

**COUNCIL BILL 2024-0402
ORDINANCE 2024-0402**

AN ORDINANCE OF THE CITY OF LAKE ANNETTE, MISSOURI, TO DEFINE ACTIONS AND CONDITIONS WHICH CONSTITUTE A NUISANCE, AND TO PROVIDE FOR AN ENFORCEMENT PROCEDURE TO ABATE NUISANCES.

WHEREAS, the Board of Aldermen of the City of Lake Annette, Missouri deems it necessary to amend the Lake Annette Code of Ordinances regarding nuisances.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF LAKE ANNETTE, MISSOURI, AS FOLLOWS:

SECTION 1. Sections 215.010 through 215.115 regarding nuisances are added to the Lake Annette Code of Ordinances to read as follows:

Chapter 215: Nuisances

Section 215.010. Definition of Nuisances and Prohibitions of Such.

- a) For the purposes of this division, the term “nuisance” is 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:
 - (1) Injures or endangers the comfort, repose, health or safety of others; or
 - (2) Offends decency; or
 - (3) Is offensive to the senses; or
 - (4) 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
 - (5) In any way renders other persons insecure in life or the use of property; or
 - (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others; or
 - (7) Any property which is in violation of this Ordinance.

- b) Illustrative Enumeration—the maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private 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:
 - (1) Weed Cuttings
 - (2) Cut and fallen trees and shrubs.
 - (3) Lumber not piled or stacked twelve inches (12") off the ground.

- (4) Noxious weeds, grass, and other rank vegetation over seven (7) inches in height.
- (5) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
- (6) Any condition which provides harborage for rats, mice, snakes and other vermin.
- (7) 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. For abatement and enforcement of such, please refer to the City's Dangerous Building Code in Article 3.04.
- (8) All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
- (9) 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.
- (10) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (11) 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.
- (12) 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.
- (13) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- (14) Dense smoke, noxious fumes, gas, soot, dust or cinders, in unreasonable quantities.
- (15) 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.
- (16) 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.
- (17) Any trash or debris inhibiting or preventing the flow of the water in a ditch is a public nuisance.
- (18) Junked Motor Vehicles: Junked Motor Vehicles can be any of the following:
 - a. 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, buggies, and wagons, or any part thereof, which is not registered or improperly registered with the state which 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 repair or sales business or in a duly licensed automobile junking yard. Any damaged or disabled vehicle, part thereof, or junk located on any property, street or highway which presents a 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 72 hours is a public nuisance.

- b. Vehicles inoperable: any inoperable vehicle stored or being repaired (other than in closed garages) for more than 72 hours is a public nuisance.
- c) It shall be unlawful for any person to cause, permit, maintain, or allow the creation or maintenance of a nuisance.

§ Section 215.020. Notice; Entry on Private Property.

a) Notice to Owner

- (1) Whenever the Mayor, his duty authorized representative, the codes enforcement officer, or director of public works determines that a nuisance exists upon any property within the city limits, he or she shall cause written notice to be served upon the owner of the property.
- (2) Contents of Notice—all notices to abate a nuisance issued under the provisions of this article shall contain the following:
 - a. A date of notice.
 - b. Full description of what constitutes the nuisance, and the location of the nuisance if the same is stationary.
 - c. A statement of acts necessary to abate the nuisance.
 - d. An order to remove the nuisance, notice of procedures to request a hearing, and at least ten (10) days to either remove the nuisance or request a hearing.
 - e. 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 has the authority to abate such nuisance and assess the costs thereof against such person as outlined in this Article.
 - 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.

(3) Service of Notice—Notice to abate a nuisance shall be served on all owners.

- a. Owner—For the purposes of this ordinance, Owner shall be determined to be:
 - i. Any owner of record is determined from a search from the Cass County Recorder of Deeds, occupant, or lessee.
 - ii. 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 Chief 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. Method of Service—Service may be accomplished by utilizing at least one (1) of the following methods:
 - i. By both posting notice in a conspicuous place on the property upon which the Nuisance is located AND mailing Notice to the Owner by certified mail, return receipt requested.
 - ii. If nuisance concerns a junked motor vehicle, then by posting notice in a conspicuous place on the automobile and mailing Notice to all owners of record by the Missouri Department of Revenue and the owner of the property on which the vehicle is.
 - iii. If service cannot be held by the above two modes of service, then service may be had by publication.

b) Entry Onto Private Property

- a. The Mayor, their duly authorized representative, the codes enforcement officer, or their duly authorized representative, or any independent contractor or other City Staff for the purposes of abating the nuisance as provided in this Article, may enter upon private property for inspection of or for the purpose of removing any vehicle or junk in accordance with this article. If the owner refuses to allow entry onto their private property, the Mayor may obtain an administrative search warrant, executed by a judge, and proceed in accordance therewith.

