

BILL NO.:20-0335

ORDINANCE NO.:20-

0221

INTRODUCED BY: Council Member Terry

AN ORDINANCE AMENDING TITLE II, CHAPTER 200 OF THE CODE OF ORDINANCES OF JEFFERSON COUNTY, MISSOURI: JEFFERSON COUNTY, MISSOURI, PUBLIC NUISANCE ORDINANCE FOR THE PURPOSE OF PROVIDING FOR HEARINGS AND AN APPEAL PROCESS FOR THOSE INDIVIDUALS WISHING TO APPEAL A DECLARATION OF PUBLIC NUISANCE; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF.

WHEREAS, on September 3, 2002, the County Commission of the County of Jefferson, Missouri approved and adopted the Jefferson County, Missouri, Public Nuisance Ordinance (the "Public Nuisance Ordinance"); and

WHEREAS, on December 29, 2010, the Jefferson County, Missouri, Council enacted Ordinance Number 10-0419 codifying the Ordinances of Jefferson County, Missouri, including the Public Nuisance Ordinance; and

WHEREAS, upon enactment of Ordinance Number 10-0419, the Public Nuisance Ordinance became codified as Title II, Chapter 200 of the Code of Ordinances of Jefferson County, Missouri; and

WHEREAS, amendments providing for hearings and an appeal process for those individuals wishing to appeal a declaration of public nuisance have been prepared to Title II, Chapter 200 of the Code of Ordinances of Jefferson County, Missouri: Public Nuisance Ordinance; and

WHEREAS, the Jefferson County, Missouri, Council desires to amend Title II, Chapter 200 of the Code of Ordinances of Jefferson County, Missouri: Public Nuisance Ordinance, in

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APR 20 2020

KEN WALLER
COUNTY CLERK, JEFFERSON COUNTY, MO

order to provide for hearings and an appeal process for those citizens wishing to appeal a declaration of public nuisance; and

WHEREAS, for the purpose of better protecting the public health, safety, and welfare of the residents of Jefferson County, the Jefferson County, Missouri, Council finds that it is necessary and in the best interests of the County to amend Title II, Chapter 200 of the Code of Ordinances of Jefferson County, Missouri: Public Nuisance Ordinance in order to provide for hearings and an appeal process for those citizens wishing to appeal a declaration of public nuisance.

BE IT ENACTED BY THE JEFFERSON COUNTY, MISSOURI, COUNCIL, AS FOLLOWS:

Section 1. The Jefferson County, Missouri, Council hereby approves and adopts proposed amendments to Title II, Chapter 200 of the Code of Ordinances of Jefferson County, Missouri: Public Nuisance Ordinance in order to provide for hearings and an appeal process for those citizens wishing to appeal a declaration of public nuisance, said amendments being incorporated by this reference as if fully set out herein and as set forth in the attached Exhibit "A". Appeals of declarations of public nuisance shall be heard by the Jefferson County, Missouri, Municipal Court Judge sitting as an Administrative Hearing Officer.

Section 2. This Ordinance shall be in full force and effect thirty (30) days after it is published in full in a legal publication in the County and posted in a public place in each Council District and on a County sponsored web page on the Internet in electronic form.

Section 3. The Code of Ordinances of Jefferson County, Missouri shall be amended to reflect passage of this Ordinance.


Section 4. If any part of this Ordinance is invalid for any reason, such invalidity shall not affect the remainder of this Ordinance.

