

Sec. 43-1. General provisions.

- (a) *Purpose and findings.* The mayor and board of aldermen of the city finds that unkept, unsafe, unsanitary and otherwise improperly maintained premises and structures, sidewalks and easements within the city, in addition to the obvious hazards which these conditions pose to the public health, safety and welfare adversely affect the value, utility and habitability of property within the city as a whole and specifically cause substantial damage to adjoining and nearby property. A property which is merely unkept may reduce the value of adjoining property by more than thirty (30) percent, and if there are sufficient properties which are unkept, unsightly and dangerous, that the habitability and economic well-being of the city are materially and adversely affected. This article conveys to the city administration, in accordance with the procedures set out below, all necessary and proper powers to abate nuisances and other improperly maintained structures and properties as they are described or found to exist, and to charge the costs of their abatement to those responsible, the owners and occupants of the property upon which nuisances exists and those properties themselves. This article is an exercise of the city's police power, and it shall be liberally construed to effect this purpose.
- (b) *Enactment clause and short title.*
 - (1) *Enactment clause.* The mayor and board of aldermen of the city, pursuant to the authority vested by law, hereby adopt and enact this city ordinance known as the "Nuisance Ordinance of the City of Jackson, Missouri."
 - (2) *Short title.* This city ordinance may be known and cited as the "Nuisance Ordinance of Jackson, Missouri."

(Ord. No. 3786, § 1, 11-2-98)

Sec. 43-2. Definitions.

General provisions. For the purposes of this article certain terms used herein are defined as set forth in this and the following sections. All words in the present tense include the future tense; the plural number includes the singular, and all words in the singular include the plural unless the natural construction of the sentence indicates otherwise. The word "shall" is mandatory, not directory.

Abandoned. Any property, real or personal, which is unattended and either open or unsecured so that admittance may be gained without damaging any portion of the property, or which evidences indicate that no person is presently in possession, e.g. disconnected utilities, accumulated debris, uncleanness, disrepair and, in the case of chattels, location.

Abatement. The removal, stoppage, prostration, or destruction of that which causes or constitutes a nuisance, whether by breaking or pulling it down, or otherwise destroying or effacing it.

Boarded-up building. Any building the exterior openings of which are closed by extrinsic devices or some other manner designed or calculated to be permanent, giving to the building the appearance of non-occupancy or non-use for an indefinite period of time.

Building. Any dwelling, structure or mobile home, factory built house, or part thereof, built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

Building inspector. The city building inspector.

City administrator. The city administrator or his designate.

Director. The city public works director or his designate.

Junk. Any metal, glass, paper, rags, wood, machinery, parts, cloth or other waste or discarded material of any nature or substance whatsoever, or any scrap or salvage materials.

Nuisance. Includes:

- (1) A nuisance defined by statute or ordinance;
- (2) A nuisance at common law either public or private;
- (3) An attractive nuisance, whether in or on a building, a building premises or an unoccupied lot and whether realty, fixture or chattel, which might reasonably be expected to attract children and constitute a danger to them; including, but not limited to, abandoned wells, cisterns, swimming pools, ice boxes or refrigerators with doors and latches, shafts, basements or other excavations, abandoned or inoperative vehicles or other equipment, structurally unsound fences or other fixtures, lumber, fencing, vegetation or other debris;
- (4) Uncleanliness;
- (5) Overcrowding; or
- (6) Abandonment or vacancy.

A listing of conditions found to constitute public nuisances is found in section 43-4 of this article and elsewhere in this Code, or any technical manual adopted by this Code. (See also chapter 6; section 29-2; section 31-5; chapter 15, article II; and chapter 28.5 of this Code.)

Occupant. Any person who is in physical possession of the property or in whose name the city utilities are registered.

Owner. Any person having any interest in the real estate in question as shown upon the records of the office of the county assessor, or any person with legal, financial or equitable interest in the property who establishes his or her interest before the building inspector and/or board of aldermen. For the purpose of giving notice, the term "owner" also includes any person in physical possession.

