

**BEFORE THE BOARD OF ALDERMEN OF
THE CITY OF PRAIRIE HOME, MISSOURI**

ORDINANCE NO. 222

**AN ORDINANCE TO DEFINE A NUISANCE
AND THE PENALTIES FOR MAINTENANCE THEREOF
WITHIN THE CITY OF PRAIRIE HOME**

BE IT ORDAINED by the Board of Aldermen of the City of Prairie Home, Missouri, as follows:

Section 1. Definition of Nuisance. For the purposes of this Ordinance No. 222, the word "Nuisance" is defined as any person doing 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:

- (a) Injures or endangers the comfort, repose, health or safety of others; or
- (b) Offends decency; or
- (c) Is offensive to the senses; or
- (d) 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
- (e) In any way renders other persons insecure or threatened in life or in the use of property; or
- (f) Essentially interferes with the comfortable enjoyment of life on property, or tends to depreciate the value of property of others; or
- (g) Is a dangerous building or structure as defined by Section 7.200 below.

Section 2. 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, the following shall not be deemed or construed to be conclusive, limiting or restrictive:

- (a) Noxious weeds, brush or other rank vegetation over seven (7) inches in height.
- (b) Accumulation of rubbish, trash, refuse, junk and discarded or scraps of materials, metals, lumber or other things.
- (c) Any condition which provides harborage for rats, mice, snakes and other vermin.
- (d) Any building, mobile home, 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.

- (e) All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
- (f) All disagreeable or obnoxious odors and stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench.
- (g) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (h) The pollution of any public well, cistern, or body of water by sewage, dead animals, business or industrial wastes toxic or hazardous materials, or other substances.
- (i) 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.
- (j) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- (k) Dense smoke, noxious fumes, or gas.
- (l) Dead trees and dead limbs of trees so located that the falling thereof would endanger the safety of person using any public sidewalks in said City, or endanger the safety of any pedestrian or occupant of any motor vehicle traveling upon any public street.
- (m) 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 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.
- (n) Any inoperable or unlicensed vehicle, except those vehicles on the premises of a licensed automobile repair or sale business or a licensed salvage yard, and except those vehicles stored as provided by Section No. 5.461(c).
- (o) Any inoperable refrigerators, stoves, washing machines, dryers, television sets or other major appliances or parts thereof which are not contained within a building or structure or are not being used for a lawful and constructive purpose.
- (p) Any condition which presents a hazard to children, or which harbors tall grass, weeds or vegetation or creates a fire hazard, or affords a breeding place for mosquitoes, flies, rodents, rats or other vermin.

Section 3. Other Definitions.

- (a) *Disabled Vehicle*: Any vehicle not properly licensed, or any vehicle that has been inoperable for more than seventy-two (72) hours, or is in such a state as to be inoperable, excepting those vehicles on the premises of a licensed automobile repair or sale business or a licensed automobile salvage yard.
- (b) *Junk*: Any metal, glass, paper, rags, wood, machinery, parts, cloth, or other waste material discarded for any scrap or salvage material.

- (c) *Person*: Any individual, firm, partnership, association, corporation, or any other organization.
- (d) *Property*: Any land owned by, or under the control of the City, or any other land located within the City Limits, not including Streets and Highways.
- (e) *Street or Highway*: The entire area between Property boundary lines, or a publicly-maintained road.

Section 4. Nuisances Prohibited.

- (a) No person shall permit, cause, keep, maintain, do or allow the creation or maintenance of any Nuisance as defined in this Ordinance No. 222.
- (b) No person, occupant, owner or person in charge of any house, building, lot or premises shall cause or allow any such Nuisance to be or remain in or upon any such house, building, lot or premises.
- (c) In the event that a Nuisance occurs on property jointly owned or occupied, each joint owner and/or occupant shall be liable.

Section 5. Enforcement.

- (a) *Authority*. The Chief of Police is hereby authorized to enter into or upon any premises where there is a reason to suspect the existence of any Nuisance for the purpose of inspection or abatement of said Nuisance in accordance with this Ordinance. If any person refuses to allow entry upon private property, then the Chief of Police may obtain a search warrant from the Associate Circuit Judge or other proper officials and proceed in accordance therewith. The Chief of Police or other designated City official may also visibly inspect and photograph any Nuisance that is visible from the street or any public property, or any private property upon which such official legally enters.
- (b) *Notice to Abate*.
 - (1) *Manner of Giving*. Whenever a Nuisance is found to exist within the City, the Chief of Police or some other duly designated City official shall give five (5) days written notice to the owner of the property upon which such Nuisance exists or upon the person causing or maintaining the Nuisance.
 - (2) *Contents of Notice*. The notice to abate a Nuisance issued under the provisions of this Ordinance No. 222 shall contain:
 - (1) An order to abate the Nuisance or request a hearing within five days; and
 - (2) The location of the Nuisance, if the same is stationary; and
 - (3) A description of what constitutes the Nuisance; and
 - (4) A statement of acts necessary to abate the Nuisance; and
 - (5) A statement that if the Nuisance is not abated as directed and no request for hearing is made within the prescribed time, the City may abate such Nuisance and assess the cost thereof against such person.
 - (3) *Service of Notice*. The notice to abate a Nuisance shall be personally served or served by registered or certified mail as any other legal process may be served

pursuant to law. In the event the owner or occupant of the property where the Nuisance exists cannot be located, then the notice shall be posted upon the property.

