

**AN ORDINANCE TO AMEND CHAPTER 215 OF THE CODE OF ORDINANCES OF THE CITY OF MARIONVILLE, MISSOURI, FOR THE PURPOSE OF UPDATING THE NUISANCE ORDINANCES**

**WHEREAS**, the City has determined that it is in the best interest of the City and its residents, to amend the current municipal code regarding Chapter 215. Nuisances; and

**WHEREAS**, this ordinance will replace the current Chapter 215. Nuisances, of the Code of City of Marionville, Missouri;

**NOW, THEREFORE, BE IT HEREBY ORDAINED AND RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF MARIONVILLE, LAWRENCE COUNTY, MISSOURI, AS FOLLOWS:**

**SECTION 1:** The Board of Aldermen of the City of Marionville does hereby amend Chapter 215 Nuisances of the Marionville City Code to read as follows:

**Chapter 215. Nuisances**

Article I. Generally.

Section 215.010. Statutory Authorization

The legislature of the State of Missouri has in Section 71.780, RSMo., delegated to the legislative or governing bodies of Cities the power and authority to suppress all nuisances which are or may be injurious to the health and welfare of the inhabitants of the City or prejudicial to the morals thereof, that such nuisances may be suppressed by ordinances of said Cities and the expenses for abating these nuisances may be assessed against the owner or occupant of the property on which said nuisance is committed and a special tax bill may be issued against said property for said expenses.

Section 215.020. Declarations and Purposes.

- A. The Board of Aldermen of the City of Marionville does hereby find and declare that it is necessary to provide for the abatement of conditions which are detrimental to the property values and community appearance, an obstruction to or interference with the comfort and enjoyment of adjacent property premises or hazardous or injurious to the health, safety or welfare of the general public in such ways that constitute a public nuisance and to establish community standards to safeguard health and public welfare in keeping with the ordinances of the City by allowing for the maintenance of exterior property for each of the following purposes:
1. To safeguard the health, safety and welfare of the citizens of Marionville by

maintaining exterior property in good and appropriate condition;

2. To promote a sound and attractive community appearance;
3. To enhance the economic value of the community and each area in it through the regulation of the maintenance and condition of property.

B. Accordingly, the Board of Aldermen declares that the purposes of this Chapter are to:

1. Reduce the threat to health, safety, welfare, appearance and economic value due to the decline in property condition(s) by lawfully delineating the circumstances under which said condition(s) are considered unlawful and/or abated; and further declares that
2. Abatement of such condition(s) is in the best interest of the health, safety and welfare of the residents of the City, as maximum use and enjoyment of property or premises in proximity to one another depends upon the maintenance of those properties at or above the established minimum standards as defined within this Chapter.

Section 215.030. 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 (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 City of Marionville 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 215.035. 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. *Illustrative Enumeration.* The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, 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 eight (8) 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 City's Dangerous Building Code in Title V, Chapter 505.
8. All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
9. All disagreeable or 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 or 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 City 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 215.030 of this Code.

Section 215.040. Creating, Maintaining Nuisance Prohibited.

It shall be unlawful for any person to create or maintain a nuisance as defined in Section 215.035 of this Code.

Section 215.050. Abatement Generally.

A. *Abatement Of Nuisance.* Abatement Officer. Whenever the Abatement Officer for the City shall ascertain or have knowledge that a nuisance exists on any premises in the City, he or 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 ten (10) 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 notice, 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 ten (10) 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 City 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 ten (10) days, the City will take action to abate the nuisance at the owner's expense and a statement that the City 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 215.030 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 City 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 Mayor or Chief of Police or a duly authorized representative may order all required action necessary to immediately abate or remove 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.

#### Section 215.060. Penalty for Violation.

- A. 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 215.070. Failure to Abate — Abatement by City.

