

City of Mokane

Bill No. 2023-03

Ordinance # 2023-03

AN ORDINANCE OF THE CITY OF MOKANE, MISSOURI PROHIBITING NUISANCES WITHIN THE CITY LIMITS OF MOKANE, MISSOURI

WHEREAS, the City of Mokane has determined that nuisances, as defined in this Ordinance, are detrimental to the health, safety and welfare of the citizens of the City of Mokane; and

WHEREAS, an Ordinance prohibiting nuisances is necessary in order to protect the health, safety and welfare of the citizens of the City of Mokane.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF MOKANE COUNCIL, AS FOLLOWS:

Definitions

Definition of Nuisance. For the purposes of this Ordinance, the following words and terms as used herein are defined to mean the following:

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

- 8) "Vehicle" is any machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides, including, but not limited to, automobiles, trucks, trailers, motorcycles, tractors, and wagons, or any part thereof.
- 9) "Damaged or inoperable vehicle" is any vehicle which is not registered or is improperly registered as defined by the State of Missouri, Department of Revenue, Division of Motor Vehicle, has been inoperable for more than 72 hours, or is in such a state of repair as to be inoperable, except those on the premises of a duly licensed automobile repairs or sales business;
- 10) "Registered" means as defined by the State of Missouri, Department of Revenue, Division of Motor Vehicle;
- 11) "Vehicle Restoration" is any vehicle that is in the active process of restoration such that it will be registerable by the State of Missouri, Department of Revenue, Division of Motor Vehicle.

Regulations

- 1) Wastewater and sewage are nuisances. The discharge of sewage or wastewater from any industry, office, building or residence, except into the public sewers or a private treatment system, which is in compliance with state law, shall constitute a nuisance.
- 2) Putrid matter, garbage, trash, etc., accumulation. The accumulation or existence upon any premises, lot, or parcel of ground of any putrid or unsound meat, pork, fish, hides, decayed vegetables or food, filthy ash heaps, garbage, offal, rubbish, trash, dirt, any accumulation of dead weeds, grass, or brush, or filth of any kind which, by its decay or putrefaction, could or would become offensive to human beings, or detrimental to health, or which by its existence might harbor bugs, snakes, or rats or other rodents, shall constitute a nuisance.
- 3) Same, throwing into streets, public places or private property. The throwing or depositing, or causing to be deposited, in any street, alley, or other public place or on any private property of any garbage, refuse, filth, debris, offal, the carcass of any animal or part thereof, any filthy water or other offensive matter, or causing or permitting such or any offensive matter to collect or remain in any place to the prejudice or annoyance of others shall constitute a nuisance.
- 4) Pushing or placement of snow into streets. The pushing of snow off of a private drive or property onto a public street or roadway shall constitute a nuisance.
- 5) Damaged or inoperable vehicles are nuisances. Any damaged or inoperable vehicle, part thereof, or junk located on any property, street, or highway which presents a hazard to children, or harbors tall grass, weeds, or other vegetation, or creates fire hazard, or affords a breeding place or nesting place for mosquitoes, flies, rodents, rats, or other vermin; or any vehicle, part thereof, or junk allowed to remain unmoved on any street or highway for 48 hours, is a public nuisance. No person in charge of or in control of premises, whether as owner, lessee, tenant, occupant or otherwise shall allow any partially dismantled, wrecked, junked discarded or otherwise non-operating motor vehicle to remain on such property for a longer time than 48 hours and no person shall leave any such vehicle on any property within the city for a longer time than 48 hours.

- 6) No person in charge of or in control of a business enterprise operated in a lawful place, shall allow any partially dismantled, wrecked, junked discarded or otherwise non-operating motor vehicle to remain on such property for a longer time than fourteen days. Subsection 2 applies to business enterprises operated in a lawful place, not in a residential district, and only when the keeping or maintenance of such vehicle is necessary to the operation of such business enterprise.
- 7) Vehicles that are not considered damaged or inoperable. If any vehicle that is in the process of restoration, that is properly secured, does not create a public health or safety hazard, and is located in the rear yard or in the side yard if covered by a weather resistant cover.
- 8) Duty of maintenance of private property. No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.
- 9) Dangerous Buildings. All buildings, structures, premises or equipment that have any or all of the following defects shall be deemed "dangerous buildings":
 - a) The building, structure, premise or equipment is in a condition that poses an immediate danger to either:
 - 1) The lives or safety of persons, whether occupants or otherwise, or
 - 2) Other property.
 - b) The building, structure, premise or equipment is a fire hazard for any reason, including, without limitation, obsolescence, dilapidation, deterioration, damage, lack of sufficient fire-resisting qualities, or faulty electrical wiring, gas connections or heating apparatus.
 - c) Part or all of the building, structure, premise or equipment is in danger of collapsing as a result of any cause, including, without limitation, any one (1) or more of the following causes:
 - 1) Dilapidation, deterioration or decay.
 - 2) Faulty construction.
 - 3) Removal, movement or instability of any portion of the ground necessary to support such building, structure or equipment; or
 - 4) Deterioration, decay or inadequacy of foundation.
 - d) The building, structure, or premise has exterior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity would fall outside the middle one-third (1/3) of the base.
 - e) The building, structure, premise or equipment or any portion thereof is, for any reason, unsafe for actual or intended use.
 - f) The building, structure, premise or equipment has been so damaged by any cause, or has become so dilapidated, deteriorated or decayed as to attract and result in harm to children, notwithstanding that the building, structure or premise is not an "attractive nuisance" as that term is defined by Statute or decisional law; or is likely to become a harbor for vagrants, criminals or trespassers, rodents, feral cats or wild/uncontrolled animals.
 - g) The building or structure is used or intended to be used for dwelling purposes and is likely to injure or effect health, safety or welfare of persons who occupy or may occupy said building, structure or premise by reason of any one (1) or more of the following conditions:
 - 1) Inadequate maintenance
 - 2) Dilapidation, deterioration or decay.