**THIS BILL BEING DULY INTRODUCED, THE MEMBERS OF THE
JEFFERSON COUNTY, MISSOURI, COUNCIL VOTED AS FOLLOWS:**

Council Member District 1, Brian Haskins	<u>Yes</u>
Council Member District 2, Renee Reuter	<u>No</u>
Council Member District 3, Phil Hendrickson	<u>Yes</u>
Council Member District 4, Charles Groeteke	<u>No</u>
Council Member District 5, Tracey Perry	<u>Yes</u>
Council Member District 6, Daniel Stallman	<u>Yes</u>
Council Member District 7, James Terry	<u>No</u>

THE ABOVE BILL ON THIS 13th DAY OF APRIL 2020:

PASSED **FAILED**


Phil Hendrickson, County Council Chair


Pat Schlette, Council Administrative Assistant


THIS BILL WAS X APPROVED BY THE JEFFERSON COUNTY EXECUTIVE AND ENACTED AS AN ORDINANCE OF JEFFERSON COUNTY, MISSOURI, THIS 17th DAY OF April, 2020.

THIS BILL WAS _____ VETOED AND RETURNED TO THE JEFFERSON COUNTY, MISSOURI, COUNCIL WITH WRITTEN OBJECTIONS BY THE JEFFERSON COUNTY EXECUTIVE, THIS _____ DAY OF _____, 2020.

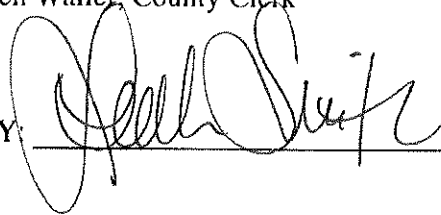


Dennis J. Gannon, Jefferson County, Missouri, Executive

ATTEST:



Ken Waller, County Clerk

BY: 

First Reading: 03-23-2020

Second Reading: 04-13-2020

Third Reading: 04-13-2020

EXHIBIT A

Chapter 200. Public Nuisance Ordinance

Section 200.010. Title.

The title of this Chapter shall be known as the “Jefferson County Public Nuisance Ordinance”.

Section 200.020. Authority and Jurisdiction.

- A. This Chapter is enacted pursuant to Section 67.398, RSMo. (Cumm. Supp. 2002).
- B. This Chapter shall apply to all of the unincorporated areas of Jefferson County, Missouri.

Section 200.025. Definitions.

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

DEBRIS – Debris shall include all of those items listed of whatever nature and as enumerated in the Public Nuisance Chapter and specifically 200.030A below.

DERELICT VEHICLE - Any vehicle that is inoperable (unable to start and move under its own power), partially or totally dismantled, or has portions of its body work missing or is substantially damaged. Derelict vehicles may include, but are not limited to cars, trucks, motorcycles, construction equipment, recreational equipment (such as boats, campers, motor homes, ATVs, and go-carts), lawn and garden equipment, and trailers (such as utility, boat, and box).

NOXIOUS WEED – Any weed designated as noxious by rules promulgated by the Director of the department of Agriculture for the State of Missouri. Pursuant to Sections 263.190 RSMo (2019) the Department of Agriculture shall maintain a list of such noxious weeds and make such list available to the public. Noxious Weeds in this Chapter shall also be defined and mirror the Missouri State Law on this subject and shall be incorporated into this definition as though fully set forth herein.

TALL GRASS – Any grass not so exempted herein that is twenty inches (20”) and higher.

Section 200.030. Abatement of Public Nuisances.

- A. All real property in the unincorporated area of Jefferson County shall be deemed a public nuisance that has the presence of a nuisance including, but not limited to:
 - 1. Rubbish, yard waste and trash.
 - 2. Demolition debris such as lumber, windows, doors, fencing, and shingles.

3. Bricks and scrap concrete, rock, and blocks.
4. Scrap metal such as tin and aluminum.
5. Steel.
6. Derelict vehicles (see definition in Section 200.025).
7. Derelict construction equipment.
8. Derelict lawn and garden equipment.
9. Tires.
10. Derelict appliances.
11. Broken furniture.
12. Household items (clothing, electronics, lamps, etc.).
13. Dead animals.
14. Any flammable material which may endanger public safety or any material or condition which is unhealthy or unsafe.
15. Any noxious weed or any tall grass of twenty inches (20") and higher (see definition in Section 200.025).

