BILL
NO.
2008-04

ORDINANCE
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AN ORDINANCE REPEALING ORDINANCE #**2005-15** PROHIBITING THE MAINTENANCE OR KEEPING OF ANY **NUISANCES** ON PRIVATE PROPERTY.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF OSCEOLA, **MISSOURI**, **AS FOLLOWS:**

***Section* 1.**
Nuisance
Defined:

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

Section* 2.** *Weeds**, nuisance declared*; ***prohibited

The following weeds, growths and vegetation are a public nuisance and are referred to in this ordinance as "noxious growths":

(a) Any growth of any grasses, weeds, Russian, Canadian, Scotch or Musk thistle, wild lettuce, wild mustard, wild parsley, ragweed, milkweed, ironweed, poisonous plants or shrubs, and all other vegetation, which have, by neglect, attained a height of twelve (12) inches or more, growing or being upon any property in the city. The burden of proof of non-neglectful high vegetation lies with the property owner.

(b) Any weed, growth or vegetation growing or being upon any property, when such weed, growth or vegetation by, direct contact or by proximity thereto can cause irritation, dermatitis, or lesion of the skin of any person.

(c) Any trees, shrubbery, vegetation growing or being upon any property, which are not kept trimmed as specified in the following subsections to prevent obstruction of the view and movements of vehicles and pedestrians on public areas or streets.

(1) Sidewalks, trees shrubbery, bushes and vegetation shall be kept trimmed so as to provide clearance under any weather conditions for the horizontal width of at least four (4)

feet and a vertical clearance of at least seven (7) feet from any sidewalk. The term "sidewalk" includes paved sidewalks, within the confines of a dedicated street, a walkway on public right-of-way normally used by the public as indicated in a worn path, or any walkway on a public easement.

(2) Streets or alleys. Trees, shrubbery, bushes and vegetation shall be kept trimmed so that during any weather conditions the foliage or branches shall not extend beyond the curb lines unless there is a clearance of at least eight (8) feet above the curb and eight (8) feet above the center of the nearest traffic lane. In those cases where no curb has been provided, the curb line clearance shall apply at the nearest edge of the roadway surfacing.

(3) No field dressing shall be allowed within one hundred feet (100') of the property line. No field dressing waste shall be allowed to remain on the property for more than twenty-four hours.

(d) Nothing in this section shall be applied so as to prohibit the use of aquatic habitats, wildlife refuges, and authorized greenbelts for educational purposes, demonstration areas and flora treatment projects.

(e) This section does not apply to land zoned or used for agriculture, underdeveloped lots or lots in excess of one-acre which are more than one hundred fifty feet (150') distance from any developed residential or commercial lot.

(f) Nothing in this section shall be applied so as to prohibit the maintenance of a compost pile on residential property, which contains only items such as leaves, clippings of grass and other lawn and garden vegetation, ashes and wood chips. Items prohibited for composting are household/kitchen garbage of such a nature as to spread or harbor disease, emit noxious gases, fumes or odors, or attract rodents, insects or other animals.

(g) Abatement of nuisance. Every owner, occupant or person in control of any property described in this ordinance shall cause said property to be kept free from noxious growths by destroying them by spraying with a chemical compound approved by the Missouri State Conservation Commission and applied at the direction of the City of Osceola or their duly approved agent or by cutting or digging

under, or any other method approved by the City of Osceola or their duly authorized agent.

***Section* 3. *Structures and Exterior Property** Areas*.

All structures and exterior property and premises shall be maintained in a clean, safe and sanitary condition.

(a) It shall be unlawful for any person to store, for longer than one month, any vehicle parts, machinery, implements, tires, tools; boxes, barrels, bottles, cans, metal drums, bricks, blocks or stones, cut brush, tree branches, limbs, or timber; furniture not designed for outdoor use, stoves, refrigerators or freezers or similar items; unless items are stored with an enclosed building.

(b) All items not stored within a building shall be maintained in good repair and shall not allow infestation by insects, rodents or other animals. Wood shall be cut in lengths and sizes suitable for use, as firewood may be stored in an enclosed building or outside, if stacked.

