

**CHAPTER 21**

**NUISANCES<sup>1</sup>**

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## ARTICLE I. GENERALLY

### Sec. 21-1. Definitions.

Building Regulations Supervisor: When used herein the term "building regulations supervisor" shall mean the Director of Community Development or his designee.

Director: When used herein the term "Director" shall mean the Director of the Department of Community Development or his designee.

Junked Motor Vehicle: For the purposes of this chapter, the term "junked motor vehicle" or "junked vehicle" is defined as

- (a) any motor vehicle left unattended at the same place on any roadway in the city for a period of time in excess of seventy-two (72) consecutive hours, or
- (b) any vehicle which is parked within the city in violation of section 22-30, as amended from time to time, of the City Code (Leaving wrecked, junked, etc., vehicle standing on private property).

Nuisance: For the purposes of this chapter, the word "nuisance" is hereby defined, when not otherwise defined, as an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- A. Injures or endangers the comfort, repose, health or safety of others; or
- B. Offends decency; or
- C. Is offensive to the senses; or
- D. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; or
- E. In any way renders other persons insecure in life or the use of property; or
- F. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.
- G. Any property which is in violation of the Property Maintenance Code of the City (Section 8-49 through 8-50).

(Code 1977, § 24-1; Ord. 14132, §1, 12-4-2006)

### Sec. 21-2. Illustrative enumeration.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private

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property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- A. Noxious weeds and other rank vegetation over twelve (12) inches in height.
- B. Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
- C. Any condition which provides harborage for rats, mice, snakes and other vermin.
- D. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
- E. All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
- F. All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
- G. The carcasses of animals or fowl not disposed of within a reasonable time after death.
- H. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- I. Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- J. Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- K. Dense smoke, noxious fumes, gas, soot, dust or cinders, in unreasonable quantities.
- L. Dead trees and dead limbs of trees so located that the falling thereof would endanger the safety of persons using any public sidewalks in the city, or endanger the safety of any pedestrian or occupant of any motor vehicle traveling upon any public street.
- M. Tree limbs and branches which overhang any public sidewalk or public street of such height above the sidewalk or street as shall impede and interfere with the use of said sidewalk by any person, or impede and interfere with the use of said street by a pedestrian or the operator of any motor vehicle, or shall endanger the safety of any person using any public sidewalk, or endanger the safety of any pedestrian or occupant of any motor vehicle traveling upon any public street.
- N. Junked Motor Vehicles.

(Code 1977, §§ 24-1, 24-3; Ord. 14143, §1, 1-2-2007)

**Sec. 21-3. Prohibited.**

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance.

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**Sec. 21-4. Inspections.**

Subject to constitutional limitations, authorized agents of the city are hereby authorized to enter into or upon any premises where there is a reason to suspect the existence of any nuisance.  
(Code 1977, § 24-4)

**Sec. 21-5. Notice to abate.**

Whenever a nuisance is found to exist within the city or within the city's extraterritorial jurisdiction, a duly designated officer or employee of the city shall give written notice, in accordance with Section 21-6, to the owner or occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance.  
(Code 1977, § 24-5; Ord. 13605, §1, 9-2-2003)

**Sec. 21-6. Contents of notice.**

All notices to abate a nuisance issued under the provisions of this article shall contain the date of the notice and each of the following:

- A. A full description of what constitutes the nuisance, and the location of the nuisance, if the same is stationary.
- B. A statement of acts necessary to abate the nuisance.
- C. An order to remove the nuisance, notice of procedures to request a hearing, and a reasonable time either to remove the nuisance or request a hearing.
- D. A statement of notice that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the city will abate such nuisance and assess the costs thereof against such person as outlined in Sections 21-8 and 21-9.
- E. If the nuisance involves any building or structure the notice shall also include an order that the building or structure to be vacated if such be the case, reconditioned, or removed, giving a reasonable time for commencement of the work, and requiring the work to proceed continuously without unnecessary delay
- F. If the nuisance is a Junked Motor Vehicle then the Notice shall also include a description of the vehicle in question, a statement that the vehicle has been found to be a junked motor vehicle, a declaration that if the owner fails to abate the nuisance within ten (10) days, the City will abate the nuisance at the owner's expense and a statement that the City may abate the nuisance by towing the vehicle or otherwise.

