

AN ORDINANCE DECLARING ABANDONED MOTOR VEHICLES, INOPERABLE MOTOR VEHICLES, AND OTHER PERSONAL PROPERTY AND THINGS A NUISANCE AND A HAZARD TO THE HEALTH AND SAFETY OF THE CITY OF GLENAIRE AND PROVIDING FOR THE CONTROL THEREOF, PROVIDING PENALTIES FOR VIOLATIONS AND REPEALING ORDINANCE 169 AND ANY OTHER ORDINANCES TO THE CONTRARY THERETO.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF GLENAIRE, CLAY COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

“Building materials” shall mean materials which are not being used (or have not been used for a period in excess of ninety days) by builders, contractors, landowners, or any other person or entity, to make improvements, additions, alterations or repair to the resident’s property. These materials include but are not limited to brick, building block, stone, mortar, cement, concrete, covering material, fencing material, flooring, insulating material or insulation, lath and plaster, lumber, timber, roofing material, shake, shingle and siding.

“City” shall mean the City of Glenaire, Missouri.

“Garbage” shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, serving and non-consumption of food.

“Junk” shall mean secondhand, worn or discarded articles of poor quality and condition with little or no value.

“Noxious plants” shall mean any plant capable of poisoning, including, but not limited to, poison ivy, at any height or state of maturity.

“Occupant” shall mean any person who has a legal or equitable interest in a parcel of real property other than a fee interest, including a life tenant, tenant, lessee, tenant at will, tenant at sufferance, or adverse processor, as well as a person in possession or a person who has charge, care or control of the parcel of real property, as the agent or personal representative of the person holding legal title to a fee interest.

“Outdoor Storage” shall mean the keeping or maintaining outside of an enclosed structure.

“Owner” shall mean any person who alone, jointly or severally with others, shall have legal title to a fee interest in the parcel of real property, with or without accompanying actual possession thereof. The land records filed in the office of the recorder of deeds of Clay County, Missouri, and any other official record of such county or of the city, may be used to determine the identity of such owners, as hereinabove defined, as of the date of the notice of the violation.

“Parking space” shall mean an area on a lot sufficient to store one vehicle, but shall not be less than nine (9) feet wide and twenty (20) feet in length and shall be connected to a public street or alley by a driveway not less than nine (9) feet wide. The parking space and connected driveway shall be constructed in such a way as to clearly define the boundaries between the parking space and the adjacent yard area. Minimally, it shall be constructed of at least six (6) inches of crusher-run rock, or equivalent, and shall be shaped and compacted.

“Person” shall mean and include any individual, firm, corporation, association, partnership, cooperative or governmental agency.

“Premises” shall mean any public or private property, vacant or occupied lot, plot, parcel of land, street, sidewalk, alley, boulevard, highway, right-of-way, park, parkway, public square, or viaduct, including the structures of buildings thereon.

“Rank weeds” shall mean all vegetation eighteen (18) inches or more in height, which may emit unpleasant or noxious odors, or transmit pollen into the air at any state of maturity; all vegetation, regardless of height, including thickets, which may conceal or invite filthy deposits, harbor rodents, refuse or vermin, or create a fire hazard.

“Refuse” shall mean unwanted or discarded waste materials in a solid or semi-solid state consisting of garbage, rubbish, or a combination thereof.

“Rubbish” shall mean solid wastes consisting of combustible and non-combustible waste materials from residential apartments, commercial, industrial and institutional establishments, including yard wastes and items commonly referred to as “trash.”

“Thickets” shall mean dense growth of wild shrubbery having stems or trunks less than one (1) inch in diameter, and briar patches.

“Trash” shall mean unwanted or discarded waste materials in a solid or semi-solid state, but not limited to garbage, ashes, sheet refuse, rubbish and discarded appliances.

“**Vehicle**” shall mean every device or implement in, upon or by which persons or property may be transported, moved, or carried, whether self-propelled, pushed or drawn, by any motive power whatever, except devices moved exclusively by human power, or moving exclusively upon fixed rails or tracks.

“**Yard, Front**” shall mean a yard across the full width of the lot and extending back from the front lot line to the front line of the main building.

“**Yard, Rear**” shall mean a yard between the rear lot line and the rear line of the main building and the side lot lines.

“**Yard, Side**” shall mean a yard between the main building and the adjacent side line of the lot, and extending from a front yard to the rear yard thereof.

“**Yard Waste**” shall mean grass clippings, leaves, garden waste and tree trimmings.

