

BILL NO. 2023-35

ORDINANCE NO. 2023-1465

AN ORDINANCE AMENDING CHAPTER 215 NUISANCES OF THE MUNICIPAL CODE BY REVISING THE ENTIRE CHAPTER

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF CARROLLTON as follows:

Section 1: Chapter 215 Nuisances of the Municipal Code of the Town of Carrollton, Missouri is amended to read as follows:

Chapter 215 Nuisances

Article I Generally

Section 215.010 Definitions.

As used in this Chapter, the following terms shall have these meanings:

AGENT

Any local person or entity authorized to act on behalf of a property owner. The name, address and telephone number of the local agent or representative authorized by the owner to handle the affairs of the property is to be provided to the Town. The local agent or representative authorized must be a person over age 18 who resides within Carroll County, Missouri. The local agent or representative must have proof of authorization to act.

NUISANCE

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 streets, highways, sidewalks, streams, ditch, or drainage; or
5. In any way renders other persons insecure in life or 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.

OCCUPANT

Any person eighteen (18) years or older who lives in a residence.

OWNER

Any person(s) or entity with legal ownership rights to real property or personal property.

RESIDENCE

A structure designed for human habitation. This term does not include a porch or carport.

RESIDENTIAL PREMISES

A tract or parcel of land upon which a structure designed for human habitation is located, regardless of the current use of structure.

Section 215.020 Illustrative Enumeration.

The maintaining, using, placing, depositing, leaving, or permitting to 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. Weeds, grass, and other rank vegetation over seven (7) inches in height.
2. Accumulation of rubbish, trash, refuse, junk and other abandoned material, metals, lumber, or other things.
3. Any condition which provides harborage for rats, mice, snakes, and other vermin, or meets defective conditions specified in Section 505.010.
4. All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
5. All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generations of such odors and stenches.
6. The carcasses of animals not disposed of within a reasonable time after death.
7. 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.
8. 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.
9. Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
10. Dense smoke, noxious fumes, soot, dust or cinders, in unreasonable quantities.
12. Dead trees and limbs of trees so located that the falling thereof would endanger the safety of persons using public sidewalks in the Town, or endanger the safety

of any pedestrian or occupant of any motor vehicle traveling upon any public street.

13. Tree limbs and branches which overhang any 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.
14. Any junked, wrecked or inoperable motor vehicle, or parts pertaining to any motor vehicle, trucks, tractors, lawn mower, boats and motorcycles, except if stored inside an enclosed building or garage.
15. Cast or throw upon or allow to run in or upon any street, alley, public place or sidewalk, or into any lot premise of another, any grass or other vegetation debris, or noxious or offensive substance.
16. Any condition that constitutes a violation of any ordinance or state law regarding storm water management and discharge control.

Section 215.030 Nuisance Prohibited.

It shall be unlawful for any person to cause, permit, maintain, or allow the creation or maintenance of a nuisance.

Section 215.040 Enforcement, right of entry and relief of liability.

(a) The provisions of this Chapter shall be enforced by the "code enforcement officer" or other agents of the Town hired and directed by the Mayor to do so, and shall be referred to as the "Codes Officer."

(b) Whenever the Codes Officer shall ascertain, or have knowledge that a violation may exist, the Codes Officer may lawfully enter, during daylight hours, with or without the owner's permission, without being deemed to have committed trespass, into or upon the following private property that is within the Town limits:

- (1) Any structure which is open or unsecured and which would not reasonably be perceived as a place of residence or dwelling, except that such structure may be attached to a place of residence such as an open carport; or
- (2) Any place of dwelling which is open or unsecured and which the Codes Officer reasonably believes to be abandoned, uninhabited, legally uninhabitable, or otherwise not lived in; or
- (3) Any vacant lot;

and shall do so for the purposes of investigating, inspecting, abating, or removing any violation pursuant to this Chapter, provided that proper identification shall be displayed on the Codes Officer's outer clothing.

(c) The limited right of entry of subsection (b) shall be extended to any person hired by the Town, or that person's employees, for the purpose of abating or removing a violation of this Chapter, or for the purpose of obtaining legal, professional assistance, or counsel for the Town to abate such nuisance. Such persons may only do so in such manner, at such time, and for such purpose as directed by the Town.

(d) Whenever the Codes Officer shall ascertain or have knowledge a violation of this Chapter may exist, the Codes Officer may lawfully enter into or upon private property within the Town limits, that is known to be a structure of residence or dwelling or otherwise lawfully occupied, by presenting the owner or the occupant with proper identification and requesting permission to enter. If the Codes Officer is denied consent to enter a lawfully occupied structure, or if an unoccupied structure cannot be entered by reasonable means, the Codes Officer shall apply to the judge of the municipal court for a search warrant. The judge, upon finding reasonable cause that this Chapter is being violated, shall issue such warrant. The judge may consider any of the following factors in deciding whether a warrant shall be issued: (1) eyewitness accounts of violation; (2) citizen complaints; (3) "plain view" violations; (4) violations apparent from Town records; (5) nature of alleged violations (threat to life, health, safety, or property); and (6) previous violations on the premises.