Property. Any real property, premises, structure or location on which a public nuisance is alleged to exist.

Public nuisance. Defined in section 43-4 of this Code.

Summary abatement. Abatement of the nuisance by the city, or a contractor employed by the city, by removal, repair, or other acts without notice of the owner, agent, or occupant of the property except for the notice required by this article.

(Ord. No. 3786, § 1, 11-2-98; Ord. No. 08-89, § 1, 10-6-08)

Sec. 43-3. Buildings.

- (a) *Director.* The director shall supervise all building inspections and shall follow the hearing and appeal procedures promulgated in this section and section 43-6 of this Code.
- (b) *Procedure.* Whenever a written complaint is made to the director of the existence of an unfit or substandard building, the director shall promptly cause said building to be inspected. Upon the discovery of an unfit or substandard building, the inspecting officer shall submit a written report of the building to the director and a hearing will be scheduled for a determination of the building fitness. Photographs and findings shall be included in said report.
- (c) *Notice.* The director shall follow the notice procedures promulgated in section 43-5 of this Code.
- (d) *Unfit buildings.*
 - (1) *Determination of building fitness.* In reaching a judgment that a building is unfit for human habitation, the director shall consider:
 - a. Dilapidation;
 - b. Disrepair;
 - c. Structural defects;
 - d. Defects increasing the hazards of fire, accidents or other calamities, such as parts standing or attached in such a manner as to be likely to fall and cause damage or injury;
 - e. Inadequate ventilation;
 - f. Uncleanliness;
 - g. Inadequate light;
 - h. Inadequate sanitary facilities;
 - I. Inadequate drainage;
 - J. Substandard conditions;

If these or other conditions are found to exist to an extent dangerous or injurious to the health or safety of the building's occupants, or the occupants of neighboring buildings or of other residents of the city, and if (a) structural deterioration is of such a degree that (i) vertical members list, lean or buckle to the extent that a plumb line passing through the center of gravity falls outside the middle third of its base, or (ii) thirty-three (33) percent of the supporting members shows damage or deterioration, or (b) the cost of restoration exceeds sixty-six (66) percent of the value of the building or (c) the building has been damaged by fire or other calamity, the cost of restoration exceeds thirty-three (33) percent of the value of the building and it has remained vacant for six (6) months or more (value shall be determined by reference to a current edition of "Building Valuation Data" published by the International Conference of Building Officials or, if not published, as determined by the board of aldermen; cost of restoration is the actual estimated cost, which may be determined in the same manner as "value"), the director shall declare the building

a public nuisance and order the abatement of the nuisance in compliance with section 43-4 of this article.

- (2) *Restoration or repair.* An undertaking by a party in interest to restore or repair an unfit building, entered into at or prior to the determination of building fitness by the director, creates a presumption that the building or premises can be reasonably repaired. The director may then grant additional time in accordance with subsection 43-6(e) of this Code. The failure to accomplish such an undertaking is grounds for the building inspector to order demolition. If by reason of any of the above conditions a building is unfit, but no public necessity is found for its immediate demolition, the building inspector may take other action, such as causing the property to be cleaned, cleared, vacated, secured or otherwise repaired, which will promote the public health, safety or general welfare.

