

Chapter 225

NUISANCES

Section 225.010. Causing, Maintaining or Permitting Nuisances Prohibited. [R.O. 2012 §225.010; CC 1979 §19-1; Ord. No. A-1923 §1, 4-26-1962]

No person shall cause, maintain or permit, on premises owned or controlled by him/her, a nuisance as defined by this Chapter.

Section 225.020. Certain Nuisances Enumerated — List Not Exclusive. [R.O. 2012 §225.020; CC 1979 §19-2; Ord. No. A-1923 §2, 4-26-1962; Ord. No. A-4199 §1, 9-16-1980; Ord. No. A-4676 §1, 8-9-1985; Ord. No. A-6825 §1, 4-30-1999; Ord. No. A-7050A, 7-27-2001; Ord. No. 7949 §1, 12-21-2009; Ord. No. A-8085 §§1 — 2, 12-20-2011]

- A. The following things and conditions are hereby declared to be nuisances but this list shall by no means be deemed exclusive:
1. Dangerous or unlawful amounts of combustible, explosive or otherwise hazardous materials.
 2. Hazardous conditions arising from defective or improperly installed equipment for handling or using combustible, explosive or otherwise hazardous materials.
 3. Dangerous accumulations of rubbish, wastepaper, boxes, shavings or other highly flammable materials.
 4. Accumulations of dust or waste material in air-conditioning or ventilating systems or of grease in kitchen or other exhaust ducts.
 5. Obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the operations of the Fire Department or egress of occupants in case of fire.
 6. Any building or other structure, which for want of repairs, lack of sufficient fire escapes or other exit facilities, automatic or other fire alarm apparatus or fire extinguishing equipment, or by reason of age or dilapidated condition, or from any other cause, creates a hazardous condition.
 7. The presence of high weeds, brush and other rank vegetation, excluding shade trees, ornamental shrubs, fruit trees, domesticated berry bushes and vines, cover crops and domestic grains and plantings, on lots and pieces of land within the City limits, constituting a nuisance and a menace to the public safety, health or welfare by reason that such condition may:

- a. Cause a fire hazard.
- b. Furnish cover for prowlers.
- c. Create a nuisance with potential danger of injury by means of rocks, debris, holes, etc., covered by excess growth.
- d. Obstruct visibility at street intersections.
- e. Result in the aggravation of allergies.
- f. Furnish a potential harborage or breeding place for disease carrying insects, arthropods, animals and poisonous snakes.

The growth of weeds, brush or other rank vegetation in excess of eight (8) inches in height is declared to be a public nuisance per se, detrimental to the health, safety and welfare of the public, and upon the discovery of such a nuisance upon any property in the City. The Police shall give a hearing after ten (10) days' notice thereof, either personally or by United States mail to the owner or owners, or his, her or their agents, or by posting such notice on the premises; thereupon, the Chief of Police may declare the weeds to be a nuisance and order the same to be abated within five (5) days; and in case the weeds are not cut down and removed within the five (5) days, the Chief of Police shall have the weeds cut down and removed, and shall certify the costs of same 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. Each special tax bill shall be issued by the City Clerk and delivered to the Collector on or before the first (1st) day of October of each year. Such tax bills if not paid when due shall bear interest at the rate of eight percent (8%) per annum.

No proceeding in the Municipal Court of the prosecution of a violation of this Section shall prohibit or be a bar to action by the City for the abatement of such condition and nuisance by the City, and no action by the City for the abatement of such condition and nuisance shall prohibit or be any bar to a proceeding in the Municipal Court for prosecution of a violation of this Section.

8. Carcasses of animals remaining exposed more than six (6) hours after death.
9. Ashes, slops, filth, excrement, stones, straw, soot, rubbish, manure, offal, stagnant water, all sorts of decaying animal matter, decaying fruit or vegetables or other vegetable matter, broken kitchenware, wrecks or parts of worn out automobiles; or other machines, scrap iron or other metals, tin cans, old bottles, broken glass, discarded wearing apparel, dead animals or any other offensive or disagreeable substance or thing, old dilapidated barns, sheds or other buildings left or deposited or caused or permitted to remain left or deposited in such quantity or in such condition as to be offensive to the sight or smell or a menace to health, safety, peace or comfort, or of such a nature as to be or become harbors or breeding places for mosquitoes, ants, flies, rats,

mice or other insects, animals or vermin, whether left or deposited upon private premises owned, occupied or controlled by persons causing or permitting the same or upon any public street, sidewalk, alley, parkway, public enclosure or vacant lot; any water, stream and condensation drained from, emitted from or thrown upon any sidewalk, parkway, alley or street from any place occupied by a residence, commercial or business structure or any appurtenances thereto belonging; the creation of dust by the operation of motor vehicles, racing cars, rides or other motor driven contrivances, where the dust is carried beyond the borders of the property whereon such vehicles or contrivances may be operated.

