

IN THE CITY OF META, MISSOURI

BILL NO. 2007-10

ORDINANCE NO. 337

AN ORDINANCE ADOPTING NUISANCE PROVISIONS FOR THE CITY OF META, MISSOURI AND PRESCRIBING PROCEDURES RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE BOARD OF ALDERMEN OF THE CITY OF META, MISSOURI, AS FOLLOWS:

Section 1: ORD #167 of the City Code of the City of Meta, Missouri, is hereby repealed and shall be amended to include the following:

0.00. PURPOSE AND SCOPE OF REGULATIONS. The purpose of this Chapter is to promote the health, safety, and general welfare of the inhabitants of the City of Meta. The Board of Aldermen of the City is empowered by **Mo. Rev. Stat. §§ 71.780, 79.370 and 79.450 (2006)** to prevent and remove nuisances. The scope of this Chapter provides for the abatement of those unreasonable, unusual or unnatural acts and omissions deemed nuisances by statute or common law, whether intentional or unintentional, concerning a condition substantially interfering with or detrimental to the public health, the public safety, the public peace, the public comfort or the public convenience, trade and commerce, as well as those offenses of a similar nature proscribed by statute.

0.05. DEFINITIONS. For the purpose of this Ordinance, the following words and terms as used herein are defined to mean the following:

(A) Garbage: Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food. (*See Mo. Rev. Stat. § 64.460 (2006)*)

(B) Litter: Glass, glass bottles, wire, nails, tacks, hedge, cans, garbage, trash, excreta, debris, refuse or rubbish of any kind, nature or description. (*See Mo. Rev. Stat. § 577.070 (2006)*)

(C) Nuisance: An offense against the public order and economy of the City by unlawfully doing any act or by omitting to perform any duty which the common good, public decency or morals, or the public right to life, health, and use of property requires; and which at the same time annoys, injures, endangers, renders insecure, interferes with, or obstructs the rights or property of the whole community, or neighborhood, or of any considerable number of persons, when it affects the rights enjoyed by citizens as part of the public, even though the extent of the annoyance, injury, or damage may be unequal, or may vary in its effect upon individuals. Consideration is given to places where the public have the legal right to go or congregate, or where they are likely to come within the sphere of its influence. (*City of St. Louis v. Vahari, Inc.*, 39 S.W.3d 531 (Mo.App. E.D. 2001))

(D) Person: any individual, partnership, limited liability company, corporation, association, or institution. (*See Mo. Rev. Stat. §§ 260.200(26) (2000)*)

(E) Private property: Property owned privately and property owned privately which is subject to a public easement, including dedicated street right-of-way.

(F) Public premises: Any area open to or frequented by the general public, whether privately or publicly owned.

(G) Refuse: All putrescible and nonputrescible solid wastes including garbage; rubbish; ashes; street cleanings; dead animals, carcasses, and/or offal therefrom; abandoned automobiles; abandoned or discarded airtight or semiairtight containers; junk, cut or fallen tree limbs; and solid market and industrial wastes. (See **Mo. Rev. Stat. § 64.460 (2006)**)

(H) Rubbish or Trash: Nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and similar materials. (See **Mo. Rev. Stat. § 64.460 (2006)**)

0.10 PROHIBITED. It shall be unlawful for any person or agent of such person to cause, permit, maintain or allow the creation or maintenance of a nuisance within the boundaries of the City or within one-half (1/2) mile outside those boundaries. (**Mo. Rev. Stat. § 71.780 (2006)**)

0.15 RIGHT OF ENTRY FOR INSPECTION AND ABATEMENT. Subject to constitutional limitations, the Mayor, City Code Enforcement Officer or other person(s) authorized by the City is hereby authorized to enter into or upon any premise where a nuisance is suspected to exist for the investigation and abatement of nuisances thereon. Administrative search warrants, if necessary, are available pursuant to Chapter ___ of the City Code for the authorization necessary for such inspection and abatement. The City attorney should be consulted as to whether a warrant is necessary in any particular circumstances.

0.20 CATEGORY I NUISANCES PROHIBITED. Nuisances in this Section (“Category I Nuisances”) include those conditions found to exist on private property within the City, or within one-half mile of the City limits, which are proscribed and processed under the provisions of **Mo. Rev. Stat. §§ 67.398, 71.285** (as modified by *Home Builders Ass’n of Greater St. Louis v. State*, 75 S.W.3d 267 (Mo. 2002)) and **71.780 (2006)**, and which are deemed to pose a threat to the public safety, health, peace, comfort or convenience. Nuisances in this category which pose an *imminent hazard* are subject to the expedited procedures in Section 0.25(B).