(e) *Substandard buildings.*

- (1) *Substandard criteria.* In reaching a judgment that a building or premises is substandard, the building inspector shall be guided by such factors as:
- a. Structural soundness;
 - b. Improper sanitation;
 - c. Improper safety;
 - d. Improper weatherproofing;
 - e. Defective or hazardous wiring, including wiring which:
 1. Did not conform with law applicable at the time of installation;
 2. Has not been maintained in good condition; or
 3. Is not being used in a safe manner;
 - f. Defective or hazardous plumbing, including plumbing which:
 1. Did not conform with law applicable at the time of installation;
 2. Has not been maintained in good condition; or
 3. Is not being used in a safe manner;
 - g. Defective or hazardous heating or ventilating equipment, including equipment, vents and piping which:
 1. Did not conform with law applicable at the time of installation; or
 2. Has not been maintained in a good and safe condition;
 - h. Fire hazard, including any building, device, apparatus, equipment, combustible waste or debris, or vegetation which may cause fire or explosion or provide fuel to augment the spread or intensity thereof;
 - i. Nuisance.
- (2) *Remedial action.* If these or similar conditions are found to exist, the building inspector shall declare the building a public nuisance and order the building or premises repaired,

cleaned, cleared or otherwise brought into compliance with current city codes or ordinances, and may order the property vacated and secured as completely as possible pending such repair or other action.

(Ord. No. 3786, § 1, 11-2-98)

State law reference(s)—Similar provisions, 67.400, et seq.

Sec. 43-4. Public nuisances.

(a) *Public nuisance defined.* Any fence, wall, shed, deck, house, garage, building, swimming pool, structure or any part of any of the aforesaid; or any tree, pole, smokestack; or any excavation, hole pit, basement, cellar, sidewalk subspace, dock, wharf or landing dock; or any lot, land, yard, premises or location which in its entirety, or in any part thereof, by reason of its condition in which the same is found or permitted to be or remain shall or may endanger the health, safety, life, limb or property, or cause any hurt, harm, inconvenience, discomfort, damage or injury to any one (1) or more individuals in the city, in any one (1) or more of the following particulars:

- (1) By reason of being a menace, threat and/or hazard to the general health and safety of the community.
- (2) By reason of being unsafe for occupancy, or use on, in, upon, about or around the aforesaid property.
- (3) By reason of lack of sufficient or adequate maintenance of the property, and/or being vacant, any of which depreciates the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which such property is situated or such condition exists.

(See also article II of this chapter.)

(b) *Certain acts declared a public nuisance.* The following acts, in addition to any others in violation of subsection 43-4(a) of this Code, are determined by the board of aldermen as offensive, unwholesome, or dangerous to the public's health, welfare and/or safety and shall constitute a public nuisance:

- (1) Allowing stagnant pools of water to accumulate.
- (2) Accumulation or disposal of trash, lumber which is not piled or stacked more than twelve (12) inches off the ground, earth, ashes, mortar, papers, stone, brick, rock, tin, steel, dirt, manure, filth, excrement, chips or rubbish of any description, cesspools, drains, garbage or any other animal or vegetable substances, unless the accumulations or disposal of such items in such place is specifically authorized by law.
- (3) Any animal or animals kept or maintained in an unsanitary condition or surroundings.
- (4) The pollution of any river or stream.
- (5) The keeping of doves or pigeons which deposit excreta on buildings and sidewalks.
- (6) Maintaining a privy or outdoor closet.
- (7) Garbage trucks that are not covered and leak proof.