- A. Nothing in this Chapter shall be construed as abandoning or limiting the City's right to bring suit for all expenses attending the abatement of a nuisance, when performed by the City, in any court of competent jurisdiction in the name of the City against the person maintaining, keeping, creating or refusing to abate the nuisance so abated.
- B. *Cost Of Abatement.* At the City's direction, the City's cost of abatement, whether abated by the City or a third party, shall be forwarded to the Municipal Court along with a copy of the notice that had been provided and the nuisance violation issued by the Chief of Police or his/her duly authorized representative. The Municipal Court shall, as part of the costs of such prosecution, render a judgment against the owner or occupant for the amount of the abatement expense, which shall be collected in addition to other fines and costs. The City may also place a lien on the property that has had a nuisance abated for the recovery of the expenses associated with the abatement.
- C. If the occupant or owner fails to abate a nuisance, the City may file with the Municipal Court Judge an application for an 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.

Article II. Weeds, High Grass Or Other Vegetation.

Section 215.075. Weeds, High Grass Or Other Vegetation.

- 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 City shall keep the weeds, high grass and other vegetation growing on such property cut and removed. Whenever such weeds, high grass or other vegetation shall attain the height of eight (8) inches, it shall be deemed a public nuisance.
- B. *Unlawful to Maintain Such Nuisance.* It shall be unlawful for any person to create or maintain a nuisance as defined in Subsection (A).
- C. *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 City, 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.

- D. *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 or other vegetation to be a nuisance and order the same to be abated within five (5) days.
- E. *Disposition.* In case the weeds, high grass or other vegetation are not cut down and removed within the five (5) days, the Code Enforcement Officer shall have the weeds, high grass or other vegetation cut down and removed and shall certify the costs of same to the City Clerk. The City Clerk shall add an administrative fee of one hundred fifty dollars (\$150.00) per occurrence.
- F. *Tax Bill.* The City 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 option, for the property and the certified cost 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 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.

### Article III. Abandoned Motor Vehicles.

#### Section 215.080. Impounded Property.

- A. *Storage.* If not removed within the times specified in the nuisance notice, any nuisance item described in said notice shall be transported to a storage area by or at the direction of the Chief of Police or his/her duly authorized representative at the expense of the owner or person in custody thereof. The enforcement official shall certify the cost of such abatement to the City Clerk or other 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, and shall be collected in the same manner and procedure as for collecting real estate taxes. The City may also elect to bring suit in a court of competent jurisdiction to obtain a money judgment for such costs and expenses and reasonable attorney fees in obtaining said judgment and collect same in the usual manner provided for collection of civil judgments.
- B. *Notice Of Sale.*
1. Prior to the sale of any unredeemed impounded property, the Police Chief shall cause to be published in a newspaper of general circulation within the City a notice of sale stating:



- a. The City is selling abandoned property;
  - b. The color, make, year, motor number and serial number, if available, and any other information necessary for an accurate identification of the property;
  - c. Terms of the sale;
  - d. The date, time and place of the sale;
  - e. The time, date and place from which the vehicle or junk was removed.
2. This notice shall be published not less than ten (10) days nor more than thirty (30) days prior to the date of the sale.

C. *Expenses — Effort To Ascertain Ownership.*

1. The Police Department is hereby authorized, and in addition to any penalty that may be provided for an offense under this Code, to remove any unidentified, stolen, wrecked or abandoned vehicle or other personal property found on any street or other public place in this City. The Police Department shall keep any such removed vehicle or other personal property in custody at such place as shall be designated by the Police Chief until redeemed by the owner thereof or otherwise disposed of as provided in this Chapter.
2. Every such unidentified, stolen, wrecked or abandoned vehicle and other personal property so held in custody of the Police Department shall be held subject to payment of the actual cost of its removal or towing from the place where it was found to the place of storage and the actual storage charge therefor while in the possession and custody of the Police Department.
3. An "*unidentified*" vehicle or other personal property, as used in this Section, means a vehicle or other personal property the ownership of which the Police Department has been unable to learn after reasonable effort to do so.