Section 215.030. Duty of Maintenance of Private Property and Area Adjoining Right-of-Way.

- a) No person owning, leasing, occupying, or having charge of any premises shall maintain or keep any nuisance thereon, as defined in this Article above, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in value of other property in the neighborhood in which such premises are located. It shall be the landlord's responsibility to take whatever actions are necessary to prevent a tenant from maintaining a nuisance on any premises. Premises includes that property which adjoins a public right-of-way, including the ditch or easement or the tree, lawn or grassy area. The adjoining property owner is responsible for mowing this area.

- b) Whenever private property abuts a public right-of-way or easement belonging to the City or any public entity, and there exists in such right-of-way or easement a tree lawn or grassy area between the private property line and the midline of said right-of-way or easement, then such tree lawn or grassy area shall be considered, for purposes of this section requiring cutting of grass and weeds, as well as the maintenance of drainage ditches, to be a part of the private lot which abuts the right-of-way or easement, and it shall be the duty of those responsible under this Article for the maintenance of the private lot to equally maintain the tree lawn or grassy area within the abutting right-of-way or easement.

Section 215.040. Penalty.

- a) In addition to the notice, hearing, and abatement administrative process provided for in this Article, the City's Mayor, any Police Officer of the City, or Codes Officer for the City may issue municipal citations to property owners who maintain any nuisance conditions on their property.
- b) Upon a finding of guilty or a plea of guilty, any person found guilty of creating or maintaining a nuisance under any provision of this Chapter or any other City ordinance, shall be punished subject to the following: for violations committed within a twelve-month period, the maximum allowable fine is \$200 for the first offense, \$275 for the second offense, \$350 for the third offense, and \$450 for the fourth and subsequent offenses.
- c) Each day any violation of this Article shall continue shall constitute a separate offense.

Section 215.050. Abatement by City; Collection of City's Costs.

- a) 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) Where a City official is obligated to abate a junked motor vehicle, it may in addition to any other remedy available to it, have the vehicle towed.
- c) If an official of the city causes such condition to be removed or abated, the cost of such removal shall be certified to the city clerk or 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, for the property, and the certified cost shall be collected by the city collector or by the official collecting taxes, in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the 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 to be a personal debt against the owner and against the occupant of the premises and shall also be a lien on the property until paid.

Section 215.060. Mowing Costs For Non-Compliance.

- a) The cost of having the city mow any noncity property for noncompliance of this Article of the shall be one hundred dollars (\$100.00) per acre, per mowing. This cost shall be in addition to any fine accrued under section **8.15.034** of the code.
- b) Failure to pay shall cause a special tax assessment to be added to the real estate taxes for the property.

Section 215.070. Enforcement of Tax Bills.

- a) Tax bills issued under the Section 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 Attorney 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.

Section 215.080. Request for Hearing.

- a) Right to Request a Hearing: If a property owner or person receiving Notice of the Nuisance determination 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 City Clerk within 10 days of the date of the Notice.
- b) Form of Request: The request for a hearing 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 property where the nuisance exists.
- c) Mayor's Right to Set a Hearing: The Mayor, the City Clerk or their designee, may at their discretion order that a hearing date be scheduled and placed into the Notice to the owner without receipt of a written request.
- d) Waiver of Request: If the Mayor, City Clerk or their designee doesn't set a hearing date on the Notice and a request for a hearing is not received by the City Clerk from the owner or property owner within 10 days, the right to a hearing shall be deemed to be waived. Nothing in this section shall preclude the Mayor, or their designee from holding a hearing if they deem the same necessary.
- e) When Request is Received: If the City Clerk receives a Request for hearing within the prescribed time, the Mayor or their designee shall call and conduct a Hearing in accordance with the procedure prescribed by the City's Ordinances.

