter or other ordinances relating to public nuisances, including the failure to set forth a particular condition as constituting a nuisance, or denominated by a particular ordinance as offenses or prescribing penalties therefore shall be construed as limiting or interfering with the duties and powers of any City Official relative to the condemnation and abatement of any matter which in law constitutes a public nuisance.

Section 220.060. Authority To Abate Emergency Conditions.

[Ord. No. 5315 §1, 4-10-2008]

In cases where it reasonably appears that there is an immediate danger to the health, safety or welfare of the public due to the existence of a nuisance, the City shall have authority to immediately abate the nuisance in an appropriate manner.

Section 220.070. Abatement of Nuisances, Generally.

[Ord. No. 5315 §1, 4-10-2008]

- A. In addition to other remedies and enforcement procedures set forth in this Code, the City may proceed to abate the nuisance in accordance with the provisions of this Section.
1. Nuisances caused by high grass, weeds, brush and vegetation may be abated in accordance with the separate procedure for such nuisance as set forth in this Chapter or in accordance with the provisions of this Section.
 2. Nuisances caused by an accumulation of trash, litter and debris may be abated in accordance with the specific procedure for such nuisance as set forth in this Chapter or in accordance with the provisions of this Section.
 3. For all other nuisances, the City shall proceed as follows:
 - a. The Code Official shall have issued a notice of the violation in accordance with the provisions of Section **220.040** of this Chapter and shall have included notice of hearing. Every person required to appear shall have at least ten (10) days' notice thereof.
 - b. The hearing shall be conducted by the Director of Community Development or his or her designee. If, after hearing all the evidence, it is determined that a nuisance exists, the Director of Community Development shall order the person to abate the nuisance within twenty (20) days or within such other time as the Director may deem reasonable. Such order shall be served in the manner provided in this Section for service of the notice of violation. The order may further provide that the appropriate City Official be directed to abate the nuisance if the order is not obeyed within the time period established, and that a special tax bill be issued for the costs of abating the nuisance.
 - c. The decision of the Director of Community Development may be appealed by filing an appeal, on such forms as prescribed by the City, with the City Administrator within seven (7) days from the Director's decision. The appeal form shall set forth, at a minimum, the detailed grounds for such appeal and such further information as requested on the appeal form. The City Administrator shall review the decision of the Director of Community Development either, within the Administrator's sole discretion, upon the record previously made or upon a new hearing and shall issue a written decision to all parties; such decision may be subject to judicial review in the Circuit Court of St. Charles County by filing an appropriate petition for judicial review within fifteen (15) days of the Administrator's decision.
 - d. If the nuisance has not been abated within the established time period, the appropriate City Official shall proceed to abate the nuisance in the manner provided by the order of the Director or the City Administrator, and the cost of same shall be assessed as a special tax against the property so improved or upon which such work was done and shall be a lien against said property. The City Clerk, or his or her designee, shall cause a special tax bill to be issued therefor against the owner thereof when known, and if not known then against the unknown persons, and the certified bills of such assessment shall describe therein the property upon which the work was done.

The costs and expenses incurred by the City shall include the actual costs billed by third (3rd) parties performing the abatement and paid by the City; costs billed by the City Attorney related to the abatement and paid by the City; costs of mailing or publication of notices; and costs related to time spent by City personnel in performing tasks related to the abatement and in preparation of the tax bill, lien or other paperwork (these costs shall be based on the time spent in quarter of an hour increments multiplied by the hourly rate of pay for the employee).

All City departments shall determine and document the costs and expenses related to abatement of a nuisance which shall be provided to the City Clerk or his or her designee, for proper billing of such costs and expenses and for general oversight purposes.

- e. If the bill is not paid within the time period established for payment, notice of a special tax lien shall be recorded with the Recorder of Deeds office.
- f. The cost of abating nuisances on private property shall be levied and assessed on each lot in proportion to the amount of work done and material used in abating the nuisance located on each such lot.

Section 220.080. Authority To Suspend or Revoke Business License or Other Permits As Means To Abate Nuisance Caused By Business Establishment.