(c) It shall be unlawful for any person to leave any abandoned, unattended, or discarded ice box, refrigerator, or other locking device which has an air-tight door or lid, snap- box or other locking device which may not be released from the inside, without first removing said door or lid, snap lock, or other locking device from said ice box, refrigerator or container.

(d) It shall be unlawful for any person to place, deposit or permit to be placed or deposit any solid materials of any kind or nature, into, along or across any stream, ditch, culvert, drainage pipe, watercourse or other drainage system so as to impede the flow of water, or any other material that would have the same effect.

(e) No person shall cause, permit or allow any stagnant water to be upon premises

owned, managed or
occupied by him or her.

Section* 4. *Accumulation** of Rubbish **and Garbage

(a) All exterior property and premises shall be free from any accumulation

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of rubbish or garbage and the interior of every structure shall be free accumulation of garbage.

(b) Every occupant of a structure shall dispose of all rubbish/ garbage in a clean and sanitary manner by placing such rubbish in approved containers. It shall be prohibited to leave rubbish in outside containers longer than seven (7) days.

(c) It shall be unlawful for any person to keep, permit, allow or maintain upon any property owned, managed or occupied by him/her any goods, merchandise, clothing, furniture, or other property remaining from garage sale(s). Occupants of a structure shall pack up and remove from open areas all garage sales no later than seven (7) days after the sale event.

Section 5. ***Burning*** *of Trash* ***and Household Garbage***

(a) The burning of trash and household garbage is deemed to be a nuisance under this ordinance, and is strictly prohibited.

(b) The burning of yard waste, such as leaves, twigs and shrubbery trimming is authorized only between the hours of sunrise and sunset, *provided* that *no countywide burn bans are in effect*. Further, any such burning must be constantly supervised by the presence of a responsible person.

Section 6. ***Abandoned***, ***Wrecked or Discarded Vehicles (Unlicensed and/****or Unregistered* ***vehicles*****)**

(a) No person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, non- operating, wrecked, junked or discarded vehicle or parts thereof to remain on the property longer than forty-eight (48) hours; no person shall leave a vehicle **on any** property within the city for a longer time than forty-eight (48) hours, except that this section shall not apply with regard to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.

(b) No person shall abandon any vehicle within the city and no person shall leave any vehicle at any place within the city for such time and under such circumstances as to cause such vehicles reasonably to appear to have been abandoned, or shall have any vehicle unattended on any public street for more than forty-eight (48) hours.

(c)

No person shall leave a partially dismantled, wrecked, or junked vehicle or parts thereof on any street or highway within the city for more than forty-eight (48) hours.

(d) The following definitions shall apply in the interpretation and enforcement of this section:

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1. Property shall mean any real property within the city which is not a street or highway.

2. Street or highway shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

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3. Vehicle shall mean a machine propelled by power other than human power, designed in travel along the ground in use of wheels, treads, runners, or slides and transport persons on property or pull machinery and shall include, without limitation, automobile, truck, backhoe, bulldozer, skid loader, trailer, motorcycle, tractor, campers, buggy and wagon.

4. Garbage and rubbish shall be defined as food wastes, human wastes, pet wastes, animal carcasses, cardboard, paper, plant trimmings, weeds, clothing, furniture, metal, chemicals, paint, and any other broken or discarded items with no value.

Section 7. ***Conditions***, *which interfere* ***with the public's health, safety, peace, comfort*** *or* ***convenience***

(a)

(b)

The ability of persons to peacefully enjoy their property is substantially impaired if a normal person would regard the invasion as definitely offensive, seriously annoying or intolerable, such that there results actual physical pain, inability to sleep, eat or breathe, or property damage.

In addition to all other factors, the following shall be considered in any determination as to whether a person's use of his/her property constitutes a nuisance: (a) location of the use; (b) character of the neighborhood; (c) nature of the use; (d) reasonableness of the use; (e) time(s) at which the use occurs; (f) social value or ability of the use; (g) the nature, extent, and frequency of the injury; (h) the effect upon the enjoyment of life, health and property of those effected; and (i) the ability of either part to avoid harm.