A. The following exemptions shall apply to this sub-section:

- i. Excluded from this sub-section shall be any lands used for farms, farming or agriculture as designated and as contemplated under the exemptions contained in Section 67.402 RSMo (2019).
- ii. Excluded from this sub-section shall be any lands and grasses used for soil stabilization, stormwater or drainage easements, water conservation, designated wildlife protection areas, such as wetlands, and other natural areas approved by the Director of County Services or the Director's designee.
- iii. Excluded from this sub-section shall be decorative landscaping, gardens and areas under lawful construction.
- iv. Excluded from this sub-section shall be any property in its undeveloped natural state.

16. Parts of any of the above.
- B. All real property in the condition of having the presence of debris deemed as a public nuisance in Subsection (A) above is hereby declared to be a public nuisance and shall be abated as provided in this Chapter.
 - C. The following standard shall be followed by the Code Official and the Jefferson County, Missouri, Code Commission in ordering abatement:
 1. If the debris can reasonably be removed so that it will no longer exist in violation of this Chapter, it shall be ordered removed.
 - D. The Code Official or his or her representative shall:
 1. Inspect any property about which complaints are filed by any person to the effect that property is or may exist in violation of this Chapter.
 2. Serve notice of the declaration of nuisance as determined by the provisions of this Chapter to the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the property as shown by the land record of the Recorder of Deeds for Jefferson County. Such notice shall be served either personally or by certified mail, return receipt requested, and by posting such notice on the property. Such notice shall state that:
 - a. The owner, occupant or lessee must commence work to abate the nuisance in accordance with the terms of the notice; or
 - b. The mortgagee, agent, or other persons having an interest in such property as shown by the land records of the Recorder of Deeds of the Jefferson County, may, at his/her own risk, abate the nuisance by removal of the debris from the property.
 - c. Any person notified under this Subsection (2) to remove debris from property shall be given reasonable time not to exceed ten (10) days to commence the action required by the notice. The notice may include a reasonable time in which the required action shall be completed. If, in the judgment of the Code Official or his or her representative, it is determined to be necessary to extend the time to do or have done the work or act required by the notice provided herein, the Code Official shall specify the extension date in writing, and serve an additional notice of the date to which the extension is made.
 - d. If service cannot be had by the methods set forth above, a notice shall be inserted in a newspaper then doing the County printing, notifying the owner of the public nuisance. The notice shall state that the owner is responsible

for the removal of the debris within ten (10) days after the publication of the notice.

e. The parties receiving the notice shall have ten (10) calendar days to appeal the declaration of nuisance to the Jefferson County, Missouri, Municipal Court. In the event that no timely appeal is filed, the declaration shall become final and the Code Official shall proceed with abating the nuisance pursuant to subsection (G) below.

3. Report to the Jefferson County, Missouri, Code Commission Municipal Court any non-compliance with the notice provided for in Subparagraph (2) above regarding any appeals timely filed pursuant to subsection (E) below.

4. Appear at all appeal hearings conducted by the Jefferson County, Missouri, Code Commission Municipal Court Judge sitting as an Administrative Hearing Officer and testify as to the condition of debris on property constituting a public nuisance.

5. Place a notice on property constituting a public nuisance substantially reading as follows:

This property has been found to be a public nuisance by the Code Official. This notice is to remain on this property until the debris is removed and the nuisance abated in accordance with the notice that has been given to the owner, occupant, lessee, mortgagee, or agent of this property, and all other persons having an interest in said property as shown by the land records of the Recorder of Deeds of Jefferson County. It is unlawful to remove this notice until such notice is complied with.