[Ord. No. 5315 §1, 4-10-2008]

- A. In addition to the other methods of abatement and enforcement as provided in this Code, a business license or other permit may be suspended or revoked in the event that a business operation or establishment is found to be maintaining a nuisance.
- B. The Code Official shall issue a notice of violation to the operation or establishment that has caused or is maintaining the nuisance that such nuisance exists and order the property owner and owner or operator of the business (if different than the property owner) to appear before the Director of Finance, or his or her designee, at such time and place as determined by the Director of Finance to show cause, if any, why the business license or other permit should not be suspended or revoked. Every person required to appear shall have at least ten (10) days' notice thereof.
- C. Such notice shall be signed by the Code Official or Chief of Police and shall be served upon that person by delivering a copy thereof to the person, or by leaving a copy at his/her residence with some member of the family or household over fifteen (15) years of age, or upon any corporation by delivering the copy thereof to the registered agent or to any other officer at any business office of the corporation within the City. If the notice cannot be given for the reason that the person named in the notice or his/her agent cannot be found in the City, of which fact the return upon such notice of the officer serving the same shall be conclusive evidence, such notice shall be mailed to such person and posted at the property which is the site of the nuisance or mailed to such person and published in a newspaper within the City once at least seven (7) days before time fixed for the parties to appear. The cost of the mailing and publication shall be assessed against the property owner and/or business owner.
- D. If, after hearing all the evidence, it is determined that a nuisance exists, the Director of Finance, or his or her designee, shall order the property owner and the owner or operator of the business to abate the nuisance within twenty (20) days or within such other time as the Administrator may deem reasonable. Such order shall be served in the manner provided in this Section for service of the notice of violation. The order may further provide that if the nuisance is not abated within the time prescribed, then the business license or other permit shall be suspended for a certain period of time or revoked without further proceedings.
- E. The decision of the Director of Finance may be appealed by filing an appeal, on such forms as prescribed by the City, with the City Administrator within seven (7) days from the Director's decision. The appeal form shall set forth, at a minimum, the detailed grounds for such appeal and such further information as requested on the appeal form. The City Administrator shall review the decision of the Director of Finance either, within the Administrator's sole discretion, upon the record previously made or upon a new hearing and shall issue a written decision to all parties; such decision may be subject to judicial review in the Circuit Court of St. Charles County by filing an appropriate petition for judicial review within fifteen (15) days of the Administrator's decision.
- F. If the nuisance is not abated or other provisions of the order are not obeyed within the established

time period, the business license or other permit shall, in the discretion of the Director of Finance, be suspended for a certain period of time or revoked without further proceedings.

- G. Upon suspension or revocation of a business license, the owner and/or operator of the business shall immediately cease operation of the business at the location set forth in the order.

Section 220.090. Equitable and Other Relief.

[Ord. No. 5315 §1, 4-10-2008]

In addition to the other remedies provided in this Code, if a person has violated or continues to violate the provisions of this Chapter, the City may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation. In addition, the City may utilize any other remedy, at law or in equity, in order to enforce the provisions of this Chapter. The City shall recover all attorneys' fees, court costs and other expenses associated with enforcement of this Section.

City of Ellisville, MO
Tuesday, March 31, 2015

Chapter 215. Nuisances

Article IV. Debris/Weeds

Section 215.230. Definitions.

[R.O. 2005 §17-46; Ord. No. 2328 §1, 5-28-1999]

- A. 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 seven (7) inches or more in height, rubbish and trash, lumber not piled or stacked twelve (12) inches off the ground, 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 found on any lot or land that is unhealthy or unsafe, provided that it is described in detail in the notice that is required in Section **215.240** below. The word "weeds", as used in this Article, shall be held to include all rank vegetable growths which exhale unpleasant and noxious odors and also tall and rank vegetable growth.
- B. *Lots One Acre Or Larger.* No person having control of any lot of ground or any part of any lot or parcel of real estate within the City, such parcel consisting of more than one (1) acre, except those contained within the business district, shall allow or maintain on such lot or parcel of real estate any growth of weeds to a height of over seven (7) inches within three hundred (300) feet of any public or private roadway or street or any other public or private improvement consisting of a building, outbuilding, wall, fence or drive. Those lots or parcels of real estate within the business district as defined by Chapter **400** of the City Code shall be governed by Subsection **(A)** above.

Section 215.240. Notice.