(Code 1977, § 24-5; Ord. 13605, §2, 9-2-2003; Ord. 14347, §1, 4-21-1008)

**Sec. 21-7. Service of notice.**

Notice to abate a nuisance shall be served on all Owners.

- A. For purposes of this Chapter, Owner shall be determined to be:
  - 1. The owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building, structure or property where the nuisance is located, as shown by the land records of the recorder of deeds for the appropriate county that such building, structure or property has been found to be a public nuisance
  - 2. If the nuisance is a Junked Motor Vehicle, the owner of the vehicle shall also include the person(s) registered with the Missouri Department of Revenue as the owner(s), unless the Director has knowledge of some other person who is claimed to be the owner, in which case

such putative owner shall be given notice as provided above in addition to the registered owner.

- B. Service may be accomplished by any of the following:
1. By posting Notice in a conspicuous place on the property upon which the Nuisance is located and mailing Notice to the Owner. If the nuisance concerns a violation of Chapter 8 of the Code of the City of Jefferson, the mailed notice shall be certified, return receipt requested; or
  2. If the nuisance concerns a junked motor vehicle then by posting notice in a conspicuous place on the automobile and mailing Notice to all owners as recorded in Dept of Revenue; or
  3. If the address of the owner shall not be known, the service of notice shall be by posting and by publication. The publication shall contain the full text of the notice and shall be published at least once a week for three consecutive weeks on the same day of the week in some newspaper of general circulation published in the appropriate county, and the time specified in the notice for a hearing to be held, or for the commencement of work or for any other thing to be done shall be at least thirty (30) days from the date of the first publication of notice.
  4. By any other legal process pursuant to law.

(Code 1977, § 24-5; Ord. 14347, §1, 4-21-2008)

**Sec. 21-8. Request for Hearing.**

- A. Right to Request a Hearing: If an owner or person receiving Notice of the determination of public nuisance does not agree with said determination, they may request a hearing within 10 days of the date of the notice. The request must be in writing and must be received by the Director within 10 days of the date of the Notice. The Director may at his sole discretion, extend the time for filing the Request.
- B. Form of Request: The request for a hearing shall be on a form promulgated by the Director or shall be in writing and contain at least the name of the person requesting the notice, their mailing address, their phone number (if any), a statement that they request a hearing on the determination of a nuisance and the location of the nuisance.
- C. Director's Right to Set a Hearing: The Director may at his discretion order that a hearing date be scheduled and placed into the Notice to the owner without receipt of a written request. Further the director may cancel the hearing if a timely request for a hearing is not received within the allotted time provided that the Notice served on the owner contains language that the Hearing will be cancelled and the right to a hearing waived if a timely request is not received by the Director.
- D. Waiver of Request: If a request is not received within 10 days the right to a hearing shall be deemed to be waived. Nothing in this section shall preclude the Director from holding a hearing if the Director deems the same necessary.
- E. When Request is Received: If the Director receives a Request for hearing within the prescribed time, the Director shall call and conduct a Hearing in accordance with Section 21-9.
- F. Hearing Required without Request, when: Where abatement of a nuisance may require demolition of a building or structure, or mandatory repair and maintenance of a building or structure, in order to maintain the health, safety or welfare of the residents of the city, and inadequate action has been taken to remedy the

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situation a full and adequate hearing shall be called and conducted regardless of whether the owner of the property has requested a hearing.