- (8) Dead animals not disposed of within twenty-four (24) hours.
- (9) Any pit, basin, hole, well, septic tank, or other excavation which is unguarded and dangerous to life, or has been abandoned, or is no longer used for the purpose for which it was constructed, or is maintained contrary to law.
- (10) All obstructions to streets, right-of-way, or other public ways in the city, and all excavations in or under the same, which are by ordinance prohibited, or which may be made without lawful permission, or which, having been made by lawful permission, are kept and maintained after the purpose thereof has been accomplished, or for an unreasonable length of time.
- (11) Erecting, maintaining, using, placing, depositing, leaving, or permitting to be or remain in or upon any street, alley, sidewalk, park, parkway, or other public or private place in the city, any one (1) or more of, but not limited to, the following conditions or things:
 - 1. Any bone, meat, hides, skin, or the whole or parts of any dead animal or fish.
 - 2. Any chemicals or other materials commonly known to be noxious, offensive, dangerous or otherwise injurious including, but not limited to, grease, oil, antifreeze, explosives, radioactive materials, and poisons.
- (12) All vacant, unused, or unoccupied buildings and structures within the city, which are allowed to become or remain open to entrance by unauthorized persons or the general public, because of broken, missing, or open doors, windows, or other openings, so that the same may be used by vagrants, other persons or animals in a manner detrimental to the health and welfare of the inhabitants of the city.
- (13) Any refrigerator, icebox or deep freeze locker having a capacity of one and one-half (1½) cubic feet or more or any other container manufactured, custom-made or homemade designed for storage which is stored, discarded, abandoned or left in any place accessible to children and which has not had the door or latching mechanism removed to prevent the latching or locking of the door.
- (14) Leaving or permitting to be or remain in or upon any sidewalk, steps, or other public walkway in the city any one (1) or more of, but not limited to, the following conditions or things:
 - 1. Accumulation of snow and ice not removed within twenty-four (24) hours.
 - 2. Mud, debris, garbage, or other items or substances upon the surface which might cause a pedestrian to lose footing.
 - 3. Overhanging trees, shrubs, or other obstructions to pedestrian travel.
- (15) Debris as defined in article II of this chapter.
- (16) A swimming pool that is more than twenty-four (24) inches deep that is not enclosed by a fence or barrier at least forty-eight (48) inches in height with a self-closing, self-latching gate. Said gate which is left unlatched when pool is not in use will constitute a public nuisance.

- (17) Nonlicensed vehicles, including, but not limited to, recreational vehicles, boats, trailers, and construction equipment, which are not stored in an accessory building, carport or garage so that they may not be seen. (See also section 33-20 et seq. of this Code.)
 - (18) Any outdoor storage of items including, but not limited to, tools, equipment, machinery, nonworking automobiles, parts of derelict cars or trucks, household appliances and broken furniture. (See also section 33-20 et seq. of this Code.)
 - (19) Wrecked, damaged or demolished motor vehicle, inoperable motor vehicle or junk not stored in an accessory building, carport or garage so that they may not be seen.
 - (20) An inoperable, damaged, demolished or unlicensed motor vehicle or part or portion thereof, or junk as defined herein to remain on an owner's or occupier's property not stored in an accessory building, carport or garage so that they may not be seen.
 - (21) The tearing down, stripping, junking, storage, repair or servicing of vehicles outside of an accessory building, carport or garage so that they may not be seen is prohibited unless such use is shown to be specifically authorized, permitted or licensed under other ordinances of the city, or unless necessary repairs are being made by an owner to his own vehicle and are completed within seven (7) days, so as to be completed within the period prescribed by subsection 43-4(b).
 - (22) Violation of any provisions of chapter 21, Environment, of this Code.
 - (23) Any vehicle parked on private property except on a weed-free surface made of gravel, crushed stone, asphalt or Portland cement concrete, unless said parking is otherwise permitted under the zoning ordinance.
- (c) *Summary abatement of nuisances.*
- (1) *Procedure.*
 - a. *Complaint.* All complaints alleging the existence of a nuisance shall be made in writing and filed with the director. Any resident, including any city elected official, officer or employee, may initiate a complaint.
 - b. *Inspection.* The public works director shall promptly inspect the premises or cause them to be inspected and shall make a written report of the findings of the inspection. Whenever practical, photographs of the premises shall be attached to the written report. The public works director shall keep all such written reports on file for at least three (3) years.
 - c. *Abatement.* Upon the discovery of a public nuisance, the inspecting officer may order the owner or other person creating, keeping, maintaining or permitting the same to abate it.
 - d. *Immediate danger; existence.* Should the inspecting officer find that a public nuisance exists, and that the public health, welfare or safety may be in immediate danger, then summary abatement procedures shall be implemented and the inspecting official or department may cause the nuisance to be removed or abated.
 - e. *Summary abatement/cost.* Summary abatement costs shall be certified by the city clerk and assigned to the annual real estate tax bill for the property.