[R.O. 2005 §17-47; Ord. No. 2328 §1, 5-28-1999]

- A. Enforcement of this Article shall be the responsibility of the Code Enforcement Officer. Enforcement shall commence by providing notice to the owner of the property of the nuisance condition existing on his/her/its property. The notice may be delivered by personal service, by certified mail or by ordinary mail. (If sent by ordinary mail, there will be a rebuttable presumption that the letter was delivered in three (3) days after the date it was sent.)
- B. The notice shall generally describe the nature of the nuisance, the location of the property (using the mailing or popular address rather than a legal description when reasonably possible to do so) and ordering the property owner to, within a period of five (5) days from the receipt of the notice, abate the nuisance.
- C. If weeds are allowed to grow on the same property in violation of this Section more than once during the same growing season, the Code Enforcement Officer may, without further notification, have the weeds cut down and removed and the cost of the abatement shall be billed in the manner described in

Section **215.250** below.

Section 215.250. Abatement of Nuisance.

[R.O. 2005 §17-48; Ord. No. 2328 §1, 5-28-1999]

If the nuisance is present on the property five (5) days after receipt of the notice by the property owner, the enforcement officer shall cause the same to be abated. (The costs of abatement shall include a fee for the City's costs in administering this Section). The Code Enforcement Officer shall certify the cost of such abatement to the Director of Finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the Director's option, and shall be collected in the same manner and procedure for collecting real estate taxes.

Section 215.260. Violation Is An Offense — Penalties.

[R.O. 2005 §17-49; Ord. No. 2328 §1, 5-28-1999]

- A. An owner who fails to remove a nuisance under this Article within five (5) days of being notified to do so by the notice/abatement order described in Section **215.240** above shall be guilty of an offense and may (at the option of the City) be charged in Municipal Court with failure to abate a nuisance.
- B. Penalties for violation of this Article shall be as follows:
 - First (1st) violation on parcel or lot, seventy-five dollars (\$75.00) each day any violation continues after notification period above stated.
 - Second (2nd) violation on same parcel or lot within one (1) year from date of first (1st) violation, one hundred fifty dollars (\$150.00) each day any violation continues after notification period above stated.
 - Third (3rd) violation on same parcel or lot within one (1) year from date of first (1st) violation, three hundred dollars (\$300.00) each day any violation continues after notification period above stated.All penalties are in addition to assessed costs of removal pursuant to Section **215.250** above.
- C. No person may pay any penalty called for herein by other than appearance in the Ellisville Municipal Division of the St. Louis County Circuit Court.

Chapter 215. Nuisances

Article I. In General

Section 215.010. Purpose of Chapter.

[Ord. No. 1200 §1, 9-12-2005]

Pursuant to the Missouri Statutes authorizing Cities to legislate on matters pertaining to public health, safety and welfare, this Chapter is enacted for the purpose of prohibiting, abating, suppressing and preventing or licensing and regulating all acts, practices, conduct, business, occupations, callings, trades, uses of property and all other things detrimental or liable to be detrimental to the health, safety and welfare of the inhabitants of the City of Wildwood, Missouri.

Section 215.020. Definitions.

[Ord. No. 1200 §1, 9-12-2005]

As used in this Chapter, the following terms shall have these prescribed meanings:

BUILDING

A structure that is affixed to the land, has one (1) or more floors, one (1) or more exterior walls and a roof and is designed or intended for use as a shelter.

DIRECTOR

For purposes of this Chapter, the Director of Planning and Parks of the City of Wildwood or his or her designee, including the Police Department or the Health Commissioner of St. Louis County.

HOLES, DEPRESSIONS OR OPEN EXCAVATIONS

Any opening in the ground or surface of land that is at any point more than three (3) feet below the natural or existing grade of the land immediately adjoining or adjacent to it. Said holes, depressions or open excavations shall not be construed to include landscape features no greater than one hundred (100) square feet in size and stormwater retention facilities required by the Metropolitan St. Louis Sewer District and/or the City of Wildwood.

POLICE DEPARTMENT

The St. Louis County Police Department or other Law Enforcement Officials of the City.

PUBLIC NUISANCE (GENERALLY)

Any act done or suffered to be permitted by any person upon his/her property, or any substance or thing kept or maintained, placed or thrown on or upon any public or private place which is injurious to the public health, or any pursuit followed or act done by any person to the injury or danger of the public is defined and declared to be a "public nuisance".

STRUCTURE

Any assembly of material forming a construction for occupancy or use, excepting, however, utility

poles and appurtenances thereto, underground distribution or collection pipes or cables and underground or ground level appurtenances thereto.

WEEDS OR NOXIOUS GROWTH

Weeds or noxious growth shall include brush, rank vegetation which is recognized as deleterious to health, safety or public welfare and considered as common nuisances, including grass or weeds on certain sized lots that exceed the ten (10) inch height as defined herein.

