

AN ORDINANCE OF THE CITY OF CHULA, MISSOURI DEALING WITH GENERAL NUISANCES, DEFINITIONS, ABATEMENT PROCEDURE AND VIOLATIONS

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CHULA, MISSOURI as follows:

Section 1:

A. Public Nuisance Defined. Any fence, tree pole smokestack; or any excavation, hole, pit, basement, cellar, sidewalk, subspace, dock, wharf or landing dock; or any lot, land, yard, premises or location which in its entirety or in any part thereof, by reason of its condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life, limb or property or cause any hurt, harm, inconvenience, discomfort, damage or injury to any one (1) or more individuals in the City or any one (1) or more of the following particulars:

1. By reason of being a menace, threat and/or hazard to the general health and safety of the community;
2. By reason of being a fire hazard;
3. By reason of being unsafe for occupancy or use on, in, upon, about or around the aforesaid property; or
4. By reason of lack of sufficient or adequate maintenance of the property and/or being vacant, any of which depreciates the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which such property is situated or such condition exists.

B. Weeds and Vegetation Determined to be Nuisances.

1. Definitions. The following definitions apply to this section of this ordinance.

a. **Active agricultural use** shall be defined as those portions of any property which the owner or occupant has used primarily for agriculture.

- i. Harvested hay shall be removed from the field and properly stored in the property by means of placing in a row, stacking, storing within a structure or removed from the property within thirty (30) days of being baled.

b. **Natural wooded area** means an area where the land, trees, and vegetation are in and continue to remain in their natural state.

c. **Noxious weeds** include poison ivy, poison oak, poison sumac, and any other weed designated as noxious by Missouri statute or regulation.

d. **Obnoxious growth of vegetation** shall mean large growths which either may or do constitute a menace to health, public safety or welfare or when dry, a fire menace to adjacent improved properties.

e. **Owner** shall mean the record owner of the property. In the case of joint tenancy, tenancy by entireties or tenancy in common, each owner thereof, shall be liable under this ordinance.

f. **Weeds** shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs, provided; however, this term shall not include cultivated flowers and gardens.

2. Nuisance Declared.

a. Weeds or grass that exceed ten (10) inches in height, and noxious plants of any height, as they are herein defined, which are allowed to stand at any season of the year upon any lot, tract, or parcel of land, or along the sidewalk, street or unpaved alley adjacent to such lot, tract or parcel of land, are hereby declared to constitute a nuisance and shall be removed pursuant to Subsection 3 below.

b. Provided, however, that this ordinance shall not apply to land zoned or used for agricultural use which is more than twenty-five (25) feet distant from any occupied residential subdivision lot, tract, or parcel of land, or undeveloped tracts of land zoned other than for agricultural uses, if such tract is one (1) contiguous tract, not intersected by any public roadway and is greater than ten (10) acres, provided that all areas within twenty-five (25) feet from the edge of the pavement of a public roadway(s) or within twenty-five (25) feet from the property line(s) adjacent to any property being used for residential or commercial purposes shall be maintained free from weeds or plant growth in excess of ten (10) inches.

3. Removal Required. It shall be unlawful for any owner, lessee, occupant, or any agent representative or employee of such owner, lessee or occupant having control of any lot, tract or parcel of land, except as herein provided, to allow weeds or grass that exceed ten (10) inches in height or noxious weeds of any height, as they are herein defined, to grow or stand upon such premises and it shall be the duty of such owner, lessee, occupant, or any agent, representative or employee of such owner, lessee, or occupant to act, cut, remove or destroy any and all such weeds and grass, and to remove or destroy any noxious weeds on such premises.

4. Abatement of yard debris. Any condition on any lot or land that has the presence of yard debris of any kind is hereby declared to be a public nuisance, subject to abatement.