D. *Redemption Upon Proof Of Ownership.* Any person claiming to be the owner of any property impounded under the provisions of this Chapter shall make a written application therefor to the Police Department on a form furnished by the department to establish ownership. If he/she should make such application and furnish proof of ownership before the impounded property has been sold as provided in this Chapter, the City shall return such property to the owner after payment of such charges as listed herein.

E. *Payment Of All Charges Required — Receipt.* Upon receiving payment of removal and storage charges on any vehicle or other property before a sale thereof and after due proof of ownership has been made, the Police Chief shall give the owner or his/her authorized agent a written receipt for such payment.

*F. Sale Of Unredeemed Impounded Property.* All vehicles and other personal property impounded by the Police Department under the provisions of this Chapter and not redeemed by the owner thereof within the next sixty (60) days after the impounding thereof shall be subject to sale at any time thereafter by the Police Chief in accordance with the provisions of Section 304.156, RSMo., for cash at public auction, to the highest bidder, after such sale has been advertised as provided in this Chapter. All sales of impounded property shall be considered final.

*G. Public Notice Of Sale.*

1. If the owner cannot be identified after compliance with this Section, or no claim is made by a notified owner within the time specified in this Section, the Chief of Police shall post a public notice of sale at the City Hall and shall publish in a newspaper of general circulation within the County a notice of such sale. The notice of sale shall state:
  - a. The sale is of abandoned property in possession of the City.
  - b. A description of the vehicle, including type, make, motor number, serial number, and any other information which will aid in accurately identifying the vehicle.
  - c. The terms of the sale, and
  - d. The date, time and place of the sale.
2. The notice of sale shall be published two (2) times, the first (1<sup>st</sup>) publication shall be made not less than fifteen (15) days prior to the date of the proposed sale, and the second (2<sup>nd</sup>) shall be made not more than seven (7) days prior to the date of the proposed sale.

**Section 215.090. Entry Onto Private Property.**

The Police Chief or his/her duly authorized representative may enter upon private property for inspection or for the purpose of removing any vehicle or junk in accordance with this Chapter. If any person refuses to allow entry onto his/her private property, the Police Chief may obtain a warrant to proceed in accordance therewith.

**Section 215.100. Abandoned Property — Definition.**

- A. In addition to those definitions contained in applicable State Statutes, State Codes, other ordinances adopted by the City of Marionville, the term "*abandoned*" refers to any items which have ceased to be used for their designed and intended purpose. The following factors, among others, will be considered in determining whether or not an item has been abandoned:
  1. Present operability and functional utility.

2. The date of last effective use.
3. The condition of disrepair or damage.
4. The last time an effort was made to repair or rehabilitate the item.
5. The status of registration or licensing of the item.

Section 215.110. through Section 215.120. (Reserved)

Section 215.130. Parking and Storing of Motor Vehicles Which Are Not in Operating Condition.

- A. The open storage of inoperable or unlicensed vehicles or other vehicles deemed by the City to constitute a public safety hazard is prohibited. Nothing in this Section shall apply to a vehicle which is completely enclosed within a building or fenced area and not visible from adjacent public or private property, nor to any vehicle upon the property of a business licensed as salvage, swap, junk dealer, towing or storage facility as long as the business is operated in compliance with applicable zoning ordinances.
- B. *Definitions.* For the purposes of this Section, the following terms, phrases, words and their derivation shall have the meanings given in this Section.

#### **MOTOR VEHICLE**

Every vehicle which is self-propelled.

#### **MOTOR VEHICLE WHICH IS NOT IN AN OPERATING CONDITION or NON-OPERATING CONDITION VEHICLE**

1. Any vehicle missing any part vital to its operation, such as its engine, transmission, tires, wheels and required safety equipment.
2. Any vehicle missing any substantial portion of its exterior body parts including, but not limited to, its hood, trunk and front and side body work, doors, windshield, windows or other structural parts rendering the vehicle inoperable.
3. Any van, truck or trailer box either connected or disconnected from the chassis and which is not connected to an engine.
4. Any vehicle not displaying a currently effective license or registered number plate or plates, including any registration decal required by the laws of Missouri and/or the County and/or the City and issued to the owner of any such vehicle to be displayed on the vehicle registered.
5. Has become or has the potential to become the breeding ground or habitat of rats,

mice, snakes, mosquitoes or other vermin.