- f. If the public nuisance involves a building that appears structurally unsafe, the city shall follow those procedures promulgated in section 43-3 of this Code.
 - (2) *Summary abatement/notice.* When summary abatement is authorized, notice to the owner, agent or occupant of the property is not required. Following summary abatement, the director shall cause to be posted on the property liable for the abatement a notice describing the action taken to abate the nuisance.
- (d) *Abatement of nuisances in other cases.*
- (1) *Procedure.* Upon the discovery of a public nuisance that does not pose an immediate danger to the public health, welfare or safety, the director shall cause a written report of the property on which the nuisance exists to be prepared. Photographs and findings shall be included in said report. If the director declares the existence of a public nuisance, but the nature thereof is not such as to require the summary abatement of such nuisance, then the director may order the abatement of the nuisance by notice in compliance with section 43-5 of this Code.
 - (2) *Abatement by owner.* Within seven (7) days after the posting and mailing of a notice to abate a nuisance, the owner, or individual in possession of the affected property shall remove and abate such nuisance or show that actions for abating the nuisance have commenced. Such showing shall be made by filing a written statement or other proof of such actions with the director.
- (e) *Abatement by city.* After a hearing in compliance with this article it is found that the nuisance or dangerous condition exists, the director shall have the authority to enter upon the property and abate the public nuisance found thereon. In abating such nuisance, the director may go to whatever extent may be necessary to complete the abatement of the public nuisance. If it is practicable to salvage any material derived in the aforesaid abatement, the director may sell the salvaged material at private or public sale and shall keep an accounting of the proceeds thereof.
- (f) *Proceeds from sale of private property.* The proceeds, if any, obtained from the sale of any material salvaged as a result of an abatement of a public nuisance by the director shall be deposited to the general fund of the city and deficit between the amount so received and the cost of the abatement shall be filed with the city clerk. The city clerk shall certify said costs and assess costs to the annual real estate tax bill for the property. Should the proceeds of the sale of the salvaged material exceed the cost of the abatement, the surplus, if any, shall be paid to the owner of the property from which the public nuisance was abated when a proper claim to the excess is established.
- (g) *Authorized action.* In abating a public nuisance, the director may call upon any of the city departments or divisions for whatever assistance shall be deemed necessary or may by private contract cause the abatement of the public nuisance.
- (h) *Statement of costs.* The director shall, after completing the removal and abatement, file a statement of costs with the city clerk. The city clerk shall certify costs and assign costs to the annual real estate tax bill for the property.
- (i) *Prior recovery.* The city may seek to recover the cost of demolition prior to the occurrence of demolition. Upon issuance of an order by the director whereby the building or structure is ordered to be demolished, secured or repaired, then the building inspector may solicit no less

than two (2) independent bids for such demolition work. The amount of the lowest bid, including offset for salvage value, if any, plus reasonable anticipated costs of collection, including attorneys' fees, shall be certified to the city clerk who shall cause a special tax bill to be issued against the property owner to be prepared and collected by the city collector. The city clerk shall discharge the special tax bill upon documentation by the property owner of the completion of the ordered repair or demolition work. Upon determination by the city clerk that a public benefit is secured prior to payment of the special tax bill, the city clerk may discharge the special tax bill upon the transfer of the property. The payment of the special tax bill shall be held in an interest-bearing account. Upon full payment of the special tax bill, the director shall, within one hundred twenty days (120) thereafter, cause the ordered work to be completed, and certify the actual cost thereof, including the cost of tax bill collection and attorneys' fees, to the city clerk who shall, if the actual cost differs from the paid amount by greater than two (2) percent of the paid amount, refund the excess payment, if any, to the payor, or if the actual amount is greater, cause a special tax bill or assessment for the difference against the property to be prepared and collected by the city collector. If the director shall not, within one hundred twenty (120) days after full payment, cause the ordered work to be completed, then the full amount of the payment, plus interest, shall be repaid to the payor. At the request of the taxpayer the tax bill for the difference may be paid in installments over a period of not more than ten (10) years. The tax bill for the difference from the date of its issuance shall be deemed a personal debt against the property owner and shall also be a lien on the property until paid.