**Sec. 21-9. Hearing Procedure.**

If a Hearing is called by the Director, the following procedure shall be followed:

- A. The Director shall appoint a Hearing Examiner to conduct the hearing, consider the evidence and issue an order in accordance with the procedures of this Chapter. The Director may appoint himself/herself to serve as Hearing Examiner.
- B. The person or person requesting a hearing shall have an opportunity to be heard, and shall be served notice of the hearing (personally or by mail; if those methods fail, service may be had by publication) allowing at least ten (10) days written notice. The notice shall include the date, time and place of the hearing.
- C. Any party may be represented by counsel and have the right to present evidence.
- D. In the event that any or all of the parties fail to appear at the hearing, the evidence of the existence of facts which constitute grounds alleged in the Notice shall be considered un rebutted.
- E. The technical rules of evidence shall not apply in the hearing. Any relevant evidence may be admitted and considered by the hearing officer if it is the sort of evidence of which responsible persons are accustomed to rely in the conduct of serious affairs. Objections to evidence shall be noted and a ruling given by the hearing examiner.
- G. All testimony shall be under oath, which may be administered by the hearing Examiner and a recording shall be made by the City or a written record of the hearing may be made by a reporter to be employed by the City, the cost of which shall be paid by the City should the proceeding be eventually held against the City and by the owner if it should not. In the latter case the cost of such reporting shall be a lien upon the lot, tract, or parcel of land upon which the building or structure stands, and shall be added to the cost of performance for demolition or repair in the event the City shall be required to do so, and payable as provided for such costs.
- H. The hearing shall proceed in the following manner. The City will give opening remarks first, followed by any opening remarks by the owner. The City will then be allowed to present its evidence. Witnesses called by the City will be directly examined with an opportunity for the owner to cross-examine, followed by an opportunity for the City to re-direct. Once the City's case is presented, the owner will have an opportunity to present his or her case. The same procedure for questioning witnesses will be followed. Then the City will have an opportunity for rebuttal, if it so chooses. Finally, the City and the property owner will have an opportunity to make closing remarks in that respective order.

**Sec. 21-10. Findings of Hearing Examiner following hearing.**

Within thirty (30) days from the date of the hearing, the Hearing Examiner shall, upon the basis of competent and substantial evidence offered at the hearing, make a conclusion of law as to whether or not a nuisance exists under the terms of this article. If the nuisance is found to exist then the Hearing Examiner shall make a finding as to whether the procedures required by this chapter have been substantially met and complied with and whether or not the abatement order of the building regulations supervisor to abate the nuisance was reasonable in its terms and conditions and within the standards of this article. Finally the Hearing Examiner shall make a finding as to the appropriate abatement for the nuisance and enter an order instructing the nuisance to be abated in accordance with Section 21-11. If it is found that the nuisance is detrimental to the health, safety and welfare of the residents of the City, that finding shall be specifically stated in the Findings of Fact. If the Hearing Examiner finds that the nuisance does not exist or that the procedures of this article have not been substantially met and complied with, the proceedings against the building or structure shall be dismissed.

If the nuisance involves a junked motor vehicle, the Hearing Examiner shall determine whether or not the vehicle is a junked motor vehicle and whether the director is entitled to abate the nuisance. The hearing office shall not have authority to determine the validity of a parking citation. If the Hearing Officer determines that the vehicle is not a junked motor vehicle, the decision of the Director shall be withdrawn and the Director shall be prohibited from again determining that the vehicle is a junked motor vehicle for thirty (30) days.

**Sec. 21-11. Abatement by city.**

A. Abatement Generally.

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this article to abate the same, a duly designated agent or employee of the city shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof.

B. Abatement methods.

Where the a City official is obliged to abate a violation of the Property Maintenance Code (section 8-49), and such abatement requires the painting of the structure or parts thereof, then the City official shall cause the painting thereof to be in a color or colors most similar to the colors last used to paint the structure, even if use of such colors is not the least expensive means of abating the nuisance.

(Ord. 14132, §2, 12-4-2006)

C. Abatement of Violations of the Dangerous Building Regulations.

1. Where the a City official is obliged to abate a violation of the Dangerous Building Regulations (Chapter 8, Article VI ), the Hearing Examiner may issue an order directing the building or structure to be completed, repaired, or demolished and vacated as the case may be, within the standards of Chapter 8. This order, together with the findings of fact and conclusions of law, shall be in writing and shall be immediately delivered or mailed to each party to the hearing or to his attorney of record. The order shall state a reasonable time which shall not be less than thirty (30) days from the date of issuance within which to comply with the order, and shall further provide that if it is not complied with within such time, the Director of Community Development shall cause the work to be done by the city and its own crews or by contractors employed by the city for that purpose.
2. If there shall be no contractor employed by the city for that purpose, the city administrator is hereby authorized to enter into contracts not to exceed Twenty Five Thousand Dollars (\$25,000.00) with persons engaged in the business of repairing or demolishing buildings for the purpose of enforcing the order provided for in this section if there are sufficient funds provided for that purpose in the budget or a supplemental appropriation. Additional contracts, or contracts for amounts in excess of Twenty Five Thousand Dollars (\$25,000.00), must be approved by Council. The contracts can be signed only after compliance with the city's prescribed bidding procedures.