Section 2. The word “**Nuisance**” is hereby defined as a person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition nor 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 in a public or private street, highway, sidewalk, stream, ditch or drainage; or,
- e. in any way renders other persons insecure in life of the use of their property; or,
- f. essentially interferes with the comfortable enjoyment of life, property, or tends to depreciate the value of the property of others.

Section 3. 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; providing, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- a. noxious weeds and other rank vegetation, grass and weeds eighteen (18) inches or higher;

- b. accumulation of rubbish, trash, refuse, junk, building materials, metals, or other things;
- c. any condition which provides harborage for rats, mice, snakes, and other vermin;
- d. the outdoor storage of any junk vehicle. **“Junk vehicle”** shall mean any damaged or disabled vehicle, parts thereof, or junk located on any property, street, or highway which presents a hazard to children, or harbors tall grass, weeds, or other vegetation, or creates a fire hazard, or affords a breeding place or nesting place for mosquitoes, flies, rodents, rats, or other vermin; any vehicle part or junk allowed to remain on any street or highway. A vehicle in the actual process of being repaired for a period not to exceed thirty (30) days shall not be considered a “junk vehicle” for purposes of this section;

Any person charged under Section 3(d) who presents at the time of his court appearance a receipt or order request dated prior to the date of the alleged violation, which former receipt represents parts ordered for the repair of said vehicle which has not yet been received by the defendant, shall be a defense to this section and permit the judge to grant the defendant additional time to repair said vehicle of thirty (30) days or less, depending upon the circumstances of each particular case in the discretion of the judge;

- e. 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;
- f. all unnecessary or unauthorized noises and annoying vibrations, including animal noises;
- g. all disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the omission or generation of such odors and stenches;
- h. the carcasses of animals or of fowl not disposed of within a reasonable time after death;
- i. the pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, industrial wastes or other substances;

- j. 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;
- k. any accumulation of stagnant water permitted or maintained on any lot or piece of ground;
- l. dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities;
- m. any repair of damaged vehicles or performing mechanical work on motor vehicles between the hours of 10:00 p.m. and 7:00 a.m.;
- n. the storage of garbage, waste, animal or vegetable matter, or dead animals, unless said storage is in a galvanized metal container, and excepting any compost heap for vegetable, weed or grass matter only, limited to an area not exceeding ten (10) feet by ten (10) feet in the rear yard area of the residence, located not closer than two (2) feet from the side boundary and not closer than four (4) feet from the rear boundary, which is enclosed on three (3) sides;
- o. the dumping of any garbage, waste, animal or vegetable matter, yard waste or dead animal on any of the streets, highways, alleys, storm culverts or public places within the City of Glenaire;
- p. the outdoor storage of any inoperable vehicle. An **"Inoperable vehicle"** shall mean any damaged or disabled vehicle whether located on any property, street or highway, which is not presently able to lawfully operate on a public road or street by reason of its physical condition or because it does not have current license plates displayed on said vehicle within ten (10) days after the month in which the license plate has expired;
- q. more than three (3) cats, three (3) dogs, or any combination thereof, over the age of six (6) months or any dangerous or vicious animal not properly confined or restrained;
- r. off-street parking of vehicles on that part of a residential front yard or rear yard other than a parking space;
- s. a live or dead tree which constitutes a hazard to the safety of persons or of property, private or public. The Mayor and/or members of the Board of Aldermen may enter at all reasonable times upon any privately-owned property for the purposes of inspection and investigation of any tree which might constitute a hazard.

Section 4. It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance.

Section 5. Whenever a nuisance is found to exist within the city, the mayor, or some other duly-designated officer of the city, shall give five (5) days written notice to the owner or occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance. It will be unnecessary to provide more than one written notice per calendar year to anyone creating or causing or maintaining the same nuisance.

Section 6. The notice to abate a nuisance issued under the provisions of this ordinance shall contain:

- a. an order to abate the nuisance or to request a hearing within a stated time which shall be reasonable under the circumstances;
- b. the location of the nuisance, if the same is stationary;
- c. a description of what constitutes a nuisance;
- d. a statement of acts necessary to abate the nuisance;
- e. 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 costs thereof against such person.

Section 7. The notice to abate a nuisance shall be served as any other legal process may be served pursuant to law.