(A) Category I Nuisances Enumerated: The maintaining, using, placing, depositing, leaving or permitting to remain on any public or private property of any conditions or actions as hereby stipulated are declared to be and constitute a nuisance; however, this enumeration shall not be deemed conclusive, limiting or restrictive:

1. Debris of any kind;
2. Weed cuttings;
3. Dead, cut, fallen or otherwise hazardous trees, limbs and shrubs;

4. Rubbish / trash;
5. Lumber not piled or stacked twelve (12) inches off the ground;
6. Rocks or bricks;
7. Tin;
8. Steel;
9. Parts of derelict cars or trucks;
10. Broken furniture;
11. Overgrown vegetation and noxious weeds seven (7) inches or more in height;
12. Any flammable material which may endanger public safety;
13. Dirt, mud, filth, stones, or other materials permitted to remain on and obstruct any curbstone, gutter, sidewalk, crosswalk, walkway, alley or right-of-way (**Mo. Rev. Stat. § 79.410 (2006)**);
14. Any trees, shrubbery, bushes or vegetation on private or public premises, including easements, which are not trimmed to prevent obstruction of the view and movements of vehicles and pedestrians, i.e., to provide:
 - a. A vertical clearance of at least seven (7) feet above any paved sidewalk, walkway or public right-of-way used by the public as indicated by a worn path, or a walkway on a public easement;
 - b. A vertical clearance of at least ten (10) feet beyond the edge of the street and fourteen (14) feet above the center of any traffic lane;
 - c. A clear line of sight for at least seventy-five (75) feet on the approach side for all traffic signals or traffic control postings;
 - d. A visually clear triangular space at street intersections, determined by a diagonal line connecting two points measuring twenty-five (25) feet equidistant from the intersection or edge of the intersecting streets, by trimming any trees, shrubbery, bushes or vegetation to a height of not more than twenty- four (24) inches within that triangle;
 - e. Clear visibility and easy accessibility, operation and use of a fire hydrant or other utility or structure.

15. Any weeds or grasses that may cause, through direct contact with skin, an irritation or lesion;
16. Any area not covered by lawn or vegetation and not treated to prevent dust or the blowing and scattering of dust particles into the air;
17. Any altered surface of the ground which would be liable to deposit mud or harmful silt onto public property, or cause erosion or damage to public property;
18. Any litter allowed to remain longer than one (1) week in or on any occupied public premises, or upon any open or vacant private lot within the City;
19. Any stable, animal pen, poultry yard or coup permitted to be in such condition as to become offensive, foul or hazardous;
20. Any accumulation of water found in an improperly drained pool, pond, or collector that has not been dispersed within five (5) days, thereby becoming stagnant;
21. Any cellar, vault, private drain, pool, privy, sewer, cistern or sinkhole upon any premises permitted to become foul, offensive or hazardous;
22. Any placing or allowing to be placed in any watercourse or stream any dirt, stones, rubbish, tin cans, refuse, logs, tree branches or any other object which would fill up the channel or obstruct the free passage of water through any such watercourse or stream (**Mo. Rev. Stat. § 577.070 (2006)**);
23. Any willful change of the natural or legally-established channel of any watercourse without the lawful authority to do so (**Mo. Rev. Stat. § 577.150 (2006)**);
24. The erection or causing to be erected, maintenance or caused to be maintained upon, across, along or adjoining any street of the City any fence, wall or other obstruction, any part of which is built or composed of barbed wire; and any stretching or placing along the building line of any property adjoining or abutting on any street, alley, avenue or other public thoroughfare any barbed wire, whether used for fencing or for other purposes (**Mo. Rev. Stat. § 79.400 (2006)**); and
25. Any material or condition which is unhealthy or unsafe and declared to be a public nuisance.

(As referenced and **Mo. Rev. Stat. §§ 67.398, 71.285** (as modified by *Home Builders Ass'n of Greater St. Louis v. State*, 75 S.W.3d 267 (Mo. 2002)) and **71.780 (2006)**.)