D. Abatement of Junked Motor Vehicles.

Where the a City official is obliged to abate a junked motor vehicle, it may, in addition to any other remedy available to it, have the vehicle towed. The Hearing Officer may give the owner additional time to abate the nuisance voluntarily, not to exceed an additional 10 days.

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(Code 1977, § 24-8; Ord. 14132, §2, 12-4-2006)

**Sec. 21-12. Costs of abatement to be assessed.**

- A. Any and all costs incurred by the city in the abatement of a nuisance under the provisions of this article shall be certified to the city clerk or officer in charge of finance, who shall cause a special tax bill or assessment therefor against the property be prepared and collected by the official responsible for collecting personal property taxes. The special tax bill or assessment shall be notice to all persons from the time of its recording, and shall bear interest at the legal rate thereafter until satisfied.
- B. In addition to any charges for the actual abatement of the nuisance, and as part of the charges assessed in paragraph A., above, the city clerk or officer in charge of finance, shall impose a fee to cover the city's administrative costs for abating the nuisance. The council determines this cost to be One Hundred and no/100 Dollars (\$100.00) based upon the average administrative cost for abating nuisances, in lieu of an independent determination of costs in each case.
- C. At the written request of the taxpayer delivered to the city clerk of the city, a tax bill for repair or demolition of a building or structure may be paid in ten (10) equal annual installments, which installments with interest thereon to date on the unpaid balance shall be due annually on the anniversary of the date of issuance of the bill. Interest shall be paid at the maximum rate per annum allowable by law on the unpaid balance of the special assessment computed from the date of issuance. If any annual payment of principal or interest shall not be paid within thirty (30) days of its due date the entire remaining balance of the tax bill shall immediately become due and payable.

**State law reference** - Nuisances —expense of suppression, how paid, RSMo. §71.780; Provisions required in ordinance, RSMo §67.410.

(Ord. 13605, §3, 9-2-2003; Ord. 14198, §1, 5-21-2007; Ord. 14351, §1, 4-21-2008)

**Sec. 21-13 Enforcement of tax bills.**

- A. Tax bills issued under the chapter shall be prima facie evidence of the validity of the bill, the doing of the work and the liability of the property for the damages stated in the bill and shall be collected if default should occur by suit brought in a court of competent jurisdiction by the city counselor on behalf of the city. Judgment in any such suit shall be special and against the property only and shall be satisfied by sale of the property or so much thereof as is necessary to satisfy the judgment and the costs of the sale.
- B. 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, and if the covered claim payment is in excess of fifty percent (50%) of the face value of the policy covering a building or other structure, then the following procedure shall apply:
  - 1. The insurer shall withhold from the covered claim payment ten percent (10%) of the covered claim payment, and shall pay that amount 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. If a special tax bill or assessment is issued by the city for the expenses of demolition of such building as a dangerous building, the moneys held by the city shall be applied toward payment of special tax bill or assessment. If there is any excess, it shall be paid by the city to the insured or as

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the terms of the policy, including any endorsements thereto, provide.

2. The city shall release the proceeds and any interest which has accrued on such proceeds received under subsection (1) of this section 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 the provisions of Sections 8-88 and 8-89. If the city has proceeded under the provisions of Sections 8-88 and 8-89, all moneys in excess of that necessary to comply with the provisions of Sections 8-88 and 8-89 for the removal of the building or structure, less salvage value, shall be paid to the insured.
3. The city may certify that, in lieu of payment of all or part of the covered claim payment under this section, it has obtained satisfactory proof that the insured has or will remove debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the city shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without deduction. It shall be the obligation of the insured or other person making the claim to provide the insurance company with the written certificate provided for in this subsection.
4. No provision of this section shall be construed to make the city a party to any insurance contract.