10. Factories, slaughterhouses and all places of business causing an offensive odor to a greater extent than is required for the necessary prosecution or carrying on of such business.
11. Solid waste deposited otherwise than in a suitable container for removal.
12. Green or unsalted hides kept in an exposed or open place.
13. Hog pens.
14. Limbs of trees projecting over a sidewalk or a street at a height of less than ten (10) feet.
15. Privies or septic tanks in an overflowing, leaking or filthy condition.
16. Ponds and pools of unclean water.
17. The rendering, heating or steaming of any animals or vegetable product or substance, in such a manner as to cause disagreeable odors.
18. Stables, stalls, sheds, pens or yards in which any horses or cattle have been kept, which are in an unclean condition.
19. All substances or things which cause an odor disagreeable to the surrounding neighborhood.
20. The accumulation, storage, piling, stacking, placing, containing or maintaining of paper, magazines, rags, sawdust, leaves, straw or other similar substances on private or business property by the owner or the person in charge of such property, whether through his/her agents, servants, employees or otherwise, when such substances are so accumulated, stored, piled, stacked, placed, contained or maintained that they may, by natural causes, escape from the property onto the property of others or onto the streets, sidewalks or alleyways of the City.
21. Residential indoor furniture, appliances and/or plumbing fixtures placed out of doors, placed on unenclosed porches, whenever exposed to the weather or elements, or whenever exposed to the weather or elements on pick-up trucks or other motor vehicle. It shall not be deemed a violation of this Section if said furniture, appliances and/or plumbing fixtures are rated by the manufacturer for outdoor use. It shall not be deemed a violation of this Section if indoor

furniture, appliances and/or plumbing fixtures have been placed on a residential porch which is totally enclosed with windows and doors.

22. Outdoor wood-burning furnaces, whenever located in the front or side yard.

Section 225.025. Nuisances Abated. [R.O. 2012 §225.025; Ord. No. A-7075, 9-13-2001; Ord. No. A-8086 §§1 — 2, 12-20-2011]

The Chief of the Police Department may have nuisances abated after ten (10) days' written notice to property owners if the owners fail to abate the nuisance. If written notice is impossible or impracticable, notice shall be deemed effective upon posting notice on said property. Costs of such abatement, including administrative costs and legal costs not to exceed five hundred dollars (\$500.00), shall be a lien upon the property and a personal debt against the property owners until paid. The costs of future violations of the same type on the same property shall be levied at twice the actual costs. If the nuisance involves unregistered and/or inoperable motor vehicles in violation of Section 225.020(9), then the Chief of Police shall have the option, after giving the above required ten (10) day written notice, to issue a summons to Municipal Court to the owner of the premises for violation of the nuisance provisions of the City Code and/or having the vehicle towed by a towing company having a valid business license for the City of Monett. Notice of the location of the vehicle shall be posted on the front door of the residence from which the vehicle was removed. Summons shall be served as required by law. The owner of said vehicle shall have the right to reclaim the same at the designated towing company upon payment of all reasonable towing and storage charges. Violation of this Section shall be punishable by a fine of no greater than five hundred dollars (\$500.00) and any applicable court costs and fees.

