

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE VILLAGE OF INDIAN POINT, MISSOURI, AMENDING CHAPTER 215 NUISANCES OF THE CODE OF THE VILLAGE OF INDIAN POINT, MISSOURI, FOR THE PURPOSE OF UPDATING THE NUISANCE CODE.

WHEREAS, the Board of Trustees of the Village of Indian Point, Missouri (“Village”) desires to update its current Nuisance Code by amending Chapter 215 Nuisances.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF INDIAN POINT, MISSOURI, AS FOLLOWS:

SECTION 1: That Article 1. Generally, Section 215.000. General Definitions, is hereby added to this Chapter and shall read as follows:

Section 215.000. General Definitions.

For the purpose of this Chapter, the following words and terms as used herein are defined to mean the following:

A. JUNK

Any old iron, steel, brass, copper, tin, lead or other base metals; old cordage, ropes, rags, fibers; old rubber; old bottles or other glass; bones; wastepaper and other waste or discarded material which might be prepared to be used again in some form; any or all of the foregoing; and motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts; interior home furnishings, dilapidated or broken lawn furniture or fixtures, cut or fallen trees or shrubs.

B. JUNKED VEHICLE

1. 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 as defined by the State of Missouri, Department of Revenue, Division of Motor Vehicles, and has been inoperable for more than seventy-two hours (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; or

2. Any partially dismantled, non-operative, wrecked, discarded, unlicensed, unregistered, improperly licensed, or improperly registered boat, trailer, camper trailer, or recreational vehicle; or
3. Vehicles not considered damaged or inoperable under this definition include any vehicle that is in the process of restoration that is properly secured, does not create a public health or safety hazard, and is located in the rear yard or in the side yard if covered by weather-resistant cover.

C. OWNER

1. The owner, occupant, corporation, firm, lessee, mortgagee, agent, and all other persons having an interest in the building, structure, or property where the nuisance is located; or
2. The owner as shown by the land records of the Recorder of Deeds for the appropriate county that such building, structure, or property has been found to be a nuisance; or
3. If the nuisance is a junked vehicle, the owner shall also include the person(s) registered with the Missouri Department of Revenue as the owner(s), unless the Village of Indian Point or their duly authorized agent has knowledge of some other person who is claimed to be the owner, in which case such putative owner shall be considered the owner in addition to the registered owner.

SECTION 2: That Article 1. Generally, Section 215.010 is hereby amended in part and shall hereafter read as follows:

Section 215.010. Nuisances Defined.

- A. For the purposes of this Chapter, 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 Chapter.
- B. *Illusive 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 (12) inches off the ground;
4. Weeds, high grass, and other vegetation growing outside or extending beyond the boundaries of any lot or property to a length greater than seven (7) inches or encroach upon any sidewalk more than four (4) inches. Boundaries are defined as: all real property including but not limited to ditches, and gullies that are the responsibility of property owners and/or tenants of said property that require regular mowing and maintenance.
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 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 code enforcement of such, please refer to the Village's Dangerous Building Code in Title V, Chapter 505.
8. All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
9. All disagreeable 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 of 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 Village or endanger the safety of any pedestrian or occupant of any motor vehicle traveling upon any public street.
16. Tree limbs and branches which overhand 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 Vehicles as defined in Section 215.000 of this Code.

SECTION 3: That Article 1. Generally, Section 215.015. Creating, Maintaining Nuisance Prohibited, is hereby added to this Chapter, and shall read as follows:

Section 215.015. Creating, Maintaining Nuisance Prohibited.

It is unlawful for any owner, lessee or occupant of any agent, representative or employee of any such owner, lessee or occupant having control of any occupied lot or land or any part thereof in the Village of Indian Point or within one-half (1/2) mile of the corporate limits of the Village of Indian Point, Missouri, to cause, permit or maintain a nuisance on any such lot or land. Additionally, it is unlawful for any person or his/her agent, representative or employee to cause or maintain a nuisance, as defined in Section 215.010 of this Code, on the land or property of another with or without permission. Each day that a nuisance shall be maintained is a separate offense.