Section 215.030. Enforcement of Chapter.

[Ord. No. 1200 §1, 9-12-2005]

It shall be the duty of the Director, in conjunction with the Police Department, if appropriate, to enforce the provisions of this Chapter.

Section 215.040. Unlawful To Cause, Maintain Within City or One-Half Mile of City.

[Ord. No. 1200 §1, 9-12-2005]

No person shall cause, harbor, commit or maintain or to suffer to be caused, harbored, committed or maintained any nuisance, as defined by the Statute or common law of this State or as defined by this Chapter or other ordinance of the City, within the City or within one-half (½) mile thereof as prescribed by Section 71.780, RSMo. No person shall fail or refuse to abate or remove a nuisance within the time required. Each day that a nuisance shall be maintained constitutes a separate offense.

Section 215.050. Certain Conditions, Acts, Etc., Deemed Public Nuisances and/or Nuisances Affecting Health.

[Ord. No. 1200 §1, 9-12-2005; Ord. No. 1661 §1, 10-26-2009]

- A. The definition of "*public nuisance*"¹ as set forth in Section **215.020** shall include, but not by way of limitation, the following:
1. The accumulation upon any premises, lot or parcel of ground, or the discharge thereof upon any public street or private property, of stagnant or foul waste, water or liquids of any kind whatsoever;
 2. The maintenance of any outside toilet, privy, water closet or privy vault which is kept in such condition as to emit any offensive, noxious or disagreeable odors;
 3. All carcasses of dead animals which the owner or keeper thereof shall permit to remain unburied for a period exceeding twelve (12) hours after death;
 4. The keeping of animals of any kind, domestic or wild, upon any public or private place or premises in such a manner or condition that constitutes a hurt, injury, annoyance or danger to the public or the residents of the vicinity, including the non-removal of pet wastes from property as required by the City of Wildwood's Health Code;
 5. Placing, causing, keeping, maintaining or permitting trash, garbage, rubbish, junk, decaying vegetable or animal matter, ashes, debris, noxious or filthy substances or any kind of waste materials upon any public or private property or premises in such manner and to such extent as to render the same unsightly, unclean or unsafe;

6. The burning, ignition, setting afire or maintenance of the burning of garbage, refuse, waste, trash, straw, paper, weeds, leaves, grass clippings or other combustible materials or other substances of any nature or description within the City^[1]; provided that, to the extent permitted by law, a special permit shall be obtained from the Fire Department or any other governmental authority for the burning off of large tracts of land or any burning deemed necessary to the abatement of materials constituting a nuisance as herein described;
[1]: *Editor's Note—This definition of "public nuisance" is not to be interpreted as prohibiting the use of campfires, outdoor fireplaces or bar-be-que pits on residential, commercial and industrial lots where otherwise allowed.*
7. Ash pits or rubbish containers which are not emptied and the contents removed from the premises when level full;
8. Any unclean, stinking, foul, defective or filthy drain, ditch, tank or gutter or any leaking, broken sloop, trash or garbage box or ash pit or receptacle of like character;
9. All decayed or unwholesome food offered for sale to the public;
10. All diseased animals running at large;
11. Accumulations of manure, rubbish, garbage, refuse and human and industrial or noxious or offensive waste, except the normal storage on a farm of manure for agricultural purposes;
12. Privy vaults, septic tanks or garbage cans or receptacles which are not fly-tight;
13. The pollution of any well, cistern, spring, underground water, stream, pond, lake, canal or body of water by sewage or industrial wastes or other substance harmful to human, animal or aquatic life;
14. The discharge of stormwater, either by itself or in combination with other substances, that causes any stream, creek, pond, lake, canal or body of water to contain:
 - a. Substances in sufficient amounts to cause the:
 - (1) Formation of putrescent, unsightly or harmful bottom deposits,
 - (2) Unsightly color or turbidity, offensive odor, or
 - (3) Prevent full maintenance of beneficial uses, or
 - b. Oil, scum and floating debris in sufficient amounts to be unsightly or prevent full maintenance of beneficial uses.
15. Dense smoke, noxious fumes, gas, soot or cinders in unreasonable quantities or the presence of any gas, vapor, fume, smoke, dust or any other toxic substance on, in or emitted from the equipment of any structure in quantities sufficient to be toxic, harmful or injurious to the health of any employee, or to any premises occupant, or to any other persons;
 - a. If smoke is determined to constitute a nuisance under this Section due to faulty or antiquated equipment, mechanisms or other similar apparatus, repairs and upgrades to current guidelines and standards shall be required, before its operation can be authorized again by the City of Wildwood.
 - b. Determinations of nuisances from equipment, mechanisms or other similar apparatus, but not to be interpreted to include fireplaces in residential settings, chimineas, barbecue pits, bonfires, fire pits and certain exempted activities, shall be undertaken utilizing the current and most applicable testing protocol adopted by the U.S. Environmental Protection Agency for this purpose (or appropriate standard set forth by the State or County that is charged with the enforcement of Federal law(s) within the St. Louis Metropolitan Area).