Section 8. Upon the failure of the person on whom notice to abate a nuisance was served pursuant to the provision of these ordinances to abate the same, the mayor or duly-designated officer of the city may proceed to abate such nuisance and, if he elects to do so, he shall prepare a statement of costs incurred in the abatement thereof. If any person shall fail or refuse to abate a nuisance after receiving notice to provide it by city ordinances, every day the nuisance shall remain uncorrected after expiration of the time specified in said notice shall constitute a separate offense.

Section 9. When in the opinion of the mayor or other designated officer, there is an actual and immediate danger to the public or occupants of a particular premises caused by a nuisance on such premises, the mayor or duly-designated officer is hereby authorized and empowered, without any notice or hearing, to order and require such premises to be vacated. The mayor or other designated officer shall immediately post the premises, warning of the dangerous condition, and shall then abate such nuisance, and prepare a statement of costs incurred in the abatement thereof.

Section 10. The costs incurred in the abatement of a nuisance under this ordinance shall be certified by the mayor or person duly appointed by the board of aldermen for such purpose, to the city treasurer. Thereafter, the city treasurer shall cause a special tax bill therefor against the property to be prepared and collected by the city collector or a person duly appointed by the board of aldermen for such purpose, with other taxes assessed against the property. The tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity. The names of the owners shall be determined and taken from the assessment books used for the assessment and levy of general taxes by the city or clay county, and no defect or mistake in the books, or in the description therein of the lots of land, or in the names of such owners shall impair the validity of the lien on the land or bills issued thereon. The city treasurer shall immediately upon receipt of such certification enter the assessment therein contained in the appropriate books to be kept for that purpose showing the property assessed. Each special tax bill shall be issued by the city treasurer and delivered to the collector on or before the first day of June of each year.

Section 11. If a hearing is requested pursuant to the notice provided by Section 6 herein, the request is delivered to the mayor within said five (5) day time period, the mayor shall conduct a special hearing as soon as may be practical, but not earlier than five (5) days after notifying the occupant/owner of the hearing date, place and time, by personal service or by certified mail. This hearing must have a quorum of the board of aldermen to be convened and will be open to the public. At such hearing, the alleged occupant/owner shall have the right to be represented by counsel, to present testimony, and offer evidence and arguments. The city clerk will present a written record of this hearing.

Section 12. The board of aldermen, upon such hearing, shall state in writing their findings of fact, conclusions of law, and their order, if they find such nuisance to exist, that the same be abated within said period of five (5) days and shall cause stated findings, conclusions and order to be served upon such occupant/owner in the same manner as provided for notice of such hearings.

Section 13. The mayor, or persons acting under his direction, upon entering the premises to abate the nuisance, shall not be guilty of trespass.

Section 14. Anyone violating any of the sections of this ordinance shall be deemed to have committed a misdemeanor punishable by a fine of not more than \$500 or a jail term not exceed ninety (90) days, or both a fine and a term of imprisonment, in the discretion of the judge.

Section 15. In addition to any other penalty provided by this ordinance, this ordinance, authorizes the prosecution of a civil cause of action before any court having jurisdiction over such codes or causes of action for the abatement of any nuisance in violation of this ordinance. Any person found liable for said violations shall, in addition to any other penalties provided by the court, including a permanent injunction, be responsible to pay

the reasonable attorney fees of the city incurred in the prosecution of the claim and all court costs.

Section 16. Upon the approval and passage of this ordinance, all other ordinances, including Ordinance 169 and any amendments thereto, shall be repealed and of no legal effect.

Section 17. This ordinance shall be in full force and effect from and after its passage and approval.

PASSED this 18 day of March, 2008.

Pat Slusher
MAYOR

ATTEST:

Rene Stizze
City Clerk

APPROVED this 18 day of March, 2008.

Pat Slusher
MAYOR

NUISANCE VIOLATIONS (Ord. 321)

Complaint of nuisance violation received by Board

Written notice sent to resident allowing 5 days to abate nuisance

Nuisance not abated

Citation issued by officer or Mayor

Municipal Court Hearing and Disposition

Nuisance not abated

Nuisance abated – no further action necessary

Hearing requested by resident

Hearing date set by Board and 5 days written notice given to resident – hearing conducted

Board's findings of fact, conclusions of law and order stated in writing and provided to resident

Nuisance determined to be issue of public safety, health or welfare.
1. Nuisance abated by City
2. Statement of costs served on resident
3. Special tax bill prepared as lien against property

Nuisance abated – no further action necessary

City Attorney authorized to file civil action for abatement of nuisance

Nuisance abated by City – statement of costs served on resident – special tax bill prepared