- (4) Form of Notice. The Notice to Abate Nuisance shall be in substantially the following form:

CITY OF PRAIRIE HOME, MISSOURI NOTICE TO ABATE NUISANCE	
TO: _____	
You are hereby notified pursuant to Ordinance No. 222 of the City of Prairie Home, that a Nuisance, specifically described as _____ exists on property owned, possessed or under your charge and located at _____, Prairie Home, MO.	
You are directed to cease, abate and remove this nuisance within five (5) days of the hour and date of this Notice. Your failure to comply with this Notice may result in criminal prosecution and/or in public abatement of the nuisance, the cost of which shall be assessed against the property upon which the Nuisance exists:	
Date: _____	_____
Time: _____	Prairie Home Chief of Police / City Attorney
RETURN: I certify that the within Notice was at the date and time above appearing served by me upon the person to whom this notice is directed by:	
<input type="checkbox"/> Personally serving this Notice to the Person;	
<input type="checkbox"/> Leaving this Notice at the usual place of abode of the person with a household member age 15 or older;	
<input type="checkbox"/> By certified mail, postage prepaid, addressed to the person at the address listed above.	
<input type="checkbox"/> The owner or occupant of the property cannot be located. This Notice was posted on the property.	
Date: _____	_____
	Prairie Home Police Chief / City Attorney

(c) Hearing. If requested by the person to whom a Notice to Abate Nuisance has been directed, the Board shall give the owner or occupant of the property upon which such Nuisance exists or the person causing or maintaining the nuisance a hearing concerning said violation(s). The decision of the Board shall be final and upon an adverse finding the owner or occupant or the person causing or maintaining the Nuisance shall have ten (10) days or such other reasonable time as set by the Board to abate said Nuisance.

Section 6. Abatement by City; City's Costs.

- (a) City May Correct. Upon the failure of the person upon whom notice to abate a Nuisance was served pursuant to the provisions of this Ordinance No. 222 to abate the same, or if the owner of the Nuisance cannot be located, the Police Chief or other duly designated officer of the City may elect to proceed to abate such Nuisance and shall prepare a statement of costs incurred in the abatement thereof.

(b) City's Costs to be Recovered.

- (1) Special Tax Bill. Any and all reasonable costs incurred by the City in the abatement of a Nuisance under the provisions of this Ordinance No. 222 shall be certified to the City Clerk, who shall cause a special tax bill therefor against the property to be prepared and to be collected by the County Collector with other taxes against the property.
- (2) First Lien. From the date of its issuance, the tax bill shall be a first lien on the property until paid and shall be prima facie evidence of the recitals 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 a defense thereto.
- (3) Delivery of Special Tax Bill. Each special tax bill shall be issued by the City Clerk and delivered to the County Collector on or before the first day of August of each year. Such tax bills if not paid when due shall bear interest at the rate of nine per cent (9%) per annum.

Section 7. Insurance Proceeds Used for Demolition. 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 and if the covered claim payment is in excess of fifty percent (50%) of the face value of the policy covering a building or other structure, the following procedure shall apply:

- (a) The insurer shall withhold from the covered claim payment twenty-five percent (25%) of the covered claim payment and shall pay that amount 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 Ordinance No. 222, Section 7. If a special tax bill or assessment is issued by the City for the expenses of demolition of such building as a dangerous building, the monies held by the City shall be applied toward payment of the special tax bill or assessment. If there is any excess, it shall be paid by the City to the insured or as the terms of the policy, including any endorsements thereto, provide.
- (b) The City shall release the proceeds and any interest which has accrued on such proceeds received under Section 7(a) above to the insured or as the terms of the policy and endorsements thereto provide, within thirty (30) days after receipt of such insurance monies, unless the City has instituted legal proceedings under the provisions of §67.410.1(5) RSMo. If the City has proceeded under said Section, then all monies in excess of that necessary to comply with said Section for the removal of the building or structure, less salvage value, shall be paid to the insured.
- (c) The City may certify that, in lieu of payment of all or part of the covered claim payment under this Section 7, it has obtained satisfactory proof that the insured has or will remove debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the City shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without deduction. It is the obligation of the insured or other person making claim to provide the insurance company with the written certificate for this Section 7(c).
- (d) No provision of this Section 7 shall be construed to make the City party to any insurance contract.

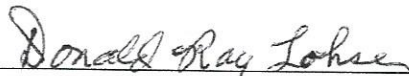
(e) This Section 7 shall be interpreted to conform to §67.410.2 RSMo.

Section 8. Penalty. A person convicted of an offense under this Ordinance No. 222 shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) or by confinement in the County Jail for a period not exceeding ninety (90) days, or by both such fine and confinement. Each day that a violation of this Ordinance No. 222 continues shall be deemed as separate offense, and a separate penalty may be levied for each violation.

Section 9. Severability. The invalidity of any portion of this Ordinance No. 222 shall be limited to such portion and shall not affect the other terms hereof.


Section 10. Effect. Ordinance No. 153 and all other previous ordinances relating to Nuisances, including but not limited to Ordinance Nos. 126 and 122 are hereby repealed. This Ordinance No. 122 shall be in full force and effect from and after its date of passage.

Having been previously made available to the public, this Ordinance No. 222 was read two (2) times by title only and passed this 19th day of July, 2012.



Donald Ray Lohse, Mayor

Attest:



Mary Sue Lohse, City Clerk