- 3) Damage.
 - 4) Faulty construction or arrangement.
 - 5) Inadequate light, ventilation or sanitation facilities; or
 - 6) Absence of the utilities essential to safe living.
- h) The building, structure or premise is vacant for a period in excess of six (6) months and if because of the condition of the building, structure, premise or equipment:
- 1) It is unsafe or insanitary; or
 - 2) It endangers property or the health, safety or welfare of persons.

Unsafe Structure

The City is authorized to declare as unsafe, any building, structure, premise, or equipment regulated by this Code, which constitutes a health hazard, unsanitary condition or is otherwise dangerous to human life including, but not limited to, buildings, structures, premises, or equipment that have been used for the illegal manufacturing, producing, preparing, or packaging of methamphetamine in any form.

Notice and Abatement of Nuisance

- 1) Duty to abate on order of Mayor or his duly authorized representative. It shall be the duty of the owner or occupancy of premises, or his agent, or the person causing or maintaining any nuisance thereof, to abate the same after an order by the Mayor or his duly authorized representative in accordance with the terms prescribed in such order.
- 2) Right of entry on premises for inspection. The Mayor or their duly authorized representative is hereby authorized to enter and inspect all premises for the discovery and abatement of nuisance thereon. This right shall not extend to entering a building or dwelling.
- 3) Right of entry on premises to abate nuisances. Any person or contractor employed or contracted with for the abatement of a nuisance and any agent or employee of such contractor shall have the right of entry for that purpose upon any premises, and it shall be unlawful to interfere with any police officer or any officer, agent, or employee of the Mayor for the purpose of the discovery or abatement of any nuisance.
- 4) Notice. Whenever the Mayor or their duly authorized representative determines that any vehicle or junk is a nuisance as defined herein, he shall cause *one* written notice to be served upon the owner of the vehicle or junk if he can be located, or the person in custody of such vehicle or junk, stating that the nuisance shall be abated within ten (10) days from receipt of such notice or an extension of time permitted at the discretion of the Mayor or his duly authorized representative. A reoccurrence of the nuisance within a twelve-month period shall be deemed as a continuing offense and the stated fine (\$25 weekly) will be reinstated for the second and each such violation thereafter within the twelve-month period. The notice shall be deemed sufficient proof that the same was deposited in the United States Mail first class postage prepaid or posted on the front entrance of the residence where the nuisance is located. The notice shall state that the vehicle or junk is deemed to be a nuisance within the provisions of this Chapter, and shall briefly state facts deemed to constitute such vehicle or junk a nuisance within the terms of this Chapter. At no time shall the original notice require the offending party to abate said nuisance in less than ten (10) days.