(Ord. No. 3786, § 1, 11-2-98; Ord. No. 3923, § 2, 1-3-00; Ord. No. 14-52, §§ 1, 2, 8-4-14)

Sec. 43-5. Notice.

- (a) *Notice.* The director shall determine all individuals, firms or corporations who, from the records in the recorder of deeds' office, appear to be the titled owners, occupants, lessees, mortgagees, agents, and all other persons having an interest in a building or structure as shown by said land records, of the aforesaid property and immediately cause a written notice to be served on each such individual, firm or corporation by personal service or by one (1) of the following methods:
- (1) Leaving a copy of the notice at the usual place of residence or business of such owner, or address of such owner shown in the recorder's records.
 - (2) Mailing a copy to such owner at such place or address by United States certified mail return receipt.

If service of such written notice is unable to be perfected by any of the methods described above, the director shall direct the city clerk to cause a copy of the aforesaid notice to be published in a newspaper of general circulation in the city, once a week for two (2) consecutive weeks, and shall further cause a copy of the aforesaid notice to be left with the individual, if any, in possession of such property on which it is alleged such public nuisance exists, or if there is no individual in possession thereof, the director shall cause a copy of the notice to be posted at such structure, location or premises. The director shall also determine from the recorder of deeds' office who the lienholder of the property, if any, as documented therein, is and cause a written notice to be served on such lienholder by United States certified mail return receipt.

- (b) *Notice contents.* The aforesaid notice to the owners, and lien holder, if any, of the property shall state clearly and concisely:
 - (1) The street address or legal description of the property;
 - (2) A description of the condition or conditions alleged to constitute a public nuisance;
 - (3) The director shall cause a hearing to be scheduled before the municipal judge not sooner than ten (10) days from the date of personal service or posting in the United States mail of the notice above referenced;
 - (4) The hearing shall be held, and commencement of abatement action by the owner will not stay or delay the scheduled hearing. No continuances shall be granted;
 - (5) That failure of the owner, lienholder, occupant or representative to appear at the scheduled hearing shall be deemed a dismissal of the appeal, and the prior decision of the director shall be final.
- (c) *Adequacy of proof.* The director shall have discretion over what actions are sufficient to constitute the commencement of nuisance abatement. However, the building inspector shall be guided by such factors as:
 - (1) Expedient and continuous work;
 - (2) Abatement costs; and
 - (3) Impact on environment or public.
- (d) *Responsible parties.* Any person who is the record owner of the premises, location or structure at the time an order pursuant to this article is issued and served upon him, shall be responsible for complying with that order, and liable for any costs incurred by the city therewith, notwithstanding the fact that he conveys his interests in the property to another after such order was issued and served.

(Ord. No. 3786, § 1, 11-2-98)

Sec. 43-6. Hearing and appeal.

- (a) *Procedure.* The owners, lien holder and occupants of the property who have been served with a notice pursuant to section 43-5 of this Code may appear in person or by representative at a hearing with the municipal judge scheduled on a date not sooner than ten (10) days after the date of the notice letter.
- (b) *Hearing.* The municipal judge shall conduct a full and adequate hearing upon the question of whether a public nuisance in fact exists. The municipal judge may amend or modify the notice, or extend the times for compliance with the notice by the owner by such date as the municipal judge in the course of the hearing may determine.
- (c) *Evidence.* The owners, lien holder and occupants of the property, or their representative or agents, of the subject property shall be given the opportunity to present evidence to the municipal judge in the course of the hearing.
- (d) *Order.* Should the evidence support a finding that the building, structure or condition constitutes a public nuisance, the municipal judge shall issue an order making specific

findings of fact, based upon competent and substantial evidence, which shows the building, structure or condition to be a public nuisance and ordering the building, structure or condition demolished, removed, repaired or otherwise abated by the city.