E. Right to Appeal Code Official's Declaration of Nuisance:

1. Any party receiving the notice required by subsection (D)(2) above shall have the right to appeal the Code Official's declaration to the Jefferson County, Missouri, Municipal Court. Said appeal shall be filed within ten (10) calendar days from the date of the notice. Appeals filed later than ten (10) calendar days after the date of the notice shall not be considered timely and shall be dismissed. Appeals shall be filed in the office of the Solid Waste Division and shall be filed on forms provided by the Solid Waste Division. In the event that an appeal is timely filed, the Jefferson County, Missouri, Municipal Court Judge sitting as an Administrative Hearing Officer shall conduct an appeal hearing regarding the matter as set forth in subsection (F) below. In the event that no timely appeal is filed, the declaration shall become final and the Code Official shall proceed with abating the nuisance pursuant to subsection (G) below.

E-F. The Jefferson County, Missouri, Municipal Court Judge sitting as an Administrative Hearing Officer Code Commission shall:

1. ~~Upon receipt of a report notice from the Code Official of failure to commence work of abating the nuisance within the time specified or upon failure to proceed continuously with the work without unnecessary delay, that an appeal has been timely filed, the Jefferson County, Missouri, Municipal Court Judge sitting as an Administrative Hearing Officer Code Official shall call and have a full and adequate appeal hearing upon the matter before the Jefferson County, Missouri, Code Commission, giving at least fifteen (15) days written notice to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in the property as shown by the land records of the Recorder of Deeds of Jefferson County to appear before it on the date specified in the notice to show cause why property reported to be a public nuisance should not be ordered to be cleaned up and work commenced to remove debris in accordance with the statement of particulars set forth in notice of the Code Official. Any party may be represented by counsel, and all parties shall have an opportunity to be heard. Each party shall have the right to call, subpoena and examine witnesses on the party's behalf and to cross examine opposing witnesses. Appeals heard by the Jefferson County, Missouri, Municipal Court Judge sitting as an Administrative Hearing Officer shall be conducted as contested cases pursuant to Chapter 536 RSMo.~~
2. After the appeal hearing, if the evidence supports a finding that the property is a nuisance or detrimental to the health, safety or welfare of the residents of the County, the Jefferson County, Missouri, Municipal Court Judge sitting as an Administrative Hearing Officer ~~Jefferson County, Missouri, Code Commission~~ shall issue an order making specific findings of fact, based upon competent and substantial evidence, that shows the property to be a nuisance and detrimental to the health, safety or welfare of the residents of the County, and ordering the nuisance abated pursuant to subsection (G) below. If the evidence does not support a finding that the property is a nuisance or detrimental to the health, safety or welfare of the residents of the County, no order shall be issued.

G. Abatement by the Code Official:

- ~~3-1.~~ Any ordinance authorized by Section 67.402, RSMo., may provide that if ~~If~~ the owner fails to begin abating the nuisance within the time specified, the Code Official shall cause the condition which constitutes the nuisance to be removed. If the Code Official causes such condition to be removed or abated, the cost of such removal shall be certified to the County 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 County Collector's option, for the property and the certified cost shall be collected by the County Collector 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 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 the owner and shall also be a lien on the property until paid.

4-2. If the owner complies with the order, or extension thereof within the time specified, the Code Official may cause a special tax bill for any costs incurred by the County (e.g., publication, mailing of notices, and recording) against the property to be prepared and collected by the County Collector. The tax bill, from the date of issuance, shall be deemed a personal debt against the owner and a lien on the property until paid.

H. Property Held by the County Delinquent Tax Trustee:

1. The County, may, at its option, abate any public nuisance that exists on property titled in the name of the County Delinquent Tax Trustee ("Trustee Property"). If the County elects to abate a public nuisance located on Trustee Property, notice to the Delinquent Tax Trustee is not required. Abatement of the public nuisance shall proceed in the same manner as set forth in subsection (G) above. The costs of abatement shall be paid at the time of sale of the Trustee Property, unless said costs are specifically waived or compromised by the Jefferson County, Missouri, Council.

I. Interested parties may appeal from the determination of the Jefferson County, Missouri, Municipal Court Judge sitting as an Administrative Hearing Officer to the Circuit Court having jurisdiction, as provided for and established in Section 536.100 RSMo.