Section 225.030. Animal Pens or Enclosures — Animals Creating Nuisances Generally. [R.O. 2012 §225.030; CC 1979 §§4-12 — 4-13, 19-3; Ord. No. A-1923 §4, 4-26-1962; Ord. No. A-2949 §1, 9-21-1970]

- A. No person shall keep, or cause, allow or permit to be kept, on any premises in the City occupied by him/her or under his/her charge or control any goats, cattle, sheep, poultry, dogs, cats or other animals or fowl in a pen or other enclosure so that the same shall constitute a nuisance to any inhabitant in the vicinity thereof by creating an offensive or noxious smell or odor or offensive noise.
- B. No person shall permit or allow any goats, cattle, sheep, poultry, dogs, cats or other animals or fowl owned, kept or fed by him/her or under his/her control to create a nuisance to the inhabitants in the vicinity of such person by creating an offensive or noxious smell or odor or offensive noise or by repeatedly entering upon property in the vicinity owned by or in the possession or control of others.
- C. *Offensive, Noisome, Etc., Barns, Stables Or Pens.* No person shall erect, operate or maintain any barn, stable, hen house, hutch or pen, of any kind whatsoever, and permit the same to become offensive, noisome, disagreeable or obnoxious to the neighborhood in which the same may be located.

- D. *Cleanliness Of Pens, Etc.* It shall be the duty of the owner or person having control of any pen or other enclosure wherein any animal or fowl shall be kept within the City to remove all solid waste therefrom at least once each day, and as much oftener as may be necessary to keep the same in a clean and sanitary condition and prevent odors.

Section 225.040. Fungus Histoplasma Capsulatum. [R.O. 2012 §225.040; CC 1979 §19-4; Ord. No. A-3836 §§1 — 6, 11, 7-19-1977]

- A. It is hereby determined that the presence of the fungus *Histoplasma capsulatum* upon any property in the City is or may be injurious to the health and welfare of the inhabitants of the City, and the presence of the fungus *Histoplasma capsulatum* on any property in the City shall constitute a nuisance.
- B. No person shall cause, maintain or permit on property owned or controlled by him/her the presence of the fungus *Histoplasma capsulatum*.
- C. Upon discovery of the presence of the fungus *Histoplasma capsulatum* upon any property in the City, the Chief of Police shall give notice thereof by posting a notice thereof upon such property and mailing a copy of such notice to the last known address of the record owner of such property or delivering a copy of such notice to the person controlling such property or owning the same.
- D. Upon the posting and mailing or delivery of such notice, the person owning or controlling such property shall cause the presence of the fungus *Histoplasma capsulatum* and such nuisance to be abated in accordance with procedures recommended by the Public Health Service of the U.S. Department of Health, Education and Welfare within five (5) days after such notice is posted and mailed or delivered and provide proof of such abatement to the Chief of Police.
- E. If the person owning or controlling such property where the fungus *Histoplasma capsulatum* has been found to exist does not cause the same to be abated within five (5) days after such notice is posted and mailed or delivered, the City may cause the presence of such fungus *Histoplasma capsulatum* and such nuisance to be abated, and the person owning or controlling such property at such time shall be civilly liable to the City for the cost of such abatement, and upon such abatement being completed by the City, the Chief of Police shall cause the cost thereof to be certified to the City Collector and a copy thereof to be mailed or delivered to the person owning or controlling such property. The amount so certified shall constitute a lien upon the property upon which such condition and nuisance was abated, which may be foreclosed by appropriate proceeding in the Circuit Code of the County.
- F. Duly authorized representatives of the City shall be permitted to enter upon and make appropriate tests to determine the presence of the fungus *Histoplasma capsulatum* upon any property within the City upon which the presence of such fungus is reasonably suspected, and for the purpose of abating the presence of the fungus *Histoplasma capsulatum* and such nuisance, and for the purpose of making appropriate tests to determine if the same has been abated.

- G. No proceeding in the Municipal Court of the prosecution of a violation of this Section shall prohibit or be any bar to action by the City for the abatement of such condition and nuisance by the City, and no action by the City for the abatement of such condition and nuisance shall prohibit or be any bar to a proceeding in the Municipal Court for prosecution of a violation of this Section.

Section 225.041. Graffiti On Public or Private Property. [R.O. 2012 §225.041; Ord. No. 7877 §1, 8-20-2008]

- A. *Definitions.* Whenever the following terms are used in this Section, they shall have the following meanings:

GRAFFITI — The defacing, damaging or destroying by the spraying of paint or marking of ink, chalk, dye or other similar substance in the form of drawings, inscriptions, figures or marks on public and private buildings, structures and places without the prior consent of the owner of the premises or the agent of the owner of the premises.

GRAFFITI ABATEMENT PROCEDURE — A procedure which identifies graffiti, issues notice to the landowner to abate the graffiti, provides remedies in the absence of a response and provides for a penalty for lack of compliance.