Section 215.050 Notice To Abate.

Whenever a nuisance is found to exist within the Town or within the Town's extraterritorial jurisdiction, a duly designated officer or employee of the Town shall provide written notice to the owner, owner's agent, or occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance to abate such nuisance. Upon receipt of the written notice, except if a condition presents an immediate specifically identified risk to public health or safety, the owner or occupant shall have ten (10) calendar days to (i) abate the nuisance, (ii) to contact the Codes Officer to request a hearing, or (iii) meet with the Codes Officer to discuss abatement plans and a timeline for completion of abatement.

Section 215.060 Contents Of Notice.

A. The notice of the ordinance violation and requirement to abate such nuisance issued under the provisions of this Chapter will contain:

1. A description of what constitutes the nuisance.
2. The location of the nuisance, if the same is stationary.
3. A statement of what is necessary to abate the nuisance.
4. An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances, but not less than 10 calendar days after the date of mailing of the notice, except if a condition presents an immediate specifically identified risk to public health or safety.
5. A statement if the nuisance is not abated as directed, and no request for a hearing is made within the prescribed time, a notice of a finding of probable

cause of a code violation will be issued and presented to the Prosecutor for prosecution.

Section 215.070 Service Of Notice.

The notice to abate a nuisance shall be a written notice given by personal service or mailed by first-class mail to the occupant of the property at the property address, and to the owner or agent at the last known address of the owner or agent, if not the same as the occupant. If the owner's or agent's address is unknown, then notice may be given by publication at least once in the official newspaper of the Town, and notice will also be given by posting on the property. Notice by mail will be deemed received when mailed.

Section 215.080 Abatement By The Town.

Upon the failure of the person upon whom notice was served to pursue the removal or abatement of such nuisance, or to request a hearing on the notice, within the ten (10) days specified in the notice, the Town may proceed to have the nuisance abated or removed and shall prepare a statement of costs incurred in the abatement thereof. If a hearing is timely requested, any such person shall have a right to appear at the hearing, to be represented by counsel, and to present evidence and cross-examine witnesses. The hearing will be held within thirty (30) days of receipt of the request for hearing unless the hearing date is continued by agreement. In the event the Town does not seek to abate the nuisance itself and no such administrative hearing will be held, the Town may issue an Ordinance Violation Notice, and in lieu of the administrative hearing the owner or occupant may dispute the existence of the nuisance in a trial before the municipal court for violation of this Chapter.

Section 215.090 Town's Costs A Lien and Personal Debt.

If the Codes Officer or other designated officer causes such condition to be removed or abated, the cost of such removal or abatement and the proof of notice to the owner of the property shall be certified to the city clerk or officer in charge of finance who shall cause the certified costs 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 costs shall be collected by the city collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified costs are not paid, the tax bill shall be considered delinquent, and the collection of the delinquent 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 from the date the tax bill is delinquent until paid. Such lien shall bear interest at the legal rate beginning 30 days after the amount due is billed to the owner or responsible party until satisfied.

Section 215.100 Municipal Judge May Direct Abatement And Assess Cost.

If such nuisance is not abated and the violation goes before the Municipal Judge, and upon trial and conviction for causing or maintaining any nuisance defined and prohibited by this Chapter, 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 Town to have the nuisance abated forthwith and report the expense thereof to the Municipal Judge, 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 215.110 Provisions To Be Supplemental.

The provisions of this Chapter shall be supplemental to all other Chapters.

(a) Abatement by the Town of any violation of this Chapter shall not limit the Town's right to prosecute any person for violations of this Chapter, nor shall prosecution limit the right of the Town to initiate, continue, or finish abatement of the violation, nor shall prosecution limit the Town's right to pursue assessment or collection of abatement costs incurred by the Town.

(b) Each day that any violation of this Chapter shall continue shall constitute a distinct and separate offense.

Section 215.120 Weed And Grass Removal.

A. Restrictions. No person, firm, partnership, or corporation owning or having a present interest in (including renting) or occupying any real estate having one or more primary uses which are residential, commercial, or industrial in nature will permit any grass, weeds, or vegetation not edible nor planted for some useful or ornamental purpose, to grow or remain on such premises, including any portion of the premises occupied by a street or alley, so as to exceed a height of seven (7) inches, or to throw off any unpleasant or noxious odor or to conceal any filthy deposit. All such grass, weeds, or vegetation is declared to be a nuisance and detrimental to the health, safety, cleanliness, and comfort of the inhabitants of the Town.

B. Exceptions. This Chapter will not be enforced with respect to weeds, grass, or vegetation as defined when they are located in the following areas:

1. In any zoning district on properties where legal agricultural uses, whether as permitted primary uses or as substantiated and registered non-conforming uses, are performed; or
2. In forested lands.

C. Responsibility. The owner and the occupant of any such premises, in case of premises occupied by other than the owner, will have the duty to remove, trim or cut all grass, weeds, or vegetation growing or remaining upon the premises in violation of the provisions of this Chapter.