- c. Other determinations of smoke nuisances can be made by Code Enforcement Officials of the Department of Planning, the St. Louis County Police Department or the St. Louis County Department of Health, if a condition is determined by them to exist that is an immediate threat to the public's health due to its extent, condition or duration.
 - d. The application of these requirements Section 215.050(15)(a—d) shall not be undertaken on any existing wood burning furnace or similar device that has received a duly authorized permit from St. Louis County and/or the City of Wildwood, Missouri. Notwithstanding the allowance herein, all wood burning furnaces or similar device, regardless of permit status, shall comply within five (5) years of the date of the adoption of this Subsection.
16. Common drinking cups, roller towels, combs, brushes or eating utensils in public or semi-public places not properly sanitized after use;
 17. Any vehicle used for septic tank cleaning which does not meet the requirements of any provision of this Code or other ordinance regulating the same;
 18. Any vehicle used for garbage and refuse disposal or transportation which does not meet the requirements of this Code or other applicable law or regulation;
 19. All infestations of flies, fleas, roaches, lice, ticks, rats, mice, fly maggots, mosquito larvae and hookworm larvae;
 20. Unlicensed dumps;
 21. Weeds, excessive growth of vegetation as set forth in Article III of this Chapter;
 22. Trees, shrubs, weeds, grass or other vegetation that overhangs or impinges upon any street, sidewalk, trail or other City right-of-way so as to brush or interfere with passing vehicles, bicyclists or pedestrians;
 23. All holes, depressions or open excavations in the City of whatsoever kind and for whatever purpose they shall be or shall have been made and that have not been secured with proper safeguards or that contain stagnant water, that shall be at any point more than three (3) feet below the natural grade of the land immediately adjoining or adjacent to them shall hereby be deemed hazardous as endangering the public health and safety. Holes, depressions or excavations maintained or allowed, as prohibited in this Chapter, are declared a nuisance as is the collection of stagnant water in any such hole, depression or excavation;
 24. All pools (erected) whether for swimming or any other purpose, that are not fenced in compliance with the IBC (International Building Code), BOCA or other applicable code currently adopted by the City, covered over securely or contain stagnant water;
 25. Pursuant to Sections 67.400 through 67.450, RSMo., the buildings or structures that are determined to be detrimental to the health, safety or welfare of the residents of the City of Wildwood including, but not limited to:
 - a. Those buildings or structures that have been damaged by fire, wind or any other cause whatsoever, thus rendering them dangerous to life, safety or the general health and welfare of any occupant or any other person;
 - b. Those buildings or structures that have parts thereof which are attached or have deteriorated in such a way that they constitute a threat of falling upon public ways or upon the property of others or which may constitute a threat of injury to members of the public or the occupants thereof;
 - c. Those buildings or structures that have become so dilapidated, decayed, unsafe or unsanitary so that they are unfit for human habitation or are likely to cause sickness or