- B. It shall be unlawful for any person to write, paint or draw any graffiti upon any wall, rock, bridge, building, fence, gate, other structure, tree or other real or personal property within the City limits, whether publicly or privately owned.
- C. When appropriate and in addition to a fine and/or imprisonment, the courts may require those who commit acts of defacement of public or private property through the application of graffiti to restore the property so defaced, damaged or destroyed. The public is encouraged to cooperate in the elimination of graffiti by reporting to the Monett Police Department all incidents of the application of graffiti that they observe.
- D. *Notice Of Removal And Hearing.*
1. Whenever the Chief of Police, Building Inspector, Code Enforcement Officer or his/her designees determine that graffiti exists on any public or private buildings, structures or places which are visible to any person using any public right-of-way in the City, be it road, parkway, alley or otherwise, and the seasonal temperatures permit the painting of exterior surfaces, the City may cause a notice to be issued to abate such nuisance. The property owner shall have ten (10) days after the date of issuance of the notice to remove or paint over the graffiti or request in writing a hearing be held by the City Administrator to determine if the graffiti constitutes a nuisance or the graffiti will be subject to abatement by the City. If a hearing is requested, it shall be held within thirty (30) days of the written request. If the City Administrator determines, after hearing and issuance of written findings and orders, that a nuisance does exist, the property owner shall have ten (10) days from the date of the determination to abate the public nuisance through the removal or painting over of the graffiti.

2. The notice to abate graffiti issued pursuant to this Section will be a written notice to be served upon the owner of the premises or the agent of the owner of the affected premises, as such owner's name or agent's name and address appears on the last property tax assessment rolls of Barry and/or Lawrence County. If there is no known address for the owner of the premises or the agent of the owner, the notice shall be sent in care of the property address or posted as hereinafter set forth. The notice required by this Section may be served in any of the following manners:
 - a. By personal service on the owner, occupant or person in charge or control of the property.
 - b. By registered or certified mail addressed to the owner at the owner's last known address or the agent of the owner's last known address. If both are unknown, the notice shall be sent to or posted on the property address.
3. The notice shall be substantially in the following form:

NOTICE TO REMOVE GRAFFITI

Date of notice: _____

NOTICE IS HEREBY GIVEN that you are required by law, at your expense, to remove or paint over the graffiti located on the property situated at _____, Monett, Missouri, which is visible to public view, within ten (10) days after the date of this notice.

You may request a hearing on this order before the City Administrator within (10) days of the date of this notice. If the graffiti is not removed or painted over or a hearing requested within ten (10) days of the date of this notice or within ten (10) days of a determination by the City Administrator subsequent to a hearing upon this notice, the City will enter upon your property and abate the public nuisance by removing or painting over the graffiti. The cost of the abatement by the City will be assessed against this property and such costs, if not paid by you within thirty (30) days of the abatement, will constitute a lien upon the property until paid.

4. Upon failure of the person(s) to comply with the notice by the designated date or within ten (10) days after any hearing where a nuisance is determined by the City Administrator, the City is authorized to cause the graffiti to be abated by City employees or a private contractor employed by the City. The City or its private contractor is expressly authorized to enter upon the premises for such purposes. If the City or its private contractor accomplish the removal of the graffiti, they shall not authorize nor undertake to provide for the painting or repair of any more extensive area than that where the graffiti is located.
5. The City will provide the owner of the premises, or the agent of the owner of the affected premises, notice in the manner set forth above of the City's intent to assess the costs of abatement against the property. Any and all costs incurred by the City in the abatement of the graffiti under the provisions of this Section, which authorize assessment of the cost, shall constitute a lien against the property upon which such nuisance existed. Any such assessment

shall be collected in the same manner as is provided in the Code of Ordinances of the City of Monett, Missouri, for all other taxes and/or assessments.

- E. *Penalty.* Any person violating or failing to comply with any provision of this Section shall be deemed guilty of an ordinance violation and upon conviction thereof shall be punished as provided in Section 100.080 of this Code.

Section 225.050. Violations. [R.O. 2012 §225.050; CC 1979 §19-5; Ord. No. A-1923 §5, 4-26-1962]

Any person violating or failing to comply with any provision of this Chapter shall be deemed guilty of an ordinance violation and, upon conviction thereof, shall be punished as provided in Section 100.080 of this Code.