- (e) *Additional time.* The municipal judge, upon written application by the owner at any time within the period after the notice has been served may grant additional time for the owner to effect the abatement of the public nuisance, provided that such extension is limited to a specific time period.
- (f) *Costs to be certified.* The costs of performance of the abatement order shall be certified to the city clerk who shall cause a special tax bill or assessment therefor against the property to be prepared and collected by the city collector. If the building or structure is demolished, secured or repaired by a contractor pursuant to the order issued by the municipal judge, such contractor may file a mechanic's lien against the property where the dangerous building is located. The contractor may enforce this lien as provided by Missouri State Law. Except as otherwise provided in this article, at the request of the taxpayer the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from date of its issuance shall be deemed a personal debt against the property owners and shall also be a lien on the property until paid.
- (g) *Appeal from decision of municipal judge.* If the decision of the municipal judge is not appealed to the circuit court within thirty (30) days of the date of the mailing of said decision, the decision shall be declared final in accordance with chapter 536 of the Revised Statutes of Missouri.

(Ord. No. 3786, § 1, 11-2-98)

Sec. 43-7. Notice and appeal of assessments.

- (a) *Procedure.* Upon receipt of the statement of costs from the director, the city clerk shall mail to the owners of the property upon which the public nuisance has been abated notice of the amounts set forth in the statement plus an additional amount sufficient to defray the costs of the notice and stating that the city proposed to assess against the property the amount set forth in the notice and that objections to the proposed assessment must be made in writing and received by the city clerk within twenty (20) days from the date of mailing such notice. Upon the expiration of the twenty-day period, if no objections have been received by the city clerk, the city clerk shall enter that amount in the city liens docket which shall therefore constitute a lien against the property.
- (b) *Objection.* If the property owner or his representative objects to determination of cost, he may appeal same to the municipal judge by delivering a written notice of appeal to the city administrator within twenty (20) days of the mailing of the notice thereof. If no appeal is taken or perfected, the initial determination of costs shall be final.
- (c) *Absence of appeal.* If no appeal of a determination by the director is filed within the time period allowed, a copy of the determination will be furnished to the city clerk who shall then enter a lien in the amount determined by the building inspector in the city liens docket as provided by subsection (a) above.

- (d) *Filing of appeal.* If a timely appeal is received by the municipal judge, a hearing shall be scheduled and held on the matter. If, after the hearing, the municipal determines that the proposed assessment is improper, the municipal judge shall so certify to the city clerk and the proposed assessment shall be canceled. If, after the hearing, it is determined that the proposed assessment or any part of it is proper and authorized, the municipal judge shall so certify to the city clerk who shall enter a lien in such amount as determined appropriate by the municipal judge.
- (e) *Finality of municipal judge's decision.* If the judgment of the municipal judge is not appealed to the circuit court within thirty (30) days from the date of the municipal judge's determination of the assessment, the judgment will be declared final per chapter 536 of the Revised Statutes of Missouri.
- (f) *Cost of abatement—Assessments.* If the director determines or believes that there is good cause to reduce or adjust the cost of abatement, he may do so with the written approval of the city administrator.
- (g) *Overhead charge, civil penalties.*
 - (1) Whenever a nuisance is abated by the city, the city clerk shall keep an accurate account of all expenses incurred, including an overhead charge of twenty-five (25) percent for administration and a civil penalty of two hundred dollars (\$200.00) for each nuisance abated.
 - (2) When the city has abated a nuisance maintained by any owner of real property, for each subsequent nuisance that is abated by the city within two (2) consecutive calendar years concerning real property, owned by the same person, an additional civil penalty of fifty (50) percent, minimum of one hundred dollars (\$100.00), of the cost of abatement shall be added to the costs, charges and civil penalties provided for in subsection (1) above. The civil penalty shall be imposed without regard to whether the nuisances abated by the city involve the same real property or are of the same character.
 - (3) When the city has issued two (2) administrative orders for abatement of a nuisance within a twenty-four-month period on the same property owner, an additional civil penalty of between one hundred dollars (\$100.00) and five hundred dollars (\$500.00) may be assessed on the second order of abatement by the municipal judge to be paid by the repeat offender as provided herein.
- (h) *Nonexclusive remedy.* The procedures and remedies set forth in this article may be used in the alternative or in consonance with or in lieu of any other remedy or procedure authorized by law for the removal of violations or nuisances.