5. Procedure for yard debris. Enforcement shall commence by providing notice to the owner of the property of the nuisance condition existing on his/her/its property. The notice may be delivered by personal service, by certified mail or by ordinary mail. (If sent by ordinary mail, there will be a refutable presumption that the letter was delivered five (5) days after the date it was sent.)

a. The notice shall generally describe the nature of the nuisance, the location of the property (using the mailing or popular address rather than a legal description, when reasonably possible to do so) and ordering the property owner to, within a period of ten (10) days from the receipt of the notice, abate the nuisance.

b. Any owner who wishes to challenge the order of abatement may do so, provided that within the fourteen (14) day period he/she/it requests a hearing on the validity of the order under the State Administrative Procedure Act, Chapter 536, RSMo. If no such request is made within that time period, the order becomes final and is not subject to challenge elsewhere. If such request is made, the hearing shall be conducted by the Mayor. The request for a hearing must be in writing, but otherwise no particular formality is required. Notice to the property owner of his/her right to request such hearing shall be given by providing a copy of this Chapter if requested with any notice sent under authority of this Section. Once a request for a hearing is received, the hearing shall be conducted in accordance with the "contested case" provisions of the State Administrative Procedure Act. The City Attorney shall represent the City at such a hearing.

c. Abatement of nuisance yard debris. If the nuisance is present on the property fourteen (14) days after receipt of the notice by the property owner, the enforcement officer shall cause the same to be summarily abated. (The costs of abatement may include a fee for the City's costs in administering this Chapter, which administrative fee shall be one hundred dollars (\$100.00). The enforcement official shall verify the cost of such abatement to the City Clerk or other officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, and shall be collected in the same manner and procedure as for collecting real estate taxes.

C. Additional Acts Determined to be Nuisances. The following actions are determined by the Board of Aldermen as noisome, offensive, unwholesome or

dangerous to the public's health, welfare, and/or safety and shall constitute a public nuisance:

1. Allowing stagnant pools of water to accumulate;
2. Accumulations or disposal of trash, lumber which is not piled or stacked more than twelve (12) inches off the ground, earth, ashes, mortar, papers, stone, brick, rock, tin, steel, dirt, manure, filth, excrement, chips or rubbish of any description, cesspools, drains, garbage or any other animal or vegetable substances, unless the accumulations or disposal of such items in such place as specifically authorized by law;
3. The keeping of any horse, cattle, sheep, swine, goats, mules, or other livestock or fowl within the corporate limits;
4. The pollution of any river or stream;
5. Burning of materials or methods which are prohibited by Missouri Department of Natural Resources regulations;
6. The distribution of samples of medicine or drugs to minors;
7. The keeping of doves or pigeons which deposit excreta on buildings and sidewalks;
8. Maintaining a privy or outdoor closet;
9. Garbage trucks that are not covered and leak proof;
10. Dead animals not disposed of within twenty-four (24) hours;
11. Any building, house, room, or other structure or vehicle maintained or used for the purposes of lewdness or prostitution;
12. Any pit, basin, hole, or other excavation which is unguarded and dangerous to life or has been abandoned or is no longer used;
13. All obstructions to streets, right-of-way, or other public ways in the City, and all excavations in or under the same, which are by ordinance prohibited or which may be made without lawful permission or which, having been made by lawful permission, are kept and maintained after the purpose thereof has been accomplished or for an unreasonable length of time;
14. Erecting, maintaining, using, placing, depositing, leaving or permitting to be or remain in or upon any street, alley, sidewalk, park, parkway, or other public or

private place in the City any one (1) or more of, but not limited to, the following conditions or things:

- a. Any bone, meat, hides, skin or the whole or parts of any dead animal or fish;
- b. Any chemicals or other materials commonly known to be noxious, offensive, dangerous, or otherwise injurious including, but not limited to, grease, oil, antifreeze, explosives, radioactive materials, and poisons;

15. All premises and vehicles whereon or wherein intoxicating liquor, illegal drugs, unprescribed prescription drugs, or marijuana is manufactured, sold, bartered, exchanged, given away, furnished, disposed of, consumed or permitted to be consumed in violation of the laws of the State or the ordinances of the City;

16. Any refrigerator, icebox or deep freeze locker having a capacity of one and one-half (1 ½) cubic feet or more, or any other container manufactured, custom-made or homemade designed for storage which is stored, discarded, abandoned or left in any place accessible to children and which has not had the door or latching mechanism removed to prevent the latching or locking of the door;

17. Leaving or permitting to be or remain in or upon any street, sidewalk, steps, or other public or private walkway in the City any one (1) or more of, but not limited to, the following conditions or things:

- a. Holes or protruding edges on public sidewalks and steps;
- b. Accumulation of snow and ice not removed within twenty-four (24) hours;
- c. Mud, grass, debris, garbage or other items or substances upon the surface;
- d. Overhanging trees, shrubs, or other obstructions to pedestrian travel;