**Sec. 21-14. Appeals under administrative review act.**

Any owner, occupant, lessee, mortgagee, agent or other person having a property interest in the nuisance property may appeal from the order and determination of the Hearing Examiner made under the provisions of this Chapter. The appeal shall be to the Circuit Court of Cole County as established in Article 536 of the Revised Statutes of Missouri.

**Sec. 21-15. Summary abatement where immediate danger exists.**

In all cases where it reasonably appears that an immediate danger to the health, safety or welfare of any person exists, the Director of Community Development may take emergency measures to vacate, repair, remove or demolish the public nuisance found under the provisions of this article including but not limited to buildings or structures.

**Sec. 21-16. Municipal judge may direct abatement and assess costs.**

If, upon trial and conviction for causing or maintaining any nuisance defined and prohibited by this Code and other ordinances of this city, it shall appear that the nuisance complained of continues to exist, the municipal judge may, in addition to the penalty imposed for causing or maintaining such nuisance, make an order directing the chief of police to abate the nuisance forthwith and report the expense thereof to the police judge, who may make such cost a part of the judgment in addition to the fine imposed. Such costs shall be collected in the same manner as other fines and penalties.

(Code 1977, § 24-7; Ord. 14347, §1, 4-21-2008)

**Sec. 21-17. Provisions supplemental.**

The provisions of this article shall be supplemental to all other ordinances.

(Ord. 14347, §1, 4-21-2008)

## ARTICLE II. WEEDS<sup>2</sup>

### Section 21-18 Weeds defined.

As used in this Article, the term “weeds” means:

- A. All vegetation, other than commonly known and recognized trees, decorative shrubs and ornamental grasses, which has attained a height of 12 inches or more and which meets any one of the following tests:
  - 1. Vegetation which may exhale unpleasant or noxious odors.
  - 2. Vegetation which does or could conceal deposits of trash or other material or which does or could afford food or harborage for rats, mice or snakes.
  - 3. Vegetation which is commonly known and recognized as weeds and grasses.
  - 4. Vegetation which causes a safety hazard by obstructing the line of sight of a motor vehicle driver, bicyclist or pedestrian at a street intersection.
  - 5. Vegetation which could interfere with the passage of motor vehicles, bicycles or pedestrians on any public right-of-way.
- B. Poison ivy, poison oak and poison sumac, at any height or stage of maturity.

### Section 21-19 Weeds declared a nuisance.

Any growth of weeds on any lot or ground is hereby declared to be a nuisance.

### Section 21-20 Weeds prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of any growth of weeds in violation of this Article.

### Sec. 21-21. Removal required.

- A. 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 to permit or maintain on any such lot or land, or on or along the sidewalk, street or alley adjacent to the same between the property line and the curb, any growth of weeds or any accumulation of dead weeds, grass or brush.
- B. 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 subsection (a).

(Code 1977, § 24-9)

### Sec. 21-22 Defense.

- A. It is an affirmative defense that the defendant did not have the legal right to control the location where a violation of this Article occurred.
- B. It is an affirmative defense that the growth of weeds was for agricultural purposes, provided that a fifteen

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foot wide, weed-free buffer was maintained on the perimeter of the property wherever the property adjoins property used for residential or commercial purposes.

- C. It is an affirmative defense that the growth of weeds was part of a federal or state agricultural or conservation program.

**Sec 21-23 Continuing violation.**

Each day that a violation of this Article continues shall be deemed a separate offense.

(Code 1977, § 24-9; Ord. 14200, §1, 5-21-2007)

**Sec. 21-24. Removal by city.**

If the provisions of this article are not complied with, the chief of police, or other official designated by the mayor, shall give a hearing after ten (10) days' notice thereof, either personally or by United States mail to the owner, or his agent, or by posting such notice on the premises. Following the hearing, the Director of Community Development or other designated official 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 Director of Community Development or other designated official shall have the weeds cut down and removed and shall certify the cost of 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 collector, with other taxes assessed against the property. The tax bill from the date of its issuance shall be a lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity and no more 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 collector on or before the first day of June of each year. Such bills if not paid when due shall bear interest at the rate of eight (8) percent per annum.