(Ord. No. 3786, § 1, 11-2-98)

Sec. 43-8. Notice of violation of failure to abate a public nuisance.

The owner or occupant of any property on which a public nuisance is found shall be given three (3) days' notice to abate the public nuisance. Notice shall be by posting notice of the public nuisance on the property. The city may issue a summons for violation of this chapter at any time within one (1) year from posting said notice to abate. The notice provisions herein shall be for the

purpose of prosecution under section 43-9 of this chapter and shall be separate from the notice provided in section 43-5 of this chapter.

(Ord. No. 08-89, § 2, 10-6-08)

Sec. 43-9. Violation is an offense; penalties.

An owner or occupant who creates or allows to continue any public nuisance as set forth in section 43-4 of this chapter and who shall fail to abate the public nuisance within three (3) days as set forth in section 43-8 of this chapter, shall be guilty of an offense and may be charged in municipal court with failure to abate a public nuisance and punished as set forth in section 1-20 of this Code.

(Ord. No. 08-89, § 3, 10-6-08)

Sec. 43-10. Access to property.

Such person as may be designated by the city administrator (hereinafter referred to as the enforcement official) may make or cause to be made inspections to determine the conditions of all structures and premises governed by this chapter in order to safeguard the safety, health, and welfare of the public under the provisions of this chapter. The enforcement official is authorized to enter any structure or premises at any reasonable time for the purpose of assuring compliance with this chapter after seeking consent from the owner, occupant, or operator. The owner, occupant, or operator of every structure or premises governed by this chapter, or the person in charge thereof, shall give the enforcement official access thereto and to all parts thereof and to the premises on which it is located at all reasonable times for the purpose of such inspection. In the event the owner, occupant, or operator is unavailable to give consent or shall refuse to give consent for access to any structure or premises, an enforcement official may make application to the judge of the municipal court for a search warrant. The application for said search warrant shall clearly state the following:

- (1) That the application is made by an enforcement official who is a police officer, code enforcement officer, building inspector, or attorney working for the city on said matter.
- (2) That the application is supported by an affidavit of probable cause detailing the actual or suspected property conditions that justify entry.
- (3) That the application is supported by a statement that entry was requested to the property and that the owner, occupant, or operator was unavailable or refused such entry.

If the municipal judge finds that the facts establish probable cause to believe that a code violation exists and that the application is true and correct, the municipal judge will sign a warrant and authorize the requested entry. The enforcement official serving the warrant has ten (10) days to execute the warrant during daylight hours. In order to assure peaceful cooperation and assure the safety of the enforcement official, a police officer of the city shall be present. The enforcement official serving the warrant must inspect the property for code violations, record or seize appropriate property as evidence, and in emergency situations abate the existing nuisance. The enforcement official serving the warrant must prepare a return consisting of a report of the search and/or seizure, including copies of receipts for any property seized. Said return must be filed with the clerk of the municipal court. Copies of the warrant and any receipts for property seized shall

be left with the owner, occupant, or operator of the property or, if no one is available, at a conspicuous place on the property.

(Ord. No. 11-88, § 1, 11-7-11)