SECTION 4: That Article 1. Generally, Section 215.018. Abatement Generally, is hereby added to this Chapter and shall read as follows:

Section 215.018. Abatement Generally.

A. *Abatement of Nuisance – Abatement Officer.* Whenever the Abatement Officer for the Village shall ascertain or have knowledge that a nuisance exists on any premises in the Village, he/she shall, by written notice, notify the persons occupying or having possession of said premises to abate or remove such nuisance within the time to be specified in such notice, not less than fifteen (15) days. Failure to abate such nuisance within the time specified within the notice, or failure to pursue the removal or abatement of such nuisance without unnecessary delay, shall be deemed an ordinance violation.

B. *Notice.*

1. 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 fifteen (15) 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 Village 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 fifteen (15) days, the Village will take action to abate the nuisance at the owner's expense and a statement that the Village may abate the nuisance by towing the vehicle or otherwise.
2. Service of Notice – Notice to abate a nuisance shall be served on all owners, as defined in Section 215.000 of this Code.
 3. Method of Service – Service may be accomplished by utilizing at least one (1) of the following methods:
 - a. 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.
 - b. 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.

c. If service cannot be held by the above two modes of service, then service may be had by publication.

C. *Emergencies.* When the Abatement Officer of the Village or a duly authorized representative determines an emergency exists which creates a dangerous and imminent health or safety hazard to persons, property or the general public which requires immediate action, the Chair or Chief of Police or a duly authorized representative may order all required actin necessary to immediately abate the conditions causing the emergency. Any orders issued pursuant to this Section shall be effective immediately or in the time and manner prescribed in the order itself. Notice of such action shall be given to the owner as soon as possible.

D. *Right of Entry.* Any person or contractor employed by or under contract with the Village for the abatement of a nuisance and any agent or employee of such contractor shall have the right of entry for that purpose into and upon any premises and it shall be unlawful to interfere with any Police Officer, Abatement Officer or any officer, agent or employee of the Village or with any representative of the Village engaged in the abatement of any nuisance.

E. *Court Suit Authorized.* Nothing in this Section shall be construed as abandoning or limiting the Village's right to bring suit for all expenses attending the abatement of a nuisance, when performed by the Village, in any court of competent jurisdiction in the name of the Village against the person maintaining, keeping, creating or refusing to abate the nuisance so abated. If the owner fails to abate a nuisance, the Village may file with the Municipal Court Judge an application for Administrative Search Warrant setting forth the facts and circumstances which justify a search warrant being issued to enter upon said property and abate the nuisance.

SECTION 5: That Article II. Weeds, High Grass, Debris or Other Vegetation, Section 215.020. Weeds, High Grass, Other Vegetation, or Debris on Property – Effect of Failure to Remove Nuisance – Penalties, is hereby amended in part and shall hereafter read as follows:

Section 215.020. Weeds, High Grass, Other Vegetation, or Debris on Property – Effect of Failure to Remove Nuisance – Penalties.

- A. *Failure To Keep Weeds, High Grass And Other Vegetation Cut And Removed, A Nuisance.* All persons owning or occupying any lot or tract of land in the Village shall keep the weeds, high grass and other vegetation growing on such property cut and removed. Whenever such weeds, high grass or other vegetation of any kind shall attain the height of seven (7) inches, it shall be deemed a public nuisance.
- B. *Failure to Remove Debris, A Nuisance.* Any lot or land shall be a public nuisance if it has the presence of debris of any kind including, but not limited to, weed cuttings, cut and fallen trees and shrubs, rubbish and trash, lumber not piled or stacked twelve (12) inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, any flammable material which may endanger public safety or any material which is unhealthy or unsafe and declared to be a public nuisance.
- C. *Unlawful to Maintain Such Nuisance.* It shall be unlawful for any person to create or maintain a nuisance as defined in Subsections (A) and (B) to this Section.
- D. *Liability.* Whenever weeds, high grass or other vegetation in violation of Subsection (A) of this Section are allowed to grow on any part of any lot or ground within the Village, the owner of the ground or, in case of joint tenancy, tenancy by the entireties or tenancy in common, each owner thereof shall be liable.
- E. *Notice.* The Code Enforcement Officer shall give a hearing after ten (10) days' notice thereof either personally or by United States mail to the owner or owners, or the owner's agents, or by posting such notice on the premises; thereupon, the Code Enforcement officer may declare the weeds, high grass, other vegetation, or debris to be a nuisance and order the same to be abated within five (5) days. The Notice shall, at a minimum:

1. Declare that a public nuisance exists;
 2. Describe the condition(s) which constitute such nuisance;
 3. Order the removal or abatement of such condition within five (5) days from the date of service of such notice;
 4. State that if the owner fails to abate the nuisance within time allowed, the Village shall cause the condition which constitutes the nuisance to be removed or abated at the owner's expense.
- F. *Disposition.* In case the weeds, high grass, other vegetation, or debris are not cut down and/or removed within five (5) days, the Code Enforcement Officer shall have the weeds, high grass, other vegetation, or debris removed and shall certify the costs of the same to the Village Clerk. The Village Clerk shall add an administrative fee of one hundred fifty dollars (\$150.00) per occurrence.
- G. *Tax Bill.* The Village Clerk 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 opinion, for the property and the certified cost shall be collected by the Village collector or other 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 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 until paid.

SECTION 6: That Article III. Enforcement And Fines, Section 215.030. Enforcement And Fine Program Relating To Public Nuisance(s) is hereby amended in part and shall hereafter read as follows:

Section 215.030. Enforcement And Fine Program Relating To Public Nuisance(s).

A. *Procedure.*

1. The Village of Indian Point, Missouri, will notify occupants and/or owners of the offending property which Ordinance is being violated and the amount of time allowed to correct the violation.
2. The notification will be a sticker stating the Ordinance violation placed on the entry door, mailbox, or nearest visible location to the entrance of the property.
3. Upon receiving the notification, the responsible party should notify the Village of Indian Point Office at 417-338-5599 or office@indianpoint-mo.gov as to when and how the violation will be corrected.
4. If not corrected within a reasonable amount of time, the Village Police Department can issue a citation with a court date and fine notification.
5. If issued a citation, the respondent has the choice of paying the fine and court costs at the Village Office (which also avoids court costs) or appearing on the assigned court date at the Stone County Circuit Courthouse located at 110 S. Maple Street, Galena, Missouri, 65656.

B. *Penalty for Violation.* Any person violating the provisions of this Chapter shall be guilty of a municipal ordinance violation. For any municipal ordinance violations committed within a twelve (12) month period under this Chapter, the court shall not assess a fine, if combined with the amount of court costs, totaling in excess of:

1. *First Violation.* Two hundred dollars (\$200.00)
2. *Second Violation.* Two hundred seventy-five dollars (\$275.00)
3. *Third Violation.* Three hundred fifty dollars (\$350.00)
4. *Fourth and Any Subsequent Violation.* Four hundred fifty dollars (\$450.00)

SECTION 7: This Ordinance shall be in full force and effect from and after the date of its passage and approval.

SECTION 8: The 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 9: That the Village Clerk is authorized by this Ordinance to correct any scrivener's errors identified within this Ordinance.

SECTION 10: That all other parts and provisions of the Code not in conflict herewith shall remain in full force and effect unless previously or subsequently amended or repealed.

PASSED AND APPROVED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF INDIAN POINT THIS 8th DAY OF May 2024 ON FIRST AND SECOND READING.

FIRST READING	YEA	NAY
Denise Petersen	<u> X </u>	___
Barbara Manisco	<u> X </u>	___
Zach Hamilton	<u> X </u>	___
Ron Coomes	<u> X </u>	___
Chris Houghton	<u> X </u>	___

SECOND READING	YEA	NAY
Denise Petersen	<u> X </u>	___
Barbara Manisco	<u> X </u>	___
Zach Hamilton	<u> X </u>	___
Ron Coomes	<u> X </u>	___
Chris Houghton	<u> X </u>	___

Attest: _____

Beth Frazier
Village Clerk

Denise Petersen
Chair, Board of Trustees