(Code 1977, § 24-9; Ord. No. 13301, 11-5-2001)

**Secs. 21-25 - 21-35. Reserved.**

### ARTICLE III. TREES<sup>3</sup>

#### **Sec. 21-36. Branches overhanging public ways.**

Any tree located on private property in the city, which overhangs or intrudes over or upon any public street, alley, boulevard, roadway or sidewalk to such an extent that it interferes with the safety of the traveling public, is hereby deemed and declared to be a nuisance. Any such tree shall be deemed to so interfere if the branches thereof shall overhang or intrude within an area of nine (9) feet above the traveled surface of any sidewalk or twelve (12) feet above the traveled surface of any street.

(Code 1977, § 24-10)

#### **Sec. 21-37. Dead or unsafe trees.**

Any tree located on private property in the city, which is either dead or in such an unsafe or dangerous condition that it constitutes a hazard to the safety of persons or vehicles traveling on any public street, alley, boulevard, roadway or sidewalk in the city, or to any persons or structures living or situated on adjacent private property, is hereby deemed and declared to be a nuisance.

(Code 1977, § 24-11)

#### **Sec. 21-38. Inspection of premises.**

Subject to constitutional limitations, authorized agents of the city are hereby authorized to enter upon any private property within the city to examine and inspect any tree thereon to determine if such tree is a nuisance as defined in section 21-36 or 21-37. It shall be unlawful for any person to interfere with any such authorized agent making any examination permitted under this section.

(Code 1977, § 24-12)

#### **Sec. 21-39. Notice to abate.**

Whenever the Director of Community Development finds that a nuisance exists under any provision of this article, he shall give notice, by certified mail addressed to the last known address of the owner of record or by personally serving the notice upon the owner of record, and if there is more than one owner of record, by such mail or personal service to any one of such owners. In the event the owner of the property is unknown, or his whereabouts is unknown, notice shall be given by posting such notice upon the property where the condition of nuisance exists. Such notice shall require the owner of the property to abate the nuisance in the manner stated in section 21-40 as conditions warrant.

(Code 1977, § 24-14; Ord. No. 13301, 11-5-2001)

**Sec. 21-40. Owner to abate nuisance.**

It shall be the duty of the owner of private property upon which any tree is located whose condition constitutes a nuisance under section 21-36 or 21-37 to trim or remove such trees within thirty (30) days from the receipt of notice from the public health inspector to do so.

(Code 1977, § 24-15)

**Sec. 21-41. Abatement of nuisance by city and collection of costs.**

In any case where a person required under sections 21-36 and 21-37 cannot be compelled for any reason to abate the nuisance defined in such sections, by prosecution, the city, through its contractors and/or agents, may enter upon the premises, cut the trees and/or branches, and abate such nuisance. The city shall solicit and take at least two (2) competitive bids from persons engaged in the business of cutting trees and award the job of cutting the trees and/or branches to the lowest bidder. When the contractor selected by the city cuts the trees and/or branches on the premises where the condition of nuisance existed, the city shall issue its warrant to the contractor, in payment for said work, and the city clerk shall certify to the finance department the cost of the work, and the finance department shall add the cost thereof to the tax bill on the real estate involved, and the cost of cutting the trees and/or branches shall be collected at the same time and in the same manner as other taxes on said realty are collected annually.

(Ord. No. 9011, § 2, 8-1-77)

**Sec. 21-42. City's right of entry to abate interference with enforcement.**

Subject to constitutional limitations, any authorized agent of the city shall have the right of entry for that purpose into and upon any premises, in order to abate a nuisance pursuant to the provisions of this article, and it shall be unlawful to interfere with any such authorized agents.