6. Has junk, garbage or refuse stored therein; or paper, cardboard, wood or other combustible materials stored therein; or used as a storage facility for solid waste or other hazardous materials; or used for the storage of gasoline, propane or diesel fuel at any location on or about the vehicle other than in the vehicle's gas or fuel tank.

#### **OWNER or PERSON IN POSSESSION**

Any individual, partnership, joint venture, corporation or other business or legal entity that owns or is in temporary possession of a motor vehicle.

#### *C. Applicability — Severability Clause.*

1. The provisions of this Section shall not apply to owners who have temporarily (not exceeding forty-eight (48) hours) placed their motor vehicles in a non-operating condition while working on said vehicles on their premises. In no event shall an owner or person in possession maintain a motor vehicle on his/her premises in a non-operation condition for a period in excess of forty-eight (48) hours unless such vehicle is placed in an enclosed structure.
2. A permit may be purchased from the City in the amount of fifty dollars (\$50.00) to restore and maintain an inoperable vehicle outside of an enclosed structure. Said permit will be limited to one (1) vehicle and is not renewable. The restoration of antique vehicles will be limited to those vehicles so classified and registered in accordance with State guidelines.  
[Ord. No. 10-2016, 9-8-2016]
3. Nothing in this Chapter shall be construed to abrogate or impair the powers of the courts or any department of the City to enforce any provisions of its ordinances or regulations nor to prevent or punish violations thereof; and the powers conferred in this Chapter shall be in addition and supplemental to the powers conferred by any other ordinance.
4. In the event that any part or portion of this Section is declared invalid, the remainder of its provisions shall not be affected, but such remaining provisions shall continue in full force and effect.

#### Article IV. Miscellaneous Nuisances.

##### Section 215.140. Placing Leaves, Grass, Etc., On Public Ways Or Private Property.

- A. No person shall cause to be placed or burned any grass clippings, leaves, lawn rakings, tree or bush trimmings, tree trunks, stumps, ashes, soil, dirt or household debris in or on any sidewalk street, alley, gutter or public way in the City.

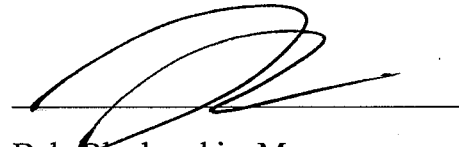
B. No person shall cause to be placed any grass clippings, leaves, lawn rakings, tree or bush trimmings, tree trunks, stumps, ashes, soil, dirt or household debris in or on any parcel of land not belonging to the depositor. This Section shall not be construed to permit depositing on one's own property if said depositing is prohibited by any other ordinance, regulation, or Statute.

SECTION 2: This Ordinance shall be in full force and effect from and after the date of its passage and approval.

SECTION 3: The provisions of the 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 4: That the City Clerk is authorized by this Ordinance to correct any scrivener's error identified within this Ordinance.

READ TWO TIMES BY TITLE ONLY AND PASSED AT THE MEETING OF THE BOARD OF ALDERMEN, THE CITY OF MARIONVILLE, LAWRENCE COUNTY, MISSOURI ON THIS 21 DAY OF March, 2024

  
Dale Blankenship, Mayor

ATTEST:

Debbie Bateman  
Debbie Bateman, City Clerk

Motion made by: Alderman White and seconded by Alderman Bliss

BE IT REMEMBERED that this Ordinance was adopted by the Marionville Board of Alderman on the 21 day of March, 2024 by the following roll call vote:

- Alderman Kevin Bliss                      Vote: Aye
- Alderman Kathy Urschel                 Vote: Aye
- Alderman Donna White                   Vote: Aye
- Alderman Joanne Lawrence              Vote: Absent
- Alderman Gina Herndon                 Vote: Aye
- Alderman \_\_\_\_\_                     Vote: \_\_\_\_\_