- 5) Proceedings when owner or custodian cannot be located. When the owner or custodian of any nuisance as defined in this Chapter cannot be located by reasonable search, the notice shall be attached to the property, briefly stating facts deemed to constitute the property a nuisance and stating that the nuisance shall be abated within ten (10) days of the date notice was posted, or if the nuisance is on public property, within two (2) days of the date notice was posted.
- 6) Duty of the owner or custodian. Any person receiving the notice provided for in this Chapter shall comply with the provisions of the notice requiring abatement.
- 7) Disposition. If not removed within the times specified in the notice, the vehicle or junk may be transported to a storage area by or at the direction of the Mayor or his duly authorized representative at the expense of the owner or person in custody thereof. It shall then be stored for a period of at least ninety (90) days, and the person entitled to possession thereof may sell it to the highest bidder or, if it has no sale value, may redeem the property by payment to the Mayor of the actual cost of its removal and a reasonable storage fee. If the vehicle or junk is unredeemed after the expiration of the ninety (90) day period, the Mayor or his duly authorized representative may sell it to the highest bidder or, if it has no sale value, may otherwise dispose of it. Any money received from disposal of any vehicle or junk shall be applied to the expenses charged to the owner or person in charge thereof, and any excess held in escrow or returned to him. After another ninety (90) day period, if the excess is unclaimed, it shall be paid over to the general fund of the Mayor.
- 8) Notice of sale. Prior to the sale of any such property, the Mayor or his duly authorized representative shall cause to be posted at a public place in the City of Mokane, a notice of sale stating:
 - a) that the City is selling abandoned property
 - b) the color, make, year, motor number, and serial number, if available, and any other information necessary for an accurate identification of the property
 - c) the terms of the sale
 - d) the date, time, and place of the sale.This notice shall be published not less than ten (10) nor more than twenty (20) days prior to the date of the sale.
- 9) City's right to civil action for cost. Nothing in this Chapter shall be construed as abandoner limiting the City's right to bring suit for all expenses incurred in the abatement of a nuisance, when performed by the City, in any court of competent jurisdiction in the name of the City against the person maintaining, keeping, creating, or refusing to abate the nuisance so abated.
- 10) City's right to file action for abatement of nuisance and for recovery of costs and attorney's fees. In addition to any other remedy available at law or under this Chapter, the City shall have the right to file and prosecute a civil cause of action for abatement of any nuisance as defined in this Chapter, and upon successful prosecution of such cause of action the City shall have the right to be awarded and recover from any defendant to such an action the City's legal costs incurred and reasonable attorney's fees incurred in connection with any and all such civil causes of action to abate any such nuisances, in accordance with Section 79.383, RSMo. (Cum. Supp. 1993), as amended from time to time.

Special procedures when structures constitute a danger or public nuisance

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

All buildings, structures, premises or equipment that have any or all of the following defects shall be deemed "dangerous and/or nuisance buildings":

- 1) The building, structure, premise or equipment is in a condition that poses an immediate danger to either:
 - a) The lives or safety of persons, whether occupants or otherwise, or
 - b) Other property.
- 2) The building, structure, premise or equipment is a fire hazard for any reason, including, without limitation, obsolescence, dilapidation, deterioration, damage, lack of sufficient fire-resisting qualities, or faulty electrical wiring, gas connections or heating apparatus.
- 3) Part or all of the building, structure, premise or equipment is in danger of collapsing as a result of any cause, including, without limitation, any one (1) or more of the following causes:
 - a) Dilapidation, deterioration or decay.
 - b) Faulty construction.
 - c) Removal, movement or instability of any portion of the ground necessary to support such building, structure or equipment; or
 - d) Deterioration, decay or inadequacy of foundation.
- 4) The building, structure, or premise has exterior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity would fall outside the middle one-third (1/3) of the base.
- 5) The building, structure, premise or equipment or any portion thereof is, for any reason, unsafe for actual or intended use.
- 6) The building, structure, premise or equipment has been so damaged by any cause, or has become so dilapidated, deteriorated or decayed as to attract and result in harm to children, notwithstanding that the building, structure or premise is not an "attractive nuisance" as that term is defined by Statute or decisional law; or is likely to become a harbor for vagrants, criminals or trespassers, rodents, feral cats or wild/uncontrolled animals.
- 7) The building or structure is used or intended to be used for dwelling purposes and is likely to injure or effect health, safety or welfare of persons who occupy or may occupy said building, structure or premise by reason of any one (1) or more of the following conditions:
 - a) Inadequate maintenance.
 - b) Dilapidation, deterioration or decay.
 - c) Damage.
 - d) Faulty construction or arrangement.
 - e) Inadequate light, ventilation or sanitation facilities; or
 - f) Absence of the utilities essential to safe living.

- 8) The building, structure or premise is vacant for a period in excess of six (6) months and if because of the condition of the building, structure, premise or equipment:
 - a) It is unsafe or insanitary; or
 - b) It endangers property or the health, safety or welfare of persons.

- 9) Unsafe Structure. The City is authorized to declare as unsafe, any building, structure, premise, or equipment regulated by this Code, which constitutes a health hazard, unsanitary condition or is otherwise dangerous to human life including, but not limited to, buildings, structures, premises, or equipment that have been used for the illegal manufacturing, producing, preparing, or packaging of methamphetamine in any form.
 - a) In the event that the Mayor or his duly authorized representative determines that a structure is a public nuisance under this section, they shall serve the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the structure, as shown by the land records of Callaway County, Missouri, with notice that such structure has been declared to be a public nuisance. Such notice shall specify that the property is to be vacated, if such be the case, or in what manner the structure must be repaired, reconditioned, or removed, and shall give a reasonable time for the commencement of such remedial measures. Such notice shall be served either by personal service or by certified mail, return receipt requested, but if service cannot be had by either of these modes of service then service may be had by publication in print.