(Ord. No. 9011, § 2, 8-1-77)

**Sec. 21-43. Penalty for failure to abate nuisance.**

Any person notified to cut trees and/or branches within ten (10) days of such notice, who shall fail to do so and abate such nuisance within the time specified in the notice, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than one hundred dollars (\$100.00); every day such nuisance continues after the date specified for the abatement thereof in the notice provided for in section 21-39, shall constitute a separate and distinct offense, punishable by a like fine.

(Ord. No. 9011, § 2, 8-1-77)

**Secs. 21-44 - 21-55. Reserved.**

**ARTICLE IV. RESERVED.**

Cross Ref. Chapter 8, Article VII, Landlord Registration (Ord. 14246, §2, 9-4-2007)

**Secs. 21-56 - 21-69 Reserved.**

## ARTICLE V. STORAGE OF GOODS

### **Sec. 21-70. Display of certain items prohibited.**

It shall be unlawful for the owner or occupant of any residential premises within the city to allow any of the following items to remain on such premises in any location outside the residence which can be viewed from a ground location off the premises:

appliances, bedding, bottles, boxes, broken glass, cans, cardboard (bundled or unbundled), cartons, furniture manufactured for indoor use only, jars, machine parts, motor vehicle parts, newspapers, magazines, periodicals, catalogs, books, pallets, paper (bundled or unbundled), plumbing fixtures, rags, non-attached carpet, scrap metal, tire rims, tires, or lumber and building supply materials that are not neatly stacked, provided however, that neatly stacked lumber and building supply materials may be allowed to be stored on the yard, porch or carport pursuant to an active building permit and the owner or contractor is actively working on the improvements, barring any delays beyond the control of the owner or contractor.

(Ord. No. 11722, § 1, 3-18-92)

### **Sec. 21-71. Front yard and unenclosed front porch prohibitions.**

A. It shall be unlawful for the owner or occupant of any residential premises within the city to allow any of the following items in front yards or on unenclosed front porches:

clothes, clothes lines, dog houses, trash containers, recycling bins, provided that trash containers and recycling bins may be placed in the front yard next to the curb on days the property is scheduled to receive trash removal services.

B. It shall be unlawful for the owner or occupant of any residential premises within the city to allow any of the following items on unenclosed front porches:

ATV's, motorcycles

(Ord. No. 11722, § 1, 3-18-92)

### **Sec. 21-72. Nuisance declaration and continuing violations.**

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the items as prohibited above in sections 21-70 and 21-71 are hereby declared to be and constitute a nuisance and be subject to Article I of this Chapter. Each day that a violation of this article continues shall be deemed a separate offense.

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(Ord. No. 11722, § 1, 3-18-92)

**Sec. 21-73. Definitions.**

The following definitions apply to this article:

- A. "Occupant" means any person eighteen years of age or older who lives in a residence.
- B. "Residence" means a structure designed for human habitation. The term does not include a porch or carport.
- C. "Residential premises" means a tract or parcel of land upon which a structure designed for human habitation is located, regardless of the current use of the structure.

(Ord. No. 11722, § 1, 3-18-92)

**Secs. 21-74 - 21-89. Reserved.**

## ARTICLE VI. RACING

### **Sec. 21-90. Racing declared a nuisance.**

The creation of dust, noise, fumes, or odors by the operation of motor vehicles, racing cars, rides or other motor-driven contrivances where the dust, noise, fumes or odors are carried beyond the borders of the property whereon the above enumerated vehicles may be operated in such quantities as to interfere with reasonable enjoyment of any property in the neighborhood is hereby declared to be a nuisance.

(Ord. No. 11750, § 1, 7-7-92)

### **Sec. 21-91. Written warning.**

Before taking any action for violation of this ordinance, the Director of Community Development shall provide written notice to the persons suspected of maintaining the nuisance. Such notice shall in general terms describe the nuisance and its location and shall state a date by which prosecution shall be started if the nuisance is not discontinued.

(Ord. No. 11750, § 1, 7-7-92; Ord. No. 13301, 11-5-2001)

### **Sec. 21-92. Injunction.**

In addition to any other relief provided by this Chapter, the city counselor may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this ordinance. Such application for relief may include a temporary restraining order, temporary injunction and permanent injunction.

(Ord. No. 11750, § 1, 7-7-92)

### **Sec. 21-93. Severability.**

The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.