(B) Category I Nuisance Abatement Procedure:

1. Determination of person(s) liable:

a. Whenever any condition enumerated in Section 0.20(A) of this ordinance, is allowed to exist, accumulate or grow on any part of any lot or ground within the City limits, or within one-half mile thereof, 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. (**Mo. Rev. Stat. § 71.285 (2006)**)

b. For any nuisance existing upon any sidewalk, street, avenue, alley, or other public thoroughfare of the city, within its limits, or within one-half mile thereof, the owner(s) or occupant(s) of the ground fronting thereon, or the person(s) causing the same, shall be liable. (**Mo. Rev. Stat. § 79.410 (2006)**)

2. The official designated by the City Board of Aldermen shall hold 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. The hearing shall be tape recorded and the decision shall be accompanied by findings of fact and conclusions of law.

3. Thereupon, the designated City official may declare the condition to be a nuisance and order the same to be abated within **seven** (7) days; and in case the condition is not removed or abated within the **seven** (7) days, the designated City official shall have the nuisance removed or abated immediately. By failing to remove or abate the nuisance as ordered the owner relinquishes and waives any property rights to the items removed by the City in removing or abating the nuisance.

4. The costs to the City for such removal or abatement shall be certified to the City clerk, who shall cause a special tax bill therefor against the property to be prepared and to be collected by the collector, with other taxes assessed against the property; and 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, and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. *However*, nothing in this ordinance may be construed to allow a tax lien assessment to reimburse the City for costs in abatement of any nuisance outside the City limits.

5. Each special tax bill shall be issued by the City clerk and delivered to the collector on or before the first day of June of each year. Such tax bills if not paid when due shall bear interest at the rate of eight percent per annum.

(As referenced and **Mo. Rev. Stat. §§ 67.398, 71.285** (as modified by *Home Builders Ass'n of Greater St. Louis v. State*, 75 S.W.3d 267 (Mo. 2002)) and **71.780 (2006)**.)

0.25 CATEGORY II NUISANCES PROHIBITED. Nuisances in this Section ("Category II Nuisances") include those conditions found to exist within the City limits which are proscribed by

the provisions of **Mo. Rev. Stat. § 79.370 (2006)** and various other Missouri statutes, and which are deemed *per se* to pose a more *imminent hazard* to the public safety, health, peace, comfort or convenience. Nuisances in this category are therefore subject to expedited process as herein provided.

(A) Category II Nuisances Enumerated: Any person or persons found maintaining, using, placing, depositing, leaving or permitting to remain on any public or private property of any conditions or actions as hereby stipulated shall be declared to have committed a violation of this ordinance prohibiting such nuisance. This enumeration shall not be deemed conclusive, limiting or restrictive:

1. Any foul or dirty water or liquid when discharged through any drain, pipe or spout, or thrown into or upon any street, thoroughfare or premise to the injury or hazard of the public (**Mo. Rev. Stat. § 79.410**);
2. Any carcass of a dead animal which the owner or keeper thereof permits to remain within the limits of the City for more than twenty four (24) hours after knowledge of such death, unless properly disposed of according to the provisions of **Mo. Rev. Stat. § 269.020 (2006)** (**Mo. Rev. Stat. § 269.020**);
3. Any obstruction including snow, ice, or inherently dangerous materials (broken glass, sharp objects, etc.) permitted to remain on and obstruct any sidewalk, walkway, alley or right-of-way (**Mo. Rev. Stat. § 79.410 (2006)**);
4. Leghold traps placed outdoors on any public premises or private property for the capture of animals;
5. Any substance of any kind which emits an offensive, noxious, putrid or unhealthy odor in the City;
6. Any accumulation of mud, dirt, sticky substances, litter or other foreign matter which is deposited from the wheels or undercarriage of a vehicle or truck upon any public or private property and which is not abated at the end of the work day in which the substance was deposited;
7. Any load contents, litter or debris which is blown or otherwise deposited upon any public or private property from any vehicle or truck operated within the City (**Mo. Rev. Stat. § 577.070 (2006)**);
8. Any dead animal, carcass or part thereof, the offal or any other filth which has been deposited into any well, spring, brook, branch, creek, pond or lake (**Mo. Rev. Stat. § 577.076.1 (2006)**);
9. Any dead animal, carcass or part thereof which has been removed or caused to be removed and placed in or near any public road or highway, or upon premises not his

own, or in any stream or watercourse within the City limits to the annoyance of the public, and, if not removed within three days thereafter it shall be deemed a second offense (**Mo. Rev. Stat. § 577.076.2 (2006)**);

10. Any dead animal carcass, or any part thereof, or any offal or other filth placed into any well, cistern, spring, drinking fountain, reservoir, water tank or tower, trough or basin used for drinking purposes, or into any brook or branch within the City which is or may be used for household or domestic purposes, or the water of which is or may be used by the public for drinking purposes (**Mo. Rev. Stat. §§ 79.390, 577.076 and 577.150 (2006)**);