Section 215.090. Hearing Procedure

If a hearing is called by the Mayor, City Clerk, or requested by the owner, then the following procedure shall be followed:

- a) The Mayor or their designee shall preside over this hearing.
- b) The Board of Aldermen shall consider the evidence and issue an order in accordance with the procedures of this Ordinance.
- c) The owner or person requesting a hearing shall have an opportunity to be heard, and shall be served notice of the hearing (personally or by certified mail, return receipt requested; 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.
- d) Any party may be represented by counsel and have the right to present evidence.
- e) 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.
- f) The technical rules of evidence shall not apply in the hearing. Any relevant evidence may be admitted and considered by the Board of Aldermen 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 Mayor or their designee.
- g) All testimony shall be under oath, which may be administered by the City Clerk or a notary public, 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. Alternatively, the City can record the hearing through recording technology which shall satisfy recording requirements pursuant to this section.
- 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.

Section 215.100. Findings of Board of Aldermen Following Hearing.

Within thirty (30) days from the date of the hearing, the Board of Aldermen shall, upon the basis of competent and substantial evidence offered at the hearing, make a finding of fact conclusion of law as to whether a nuisance exists on the property under the terms of this Chapter. If the property is determined to have nuisance conditions pursuant to this Chapter, then the Board of

Aldermen shall make a finding as to whether the procedures required by this Chapter have been substantially met and complied with. If the Board determines that the procedures required by this Chapter have been substantially met then it shall order the owner to abate said nuisance within thirty (30) days of the City's issuance of the Board's order, findings of fact, and conclusions of law to the owner. If the Board of Aldermen finds that the nuisance doesn't exist on the property or that the procedures of this Chapter have not been substantially met and complied with, the proceedings against the owner shall be dismissed.

Section 215.110. Notice of Board's Disposition to Owner.

The City shall cause a written copy the Board of Aldermen's findings of fact and conclusions of law and their order to be distributed to each owner or party to the hearing (or their attorneys if they are represented) via personal service, certified mail, return receipt requested or publication notice. Furthermore, the City Clerk shall post copies of the order, findings of fact and conclusions of law in a conspicuous place in City Hall for a period of 30 days from the date of issuance of. Finally, this notice shall provide that if the nuisance is not abated within 30 days, the City shall cause the work to be done by the City and its own crew or by contractors employed by the City for that purpose.

Section 215.120. Abatement by City Following Hearing

If, following a duly held administrative proceeding for the determination of a nuisance, the owner or party to the proceeding has failed to abate the declared nuisance within thirty (30) days of receipt of the Board's order, findings of fact, and conclusions of law, the City, through its employees or contractors, shall cause the nuisance condition subject to the proceedings to be abated, the cost of which abatement shall be certified by the City Clerk or other officer in charge of finance. The City Clerk, or other officer in charge of finance, shall then 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, for the property, and the certified cost shall be collected by the city collector or by the official collecting taxes, in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the 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 to be a personal debt against the owner and shall be a lien on the property until paid.

Section 215.130. 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 Board of Aldermen made under the provisions of this Section. The appeal shall be to the Circuit Court of Cass County, or at the option of the appellant, the Circuit Court of Cole County as established in Chapter 536 of the Revised Statutes of Missouri.

Section 215.140. 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 Chief 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.

Section 215.150. Municipal Judge May Direct Abatement and Assess Costs.

If, upon trial and conviction for causing or maintaining any nuisance defined and prohibited by this Ordinance 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 to abate the nuisance forthwith and report the expense thereof to the Municipal Court, 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.

SECTION 2: That a copy of this ordinance shall be kept on file in the office of the City Clerk.

SECTION 3: That all ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 4: That provisions of this Ordinance are severable and if any provision hereof is declared invalid, unconstitutional, or unenforceable, such determination shall not affect the validity of the remainder of this ordinance.

SECTION 5: That this Ordinance shall be in full force and effective immediately upon its execution by the Board of Aldermen of the City of Lake Annette, Missouri.

Read the first time by title only and approved by the Board of Aldermen of the City of Lake Annette, Missouri, the 21st day of May 2024.

Read the second time by title only and approved by the Board of Aldermen of the City of Lake Annette, Missouri, the 21st day of May 2024.

BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS 21ST DAY OF MAY 2024 BY THE FOLLOWING ROLL CALL VOTE:

Alderman Burns Aye

Alderman Lampkin Aye

Alderman Morse Aye

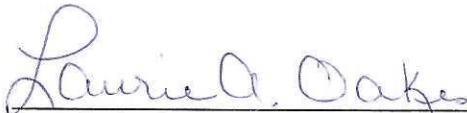
Alderman Thomas Aye

APPROVED:



Angela Hansen, Mayor

ATTEST:



Laurie A. Oakes, MRCC-C, City Clerk
Witness my hand and seal this 21ST Day of May, 2024