18. Electric fence or fence constructed wholly or partially of barbed wire except in areas within the City zoned agricultural;

19. A swimming pool or any other pool of water that is not in conformance with the City ordinances;

20. Any outdoor storage of items including, but not limited to, tools, equipment, machinery, household appliances, and broken furniture that is not enclosed by a fence at least seventy-two (72) inches in height with a lockable gate. Said gate which is left unlocked when the back yard is not occupied shall constitute a public nuisance;

21. Unacceptable fill material placed after the date of the Ordinance.

a. Unacceptable fill material shall include any material used for fill which is larger than six (6) inches in size in any direction.

b. Acceptable fill material shall include acceptable organic and/or earth material as defined herein, which is free from cinders, ashes, refuse, soft or plastic clays, vegetables or other similar organic matter such as food waste, trees, branches or stumps. Acceptable fill material shall be capable of being compacted.

i. Organic materials are wood chips, shredded or chopped bark, sawdust, or similar material.

ii. Earth materials are soil, topsoil, clay, sand, gravel, rock, stone, or similar material.

22. Non-licensed vehicles, including, but not limited to, cars, trucks, recreational vehicles, boats, trailers and construction equipment, which are not stored in an accessory building or garage so that they may not be seen; and

23. Placing trash or debris in the public right-of-way more than forty-eight (48) hours prior to the scheduled refuse collection date for such location.

D. Duty and Authorization of Enforcement Official.

1. Duty of Enforcement Official. It shall be the duty of the enforcement official (who shall be designated by the Mayor) to enforce the provisions of this Ordinance.

2. Authority to Enter Premises. With the consent of the owner (except in an emergency), the enforcement official, and any agent, officer, or employee designated by the enforcement official, is hereby authorized to enter and inspect all buildings and parts of buildings or other premises for the purpose of examining the sanitary condition and for the discovery and abatement of nuisances therein. If on such inspection any nuisance or unsanitary condition be found, the same shall be forthwith reported to the enforcement official, who shall direct and order the owner or occupant of the premises forthwith to remove or abate the same. It shall be unlawful to interfere with the enforcement official or any other officer, agent, or employee of the City, or with any representative of the enforcement official, while engaged in a sanitary inspection for the discovery of any nuisance or in the abatement thereof.

E. Administrative Search Warrant.

1. If the owner or occupant does not consent to such entry of the premises as described in Section D.2 above, the enforcement official may apply for an administrative search warrant to the municipal judge.
2. Such application shall include the following:
 - a. A statement of probable cause, supported by affidavit, detailing the actual or suspected property conditions constituting a nuisance; and
 - b. A statement that the enforcement official requested entry onto the premises and that the owner or occupant refused such entry.
3. If the Court finds such facts established probable cause to believe that an ordinance code violation may exist, signs the warrant, and authorizes the requested entry, the enforcement official shall have ten (10) days to execute the warrant, during daylight hours. The enforcement official may have law enforcement presence during the warrant execution to encourage peaceful cooperation and to ensure the safety of the enforcement officer.
4. The enforcement official shall inspect the property for code violations, record or seize appropriate property as evidence, and/or abate existing nuisances, all as directed by the terms of the search warrant.
5. The enforcement official shall prepare a "return," consisting of a report of the search and/or seizure, including copies of receipts for any property seized.
6. The enforcement official shall also leave copies of the warrant and any receipts for the property seizure with the property owner or occupant, or, if no one is available, in a conspicuous place on the property.

F. Emergency Abatement Without Notice.

1. Whenever it becomes necessary to abate a nuisance immediately in order to secure the general health of the City, or any of its inhabitants, the enforcement official is authorized to abate such nuisance without notice, and he may use any suitable means or assistance for that purpose, whether employees of the City or contractors specially employed for that purpose, or any other help or assistance necessary therefor. The enforcement official shall certify the costs as set forth in Section L below.