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

- 11) If the Board of Aldermen issues an order whereby the building or structure is demolished, secured, or repaired, the costs of performance shall be certified to the city clerk, who shall cause a special tax bill or assessment therefore against the property to be prepared and collected. Except as provided in subsection 6 of this section, at the request of the taxpayer the tax bill may be paid in installments over a period of not more than ten years.

The tax bill from the date of its issue shall be deemed a personal debt against the property owner and shall also be a lien on the property until paid.

- 12) If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion, or other casualty loss, then up to ten percent of such insurance proceeds shall be paid to the City as provided in 1) b) of this section. This provision shall only apply to a covered claim payment which is in excess of fifty percent (50%) of the face value of the policy covering a building or other structure:
 - a) The insurer shall withhold from the covered claim payment up to ten percent (10%) of the covered claim payment, and shall pay such moneys to the City to deposit into an interest bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under this section.
 - b) The city shall release the proceeds and any interest which has accrued on such proceeds received under a) of this subsection to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after receipt of such insurance moneys, unless the city has instituted legal proceedings under subsection 5 of this section. If the City has proceeded under the provisions of subsection 5 of this section, all moneys in excess of that necessary to comply with the provisions of subsection 5 of this section for the removal of the building or structure, less salvage value, shall be paid to the insured.
- 13) The tax bill from date of its issuance shall be a lien on the property until paid.

Weeds

- 1) Cutting and removal of grass, weeds, etc. It shall be unlawful for any owner, lessee, or occupant, or any agent, servant, representative, or employee of any such owner, lessee, or occupant having control of any occupied lot or land or any part thereof in the City, or for any owner, lessee, or occupant, or any agent, servant, representative, or employee of any such owner, lessee, or occupant having control of any unoccupied lot or land or any part thereof in the City, to permit or maintain on any such lot or land, any growth of weeds, grass, brush, and poisonous, brush or harmful vegetation to a greater height than six (6) inches on the average, and it shall also be unlawful for any person or persons to cause, suffer, or allow poison ivy, ragweed, or other poisonous plant, or plants detrimental to health to grow on any such lot or land in such manner that any part of such ivy, ragweed, or other poisonous or harmful weed shall extend upon, overhang, or border any public place or allow seed, pollen, or other poisonous particules or emanations therefrom to be carried through the air into any public place, and the growth of such weeds, grass, and poisonous or harmful vegetation of a height of more than six (6) inches is hereby to be declared a nuisance. Any parcel of land equal to or greater five acres and which is used for agricultural purposes is exempt from the above, but no weeds, grass, or poisonous or harmful vegetation of a height of more than six (6) inches may exist within twenty-five (25) feet of any property lines. The provisions of this section shall not pertain to right-of-ways.
- 2) Duty of owner, lessee, or occupant. It shall be the duty of any owner, lessee, or occupant of any lot or land to cut and remove or cause to be cut and removed all such weeds, grass, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of this Section.
- 3) Each person convicted of a violation of this Section shall be penalized as provided herein.

- 4) Each day on which a violation of this Section continues shall constitute a separate offense.

Snow

- 1) Should any person be found to have committed a violation of Section G hereof by intentionally removing snow from private property and depositing same onto a public roadway, or by directing another to do so at their request, that person shall, within twelve (12) hours of receipt of a request from the Mayor or his designee, remove all such snow that they deposited or caused to be deposited onto said public roadway

Penalty

- 1) Penalty for failure to abate a nuisance stated in this ordinance: Any person who, having received a notice as provided for in this Chapter, fails to abate the nuisance within the period provided in said notice, upon conviction thereof, shall be fined not less than Ten dollars (\$10) nor more than Five Hundred Dollars (\$500) for each offense and a separate offense shall be deemed committed on each day during or on which such nuisance is permitted to exist beyond the period given in the aforementioned notice. The City of Mokane may, where the nuisance is not remedied, the incurred fine is not paid, or the property owner exceeds three offenses in a calendar year, place a lien on the property.

The provisions of this Ordinance shall be in full force and effect upon its final passage by the Board of Aldermen of the City of Mokane, Missouri.

Any Ordinance or portions thereof in conflict with the terms hereof shall be deemed rescinded by the passage hereof.

First Reading: Read by Alderwoman Belmont.
Second Reading: Read by Alderwoman Taylor.
Final Reading: Read by Alderwoman Kirk.

Passed and adopted by the Council of the City of Mokane, State of Missouri on this 10th day of April 2023, by the following vote:

Ayes 3 Nayes 0

Approved this 10th day of April 2023.

Chad Booher
Chad Booher, Mayor
Jo Belmont Mayor Pro-Tem

Attest:

Tracy Hoffmann
Tracy Hoffmann, City Clerk