D. Notice To Owner, Agent, and/or Occupant To Comply.

1. Whenever it is reported or observed by the Codes Officer that any owner or occupant of property has failed to comply with any of the terms of this Chapter, the Codes Officer will cause a written notice to be served upon the owner or occupant or both directing the owner and/or occupant to comply with all terms of this Chapter within ten (10) calendar days after receipt of such notice or requesting a hearing on the notice within the 10 days.

2. Such notice may be served by United States mail, first-class, postage pre-paid; by certified or registered mail; by personal service, by publication if the address of the

owner is unknown, or, if the property is occupied, by posting the notice at a conspicuous place upon the affected property.

- E. **Town's Removal Of Nuisance.** In the event of the failure of the owner/or occupant to comply with the requirements of this Chapter, the Town may have the grass and weeds brought into compliance and bill the owner for the cost plus a penalty of ten percent (10%). These costs and penalties will be in addition to any fines for violations. Penalties may be collected by summary proceedings or in the manner provided for the collection of municipal claims or any other procedure authorized by law.
- F. **Legal Proceedings To Enforce Compliance.** In addition to fines for violations, costs, and penalties provided for by this Chapter, the Town may institute proceedings in equity to require owners and/or occupants of real estate to comply with the provisions of this Chapter.
- G. **Penalties To Be A Lien.** The cost of removal, fine, and penalties mentioned above may be entered by the Town as a lien against the property in accordance with existing provisions of law.

Article II Storage Of Goods

Section 215.130 Display Of Certain Items Prohibited.

- A. It shall be unlawful for the owner or occupant of any residential premises within the Town to allow any of the following items to remain on such premises in any location outside a residence which can be viewed from a ground location off the premises:
 - 1. Appliances, bedding, bottles, boxes, broken glass, cans, cardboard (bundled or unbundled) cartons, crates, furniture manufactured for indoor use only, bottles, cans, jars, machine, or paper (bundled or unbundled), machine parts, motor vehicle parts, catalog, books, pallets, plumbing fixtures, rags, non-attached carpet.
 - 2. Scrap metal, tire rims, and tires.
 - 3. Plastic buckets, or containers.
 - 4. Lumber and building supply materials that are not neatly stacked, provided however, that neatly stacked lumber and building materials may be allowed to be stored on the yard, porch or carport pursuant to an active building project and the owner or contractor is actively working on the improvements, barring any delays beyond the control of the owner or contractor.

Section 215.140 Front Yard And Unenclosed Porch Prohibitions.

- A. It shall be unlawful for the owner or occupant of any residential premises within the Town to allow any of the following items in the front yards or on unenclosed porches:

1. Clothes, clothes lines, dog houses, trash containers, recycling bins, provided that trash containers and recycling bins may be placed in the front yard next to the curb on days the property is scheduled to receive trash removal services.
2. Motor vehicles, ATVs, UTVs, trailers, and motorcycles.

Section 215.150 Nuisance Declaration And Continuing Violations.

The maintaining, using, placing, depositing, leaving, or permitting to remain on any public or private property of any of the items as prohibited by the Article is hereby declared to be and constitute a nuisance and each day shall be a separate violation subject to abatement or prosecution as set forth in this Chapter.

Article III Trees

Section 215.170 Planting Of New Trees.

It shall be unlawful for any property owners or lessees of such property to plant any trees in the parkway or under any power lines that exceed six (6) feet in height when fully grown. All trees must have a clearance of ten (10) feet of all power lines, as specified in ANSI A133.191944 and OSHA 1910.269.

Section 215.180 Branches Overhanging Public Ways.

Any tree branches on private property in the Town which overhang or intrude over or upon public streets, alleys, boulevards, roadways, or sidewalks to such an extent that it interferes with the safety of the traveling public, is hereby deemed and declared to be a nuisance. Any such tree shall be deemed to interfere if the branches thereof shall overhang or intrude within and area of nine (9) feet above the traveled surface of any sidewalk or twelve (12) feet above the traveled surface of any street.

Section 215.190 Dead Or Unsafe Trees.

Any tree located on private property in the Town, which is either dead or in such an unsafe or dangerous condition that it constitutes a hazard to the safety of persons or vehicles traveling on any public street, alley, boulevard, roadway, or sidewalk in the Town, or to any persons or structures living or adjacent to private property, is hereby deemed and declared to be a nuisance.

Section 2: The portions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid, unless the court finds the valid portions of this Ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City Council would have enacted the valid portions without the invalid one, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 3: This ordinance repeals any prior ordinance or parts of any prior ordinance that might be in conflict herewith.

Section 4: It is the intent of the Town Council that this Ordinance be made a part of the City Code and such inclusion shall have the same force and effect as if the ordinance had been included in the original code at the time of its adoption by the Town Council.

Section 5: This ordinance shall be in full force and effect from and after the date of its passage and approval.

A copy of this Ordinance has been made available for public inspection prior to its adoption by the Council and this bill was read by title in the open meeting two times prior to its final passage.

PASSED AND APPROVED THIS 18th DAY OF SEPTEMBER 2023.

TOWN OF CARROLLTON, MISSOURI



John Sweeney, Mayor

ATTEST:



Dana Reimer, City Clerk