G. Notice to Abate, Right to Request Hearing.

1. Notice to Abate. Whenever the enforcement official determines that a nuisance exists on any premises within the City, but that it is not immediately necessary for

the protection of the health and welfare of the inhabitants of the City to be removed by the City, the enforcement official shall give notice to the owner, the occupant of the premises if not owner-occupied, and any lessee, mortgagee, agent, and all other persons having an interest in the building or structure as shown by the land records of the Recorder of Deeds of Linn County, Missouri, to abate the nuisance. The enforcement official's notice to abate should:

- a. State the address and description of the location of the alleged nuisance;
- b. Contain a description of the alleged nuisance, nature of the violation, and state the action needed to remedy the nuisance;
- c. Give a deadline for abating or removing the alleged nuisance, which shall be not less than fourteen (14) days from the date of the owner or occupant's receipt of the abatement notice, and advise the owner or occupant of his right to request a hearing;
- d. Information on the right and manner of requesting a hearing to contest the enforcement official's notice to abate;
- e. A statement that if the nuisance is not abated as ordered, and if no request for hearing is made within the prescribed time, the City may abate the alleged nuisance and assess the costs against the property; and
- f. Serve upon the owner and occupant of the premises in a way identified herein:
 - i. By posting the abatement notice in a prominent or conspicuous place on the property; and
 - ii. The enforcement official may serve the abatement notice on the property owner or occupant by first class mail at the last known address or by personal service in the same manner as legal process is served under any Missouri statute or court rule. Mailed notice shall be presumed received three (3) days after it is mailed; or
 - iii. If the enforcement official is unable to obtain service on the property owner or occupant by either of the above methods, service may be obtained by publishing the abatement notice once in a newspaper of general circulation in the City. Notice shall be considered given on the date the notice is published.

H. Request for Hearing and Notice of Hearing.

1. The owner or occupant of the property or other person given notice on which the nuisance is alleged to exist may contest the abatement notice by requesting a hearing. The request for hearing must be made in writing and received by the City Clerk within fourteen (14) days of service of the abatement notice. The request for hearing must either be hand-delivered to the office of the City Clerk or sent to the City Clerk by United States first-class mail, facsimile machine, or electronic mail at City Hall. The request for hearing must state an address to which a notice of hearing may be sent.

2. At least fourteen (14) days' written notice of the hearing shall be given to the person requesting the hearing except in cases where the public health, safety, or interest shall make a shorter time reasonable. Notice of the hearing date shall be personally delivered or mailed to the address provided in the request for hearing. Notice shall be presumed received three (3) days after it is mailed.

I. Hearing, Decision, Appeal.

1. The hearing officer, which shall be the Mayor or Mayor's designee, shall conduct a hearing and enter a decision in accordance with the requirements of Chapter 536, RSMo. At such hearing, such alleged occupant and/or owner shall have the right to be represented by counsel, to present testimony, offer evidence and arguments, and cross-examine witnesses. All testimony shall be taken under oath, and a record of the hearing shall be made by tape recording to be used for any appeal on the decision of the hearing officer.

2. The hearing officer, upon such hearing, shall state in writing his or her findings of fact, conclusions of law, and order, if he or she finds such nuisance to exist, that the same be abated within said period of five (5) days, and shall cause such findings, conclusions and order to be served upon such occupant/owner in the same manner as provided for notice of such hearings, or by mailing a copy thereof to counsel for such occupant/owner if any such appeared therefore at the hearing, by certified or registered mail.

3. An appeal from the decision of the hearing officer may be made to the Circuit Court of Livingston County, Missouri, in accordance with Chapter 536, RSMo.

J. Enforcement and Abatement.

1. In the event that either no hearing shall have been requested as provided for above or the hearing officer upon such hearing shall have ordered such nuisance to be abated, and such nuisance shall not have been abated within the respective period specified, then the enforcement official may cause such nuisance to be abated forthwith by any appropriate means.

2. The enforcement official, or one contracted to do work, may enter the premises upon which such nuisance is situated for the purpose of abating the same with or without the consent of the owner or occupant thereof without being guilty of trespass.

K. Abatement of Nuisance by Civil Action to Include Attorney's Fees.

1. Pursuant to Section 79.383 RSMo, the City may file a civil cause of action for abatement of nuisances created by the accumulation of unsightly, dangerous, or noxious personal property within the borders of the City.

2. The City may, upon successful prosecution in a civil cause of action, be awarded by the court reasonable attorney's fees incurred in such action.

3. This Section shall not be construed to allow any award of attorney's fees in any municipal court hearing on criminal charges or traffic violations.

L. Collection of Abatement Costs.

1. The enforcement official shall certify the cost of abatement to the City Clerk. The cost shall include the actual cost of removing the nuisance as well as a reasonable cost of administering the provisions of this ordinance. Such administrative costs shall not exceed the amount of one hundred dollars (\$100.00).