11. All unnecessary or unauthorized noises and annoying vibrations, including animal noises; noise produced by use of sound amplifying equipment, whether for the purpose of advertising any goods, wares or merchandise or for the purpose of announcing any public meeting, for playing music or for any other purpose whatsoever, when the sound produced thereby would constitute a nuisance (**Mo. Rev. Stat. § 79.450 (2006)**);

12. Riots, disorderly assemblies, disturbances of the peace, disturbances of religious and other lawful assemblies (**Mo. Rev. Stat. § 79.450**);

13. Assaults and batteries (**Mo. Rev. Stat. § 79.450**);

14. Indecent shows, exhibitions or concerts in any street, house or place in the City (**Mo. Rev. Stat. § 79.450**);

15. Abandonment or discontinued use of any well or cistern located on any property, unless such well or cistern is completely sealed with concrete or metal or some other material of a durable nature which is securely fixed in place over the top of such well or cistern;

16. Emission or discharge into the open air of dense smoke within the City limits, and each and every day whereon such smoke shall be emitted or discharged shall constitute a separate offense (**Mo. Rev. Stat. § 71.760 (2006)**);

17. Unauthorized possession of anhydrous ammonia within the City limits (**Mo. Rev. Stat. § 577.075 (2006)**);

18. Abandonment of a motor vehicle or trailer on the public right-of-way or on the banks of any stream, or on any publicly-owned land or water within the City limits (**Mo. Rev. Stat. § 577.080 (2006)**);

19. Abandonment of any airtight or semiairtight containers by discarding or knowingly permitting to remain on premises under a person's control, in a place accessible to children, any abandoned or discarded icebox, refrigerator, or other

airtight or semiairtight container which has a capacity of one and one-half cubic feet or more and an opening of fifty square inches or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein (**Mo. Rev. Stat. § 577.100 (2006)**);

20. Accumulation of garbage or refuse; and

21. Accumulation of animal waste.

(As referenced and **Mo. Rev. Stat. §§ 67.398, 71.780 and 79.370 (2006)**.)

(B) Category II Nuisance Abatement Procedure:

1. Determination of person(s) liable:

a. Whenever any condition enumerated in Section 0.25(A) of this ordinance, is allowed to exist, accumulate or 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. (**Mo. Rev. Stat. § 71.285 (2006)**)

b. For any nuisance existing upon any sidewalk, street, avenue, alley, or other public thoroughfare of the city, the owner(s) or occupant(s) of the ground fronting thereon, or the person(s) causing the same, shall be liable. (**Mo. Rev. Stat. § 79.410 (2006)**)

c. Information obtained from waste disposed or deposited in violation of this ordinance may be a rebuttable presumption that the person so identified committed the violation. (*See Mo. Rev. Stat. § 260.210 (2006)*)

d. If the operator or passenger of any vehicle is witnessed by a peace officer or other city official to have violated the provisions of this ordinance, and the identity of the operator is not determined or otherwise apparent, it may be a rebuttable presumption that the person in whose name such vehicle is registered committed the violation. (*See Mo. Rev. Stat. § 260.210 (2006)*)

2. A designated agent of the City is hereby authorized to immediately abate any Category II Nuisance and any Category I Nuisance constituting an imminent hazard under the supervision of the City attorney and upon such procedures as he or she shall direct.

0.30 PENALTIES. Any person violating any provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof may be fined in the sum of not less than twenty-five

dollars (\$25.00) and not more than five hundred dollars (\$500.00), except where the city and state have a penalty for the same offense, the penalty by ordinance shall be the same as set by statute. Mo. Rev. Stat. §§ 67.420, 79.400 and 79.470 (2006).

Section 2: This ordinance shall be in full force and effect upon final passage and approval.

FIRST READING HELD: September 13, 2006.

SECOND READING HELD AND FINAL PASSAGE ON THIS 13th DAY OF September, 2006 BY THE FOLLOWING VOTE:

<u>ALDERMAN</u>	<u>AYE</u>	<u>NAY</u>
Kampeter	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Luetkemeyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tellman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Peach	<input type="checkbox"/>	<input type="checkbox"/>
Mayor (in case of tie vote)	<input type="checkbox"/>	<input type="checkbox"/>

Terry Libbert
Mayor

Attest:

Kaye Kampeter
Kaye Kampeter, City Clerk