- disease to the occupants thereof or to any other person;
- d. Those buildings or structures that because of their condition become harboring places for rats, stray animals, vermin or other disease-bearing creatures and which are unsafe, unsanitary or dangerous to the health, safety or general welfare of any person;
 - e. Those occupied buildings or structures having light, air or sanitary facilities that are inadequate to protect the health, safety or general welfare of any person who may live or work therein;
 - f. Those buildings or structures, whether occupied or unoccupied, having inadequate facilities for egress in case of fire or other catastrophe, or those buildings with structures having insufficient stairways, elevators, fire escapes to allow adequate egress therefrom;
 - g. Those buildings or structures which, because of their condition, are unsafe, unsanitary or dangerous to the health, safety or welfare of any person;
 - h. Those buildings or structures whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passed through the center of gravity of such wall or vertical structural member falls outside of the middle third ($\frac{1}{3}$) of its base;
 - i. Those buildings or structures which, exclusive of the foundation, show thirty-three percent (33%) or more damage or deterioration of the supporting member or members or fifty percent (50%) of damage or deterioration of the non-supporting enclosing or outside walls or covering;
 - j. Those which have improperly distributed loads upon the floors or roofs or in which the floors or roofs are overloaded, or those having floors or roofs of insufficient strength to be reasonably safe for the purpose for which they are being used or intended to be used;
 - k. Those which are uninhabited and are open at the door, window, wall or roof and may be entered by unauthorized persons;
 - l. Those under construction upon which no substantial work shall have been performed for ninety (90) days immediately prior to the time that a notice shall issue under Section **215.060**;
 - m. Those in the process of demolition upon which no substantial work shall have been performed for a period of fourteen (14) days immediately prior to the time a notice shall issue to complete the demolition thereof under Section **215.060**;
26. Accumulations, wheresoever they may occur, of debris including, but not limited to: weed cuttings; cut and fallen trees, tree limbs or shrubs; lumber not piled or stacked twelve (12) inches off the ground; rocks; bricks; tin; steel; parts of derelict vehicles; furniture; appliances; manure; rubbish; garbage; refuse; any flammable or toxic material which may endanger public safety; and human and industrial, noxious or offensive waste. This definition should not be construed to prevent residentially-scaled composting facilities on private lots;
 27. All dead or decaying trees and all trees infected by a disease;
 28. Any tree, shrub or other vegetation growth or any structure of any kind upon any corner lot in the City of Wildwood in which the lot lines of the property adjoining two (2) intersecting streets in such a manner that the view of vehicular or pedestrian traffic in either direction at the intersection is obstructed or any tree, shrub or other vegetation growth or structure of any kind so situated, located and maintained on any such lot so as to obstruct the view of a motor vehicle or pedestrians on either intersecting street for a distance of thirty (30) feet in each direction from the point of intersection of the curb lines of such intersecting streets;

29. Perforated, punctured, ruptured, broken, cracked or leaking sanitary sewer lateral lines;
30. Nuisance vehicles as set forth in Article **V** of this Chapter; and/or
31. All other acts, practices, conduct, business, occupations, callings, trades, uses of property and all other things detrimental or certain to be detrimental to the health of the inhabitants of the City.

Section 215.060. Abatement — Notice — Lien.

[Ord. No. 1200 §1, 9-12-2005]

- A. Irrespective of any penalty provided in this Code and unless other, more specific procedures are set forth in this Chapter, whenever any nuisance is reported to exist, the Director shall notify the person causing or maintaining the same or the occupant of the property on which the same nuisance exists to forthwith remove the same.
- B. Notice shall be given either personally or by United States mail to the owner or owners, or his/her or their agents, or by posting such notice on the premises; in which notice the Director shall state the condition that has been determined to be a nuisance and order the same to be abated within five (5) days.
- C. If the owner fails to begin removing the nuisance within five (5) days of receiving notice the nuisance has been ordered removed, the Director shall cause the condition which constitutes the nuisance to be removed.
- D. If the Director causes such condition to be removed or abated, the cost of such removal shall be certified to the City Clerk who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property and the certified cost shall be collected by the City Collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

Section 215.070. Failure To Abate — Penalties.

[Ord. No. 1200 §1, 9-12-2005]

- A. Where the owner of said parcel of ground, after the five (5) days provided for above, has failed to correct or abate the condition, a summons shall be issued to the owner for violation of this Article.
- B. No person may pay any penalty called for herein by other than appearance in the Wildwood Municipal Division of the St. Louis County Circuit Court.
- C. In addition to the remedial provisions set forth in this Section and in order to protect, promote and preserve the public health and safety, it is hereby declared that any person failing to comply with the provisions of this Section within the time period set forth in the service, posting and/or mailing of such notice shall be deemed to be in violation of this Chapter and shall be punished upon conviction as provided in Section **100.140** of this Code or herein if specifically set forth.

Section 215.080. Inspections — Authority To Order Abatement — Right of Entry.

[Ord. No. 1200 §1, 9-12-2005]

The Director of Planning or his/her authorized agent is hereby authorized and empowered to seek entry and inspect all buildings, lands and places as to their conditions for health, sanitation and safety and, when necessary, prevent the use thereof and require any alterations or changes necessary to make them healthful, sanitary or safe. No notice is required of the Department of Planning to the owner(s) or authorized agent(s) of the properties in advance of it seeking entry to any buildings, lands and places.