(Ord. No. 11750, § 1, 7-7-92)

### **Secs. 21-94 - 21-109. Reserved.**

## ARTICLE VII. UNNECESSARY NOISE

### Sec. 21-110. Nuisance declaration.

It is found and declared that:

- A. The making and creation of excessive, unnecessary or unusually loud noises within the limits of the City of Jefferson is a condition which has existed for some time and the extent and volume of such noises is increasing;
- B. The making, creation or maintenance of such excessive, unnecessary or unusually loud noises which are prolonged, unusual and unnatural in their time, place and use affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the City of Jefferson and its inhabitants.
- C. The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted, is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the City of Jefferson and its inhabitants.

It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive, unnecessary, raucous, or unusually loud noise which terms shall mean any sound which, because of its volume level, duration and character, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the city. The term includes the kinds of noise generated by the activities enumerated in section 3. The terms shall be limited to noise heard upon the public streets, in any public park, in any school or public building or upon the grounds thereof while in use, in any church or hospital or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, or in any occupied residential unit which is not the source of the noise or upon the grounds thereof, and in any event from a location not less than fifty (50) feet from the source of the noise, measured in a straight line from the radio, loudspeaker, motor, horn or other noise source.

### Sec. 21-111. Noises prohibited - unnecessary noise standard.

The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this ordinance, but said enumeration shall not be deemed to be exclusive, namely:

- A. Horns, Signaling Devices, etc. - The sounding of any horn or signaling device on any automobile, motorcycle, street car or other vehicle on any street or public place of the city, except as a danger warning, the creation by means of any such signaling device for an unnecessary and unreasonable period of time. The use of any

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signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust, and the use of any such signaling device when traffic is for any reason held up.

- B. Radios, Phonographs, etc. - The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device, including motor vehicle audio systems for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device, including motor vehicle audio systems in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section. (Ord. No. 12911, § 1, 4-5-99)
- C. Loud Speakers, Amplifiers for Advertising - The using, operating or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- C. Yelling, Shouting, etc. - Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11 P.M. and 7 A.M. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.
- E. Animals, Birds, etc. - The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.
- F. Steam Whistles - The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities.
- G. Exhausts - The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- H. Defect in Vehicle or Load - The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- I. Loading, Unloading, Opening Boxes - The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.
- J. Schools, Courts, Churches, Hospitals - The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which

unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital, or court street.

- K. Hawkers, Peddlers - The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet and of the neighborhood.
- L. Drums - The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to an performance, show or sale.
- M. Metal Rails, Pillars and Columns, Transportation Thereof - The transportation of rails, pillars or columns or iron, steel or other material, over and along streets and other public places upon carts, trays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.
- N. Street Railway Cars, Operation Thereof - The causing, permitting or continuing any excessive, unnecessary and avoidable noise in the operation of a street railway car.
- O. Pile Drivers, Hammers, etc. - The operation between the hours of ten (10) P.M. and seven (7) A.M. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.
- P. Blowers - The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

**Sec. 21-112. Penalties.**

Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall fined in any amount not exceeding Five Hundred Dollars (\$500.00), or be imprisoned in the City or County jail for a period not exceeding six (6) months, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as an offense. Violations of this ordinance shall be prosecuted in the same manner as other violations of the City's code.

**Sec. 21-113. Injunction.**

As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to reasonable persons of normal

sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

**Sec. 21-114. Severability.**

It is the intention of the City Council that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the City Council that if any provision of this ordinance be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

(Ord. No. 12573, §1, 1-21-97)

**Secs. 21-115 - 21-125. Reserved**

## NOTES

<sup>1</sup>. **Cross references** - Definitions and rules of construction generally, § 1-2; buildings and building regulations, Ch. 8; health and sanitation, Ch. 15; removal; and disposal of abandoned or disabled vehicles, § 22-34.

**State law reference** - Suppression of nuisances, RSMo. § 71.780.

<sup>2</sup>. **State law reference** - Weed removal, RSMo. § 71.285.

<sup>3</sup>. **Cross reference** - Tree trimming by CATV franchisees, § 9-72.