Section 8. ***Notices*** *and* ***Orders***

(a)

(b)

(c)

(d)

(e)

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Whenever the Mayor determines that there has been a violation of this ordinance, when applicable, notice shall be given to the owner, the occupant and the person or persons responsible therefore in the manner prescribed in this section.

Such notice shall be in writing; include a description of the real estate sufficient for identification; and include a statement of the reason or reason why the notice is being issued.

The notice shall include a correction order that states the violation(s) must be corrected no later than ten days upon receipt of the letter. Furthermore, the notice shall state that if the nuisance is not removed or corrected by the correction date, the City may request prosecution for said violation and/or penalties.

Such notice shall be deemed to be properly served if a copy thereof is (a) delivered to the owner, owner's representative and occupant personally; or (b) sent by first class mail addressed to the owner, owner's representative and occupant at last known address; or (c) by posting such notice in a conspicuous place in or about the premises effected by such notice.

It shall be unlawful for the owner of any premises who has received a correction order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the correction order and notice of violation have been complied with, or until such

(f)

(g)

(h)

owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any correction order or notice of violation issued by the Mayor and shall furnish the Mayor with a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such correction order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such correction order or notice of violation.

The Mayor may grant an extension of time not to exceed an additional sixty days.

When there is an immediate danger to the health, life, safety or welfare of any person because of a dangerous condition,

which exists in violation of this ordinance, the Mayor shall have the power to order the abatement or correction of such dangerous condition without notice.

Definition of a dangerous condition is one that creates an unreasonable and unnecessary risk of harm that is not readily apparent to others. The determination of whether a condition is dangerous shall be based on the following:

a.

Does the condition create an unreasonable or unnecessary risk of harm to any individual?

b. An act or omission to act, or a condition or use of property which either annoys, injures or endangers the comfort, repose, health or safety of the public; offends public decency; decreases the value of nearby property; or in any way renders other persons insecure in life or in the use of property.

Section 9. ***Failure to abate - Certification of Cost as Lien***

(a) As defined in the Missouri State Statutes, Chapter 71, Section 71.285 the City Clerk shall cause a special tax bill against the property from which the nuisance was removed to be prepared and to be collected by the St. Clair County Collector with other taxes assessed against the property.

(b) The special tax bill from the date of its issuance shall:

a.

Be a first lien on the property until paid, and prima facie evidence of the recital therein, and of its validity and no mere clerical error or informality in the same or in the proceedings leading up to the issuance shall be defense thereto.

b. Include the costs in removing the nuisance.

c.

Be issued by the City Clerk on or before June first (1st) of each year and, if not paid when due, shall bear interest at the rate of eight percent (8%) per annum.

d. If the weeds are allowed to grown on the same property more than once during the growing season, the Mayor or his/her designee may, without further notification, have the weeds cut down and removed and the cost of the same be billed in the manner described in the manner listed Section 9.b.

***Section* 10.** *Penalties*

(a)

Should the owner or tenants do not remove the various weeds or debris that constituted a nuisance as requested in the notice in Section 8, the City may

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charge an administration fee of twenty dollars ($20.00) in addition to the actual costs of having the weeds or debris removed. Any person violating the , provisions of this Section shall be deemed guilty of a misdemeanor and shall be punishable by a fine of not less than one hundred dollars ($100.00) and not more than five hundred dollars ($500.00) or up to ninety- (90) days in jail or any combination thereof. Each day of violation shall be deemed a separate offense.

Section 11. *This Ordinance shall be in* ***full force and*** effect ***after*** *passage and approval as required* by *law.*

First Reading: February 24, 2009 Second Reading: March 17, 2009

PASSED AND APPROVED BY THE BOARD OF ALDERMEN OF THE CITY OF OSCEOLA, MISSOURI, THIS 17th DAY OF March, 2009.

Larry Wallo

Mayor Pro-Tem Sheldon

Attest:

Liew Fostu

City

(seal)

Clerk