2. The enforcement official shall certify a statement of such costs, and of service of notice on the owner, describing the real property upon which such abatement was accomplished, to the City Clerk as a special assessment against such real property. Provided, however, that if any appeal shall have been filed of the order of the hearing officer within the period allowed by law therefor, such costs of abatement shall not be so certified to the City Clerk unless and until final judgment shall have been rendered on such appeal confirming such order.

3. Upon receipt of such certification, the City Clerk shall cause a special tax bill against the property to be prepared in the amount of the abatement cost and reasonable cost of administering the provisions of this Ordinance. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall be a lien on the property until paid and shall be collected like other taxes.

M. Proceeds from Sale of Private Property.

1. If, after abatement by the City, it is practicable to salvage any material derived in the aforesaid abatement, the City may sell the salvaged material at private or public sale and shall keep an accounting of the proceeds thereof.

2. The proceeds, if any, obtained from the sale of any material salvaged as a result of an abatement of a public nuisance shall be deposited to the General Fund of the City and any deficit between the amount so received and the cost of the abatement shall be filed with the City Clerk. The City Clerk shall certify said costs and assess costs to the annual real estate tax bill for the property. Should the proceeds of the sale of the salvaged material exceed the cost of abatement, the surplus, if any, shall be paid to the owner of the property from which the public nuisance was abated.

N. Violations.

1. Any owner and/or occupant, if the property is not owner-occupied, who failed to remove a nuisance after receiving notice of abatement or an order of abatement shall be guilty of an ordinance violation and may (at the option of the City) be charged in the municipal division of the Circuit Court of Livingston County, Missouri, with the offense "failure to abate a nuisance."

2. Each day that a violation persists after the notice period shall be considered a new and separate violation hereunder.

3. The court shall not assess a fine, if combined with the amount of court costs, totaling in excess of:

(a) Two hundred twenty-five dollars for minor traffic violations; and

(b) For municipal ordinance violations committed within a twelve-month period beginning with the first violation: two hundred dollars for the first municipal ordinance violation, two hundred seventy-five dollars for the second municipal ordinance violation, three hundred fifty dollars for the third municipal ordinance violation, and four hundred fifty dollars for the fourth and any subsequent municipal ordinance violations;

4. The court shall not sentence a person to confinement, except the court may sentence a person to confinement for any violations endangering the health or welfare of others;

5. A person shall not be placed in confinement for failure to pay a fine unless such nonpayment violates terms of probation or unless the due process procedures mandated by Missouri supreme court rule 37.65 or its successor rule are strictly followed by the court;

6. Court costs that apply shall be assessed against the defendant unless the court finds that the defendant is indigent based on standards set forth in determining such by the presiding judge of the circuit. Such standards shall reflect model rules and requirements to be developed by the supreme court; and

7. No court costs shall be assessed if the defendant is found to be indigent under subdivision (4) of this section or if the case is dismissed.

8. Violations shall not be punishable by imprisonment.

Section 2. That all ordinances or parts of ordinances therefore enacted which are in conflict herewith are hereby repealed, including prior Ordinance 2023-13.

Section 3. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Aldermen hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 4. This ordinance shall be in full force and effect from and after the date of its passage and approval.

This ordinance was passed by the Board of Aldermen and approved by the Mayor of the City of Chula, Missouri, this 13th day of January, 2025.


On roll call vote on the said ordinance were as follows:

For the ordinance: Benny Simpson, Randy Hamilton, Jeremy Bru, and Kyle Gramenz.

Against the ordinance: None.

Whereupon said ordinance was declared duly adopted.

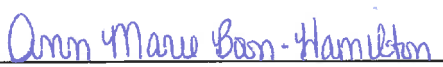
City of Chula


Benny Simpson, Mayor Pro Tem

Attest:


Ann Marie Boon-Hamilton, City clerk

I, the undersigned, Ann Marie Boon-Hamilton, Clerk of the City of Chula, Missouri, hereby certify that the above and forgoing is a true and correct copy of Ordinance No. 2025-01 of said City of Chula, Missouri, as same appears of record in my office and as it was adopted and approved by the Board of Aldermen of the City of Chula, Missouri.


Ann Marie Boon-Hamilton, City Clerk