



Recording Date/Time: 09/27/2024 at 10:34:04 AM

Book: 5100 Page: 45

Instr #: 755849

Type: ORD

Pages: 6

Fee: \$39.00 S 20240011260

Mike Medsker  
Recorder of Deeds

Bill No. 581

Ordinance No. 024-0010

**AN ORDINANCE REPEALING ORDINANCE 016-0012, AND REPLACING WITH AN ORDINANCE PROVIDING FOR THE DECLARATION AND ABATEMENT OF PUBLIC NUISANCES**

**BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLEVELAND, MISSOURI AS FOLLOWS:**

WHEREAS, Section 67.398, RSMo provides the governing body of a city may declare the presence of certain debris and conditions upon any property to be a public nuisance; and

WHEREAS, Section 67.398, RSMo further provides that the costs incurred by the city in removing or abating such nuisance conditions may be recovered from the owner of the offending property either by including such costs in a special tax bill or by having such costs added to the annual real estate tax bill for the property; and

WHEREAS, it is the desire and intent of the Board of Aldermen to enhance and protect the public health, safety and public welfare by providing a process for declaration of such public nuisances and recovery of the costs of removal or abatement of same.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLEVELAND, AS FOLLOWS:

**Section 1 Definitions.** The following terms, as used in this Ordinance, shall have the following meaning:

1. **Building Official:** any person designated by the city to enforce the provisions of this Ordinance;
2. **Nuisance:** any of the following conditions that exist on private property shall constitute a nuisance therefore not allowed:

- a. The open storage of any derelict, junk, scrapped, disassembled, wrecked, disabled, unlicensed or otherwise inoperable vehicle or any other vehicle deemed by the city to constitute a public safety hazard. However, such vehicle shall not constitute a nuisance if it is completely enclosed within a locked building or locked fenced area and not visible from adjacent public or private property. This subsection shall not apply to any vehicle upon the property of a business licensed as salvage, swap, junk dealer, towing or storage facility so long as the business is operated in compliance with its business license and the property is in compliance with applicable laws.
- b. Refuse, waste, or debris of any kind, weed cuttings, cut, fallen, or hazardous trees and shrubs, overgrown vegetation and noxious weeds which are twelve inches (12") or more in height. Weeds shall be defined as all grasses. Annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. Rubbish and trash, lumber not piled or stacked neatly, tin, steel, parts of derelict cars or trucks, derelict appliances, broken furniture, any flammable material or condition which may endanger public safety, or any material or condition which is unhealthy or unsafe;

Notwithstanding the foregoing paragraph, it shall not be a nuisance for purposes of this Ordinance for vegetation to grow twelve inches (12") or more in height if such vegetation grows on a lot that is zoned agricultural and is actually being used for agricultural purposes as long as such vegetation is cut at least once in the spring (May through July) and once in the fall (September through November). However, in no case shall overgrown vegetation or weeds, which are twelve inches (12") inches or more in height, be allowed within twenty-five feet (25') of: (1) any public or private roadway or street; or (2) any public or private improvements including buildings, outbuildings, walls, fences, drives, or property lines.

**Section 2. The Use of Temporary Protective Covering on Buildings:** Temporary Protective Covering (i.e. tarp, salvage covers, tarpaper) on external portions of buildings, structures or appurtenances shall not be allowed to exceed 30 days. The Building Official may grant one 30–60-day extension, if the property owner or representative had provided a set of plans and/or written strategy for repairing the structure within the initial 30 days of installing the temporary protective covering. The temporary protective covering may not be placed for more than 90 days without permission from the Building Official

**Section 3. Violation.** It shall be a violation of this Ordinance and declared a public nuisance for any person who is the owner or occupant of any premises to allow or cause any nuisance to exist on such premises. Each day that a violation of this Ordinance continues shall be deemed a separate offense.

**Section 3.1 Notice and Order.** When a nuisance exists, the Building Official may declare a public nuisance and give written notice to the owner or occupant of the property, if the property is not owner-occupied, and order such nuisance be removed and/or abated.

1. Such notice and order shall be given by one of the following means:
  - a. Personal service; or
  - b. First-class mail to both the occupant of the property at the property address and the owner at the last known address, if not the same.

If none of those above-stated methods are successful, the Building Official may cause such notice and removal order to be posted on or about the premises described in the notice.

If the owner or occupant is a corporation, notice and removal order shall be served upon an officer, a person in charge of any local business office, or its registered agent or any other agent authorized by appointment or required by law to receive service of process.

2. Such notice and removal order shall, at a minimum:
  - a. Declare that a public nuisance exists;
  - b. Specifically describe the condition which constitutes such nuisance;
  - c. Identify what action will remedy the nuisance;
  - d. Order the removal or abatement of such condition not less than ten (10) days from the date of receipt of such notice, unless a condition presents an immediate, specifically identified risk to the public health or safety;
  - e. Describe the location of the property where the nuisance exists (using the street address rather than a legal description when reasonably possible to do so);
  - f. State that if the owner or occupant fails to begin removing or abating the nuisance within the time allowed or pursue the removal or abatement of such nuisance without unnecessary delay the Building Official may cause the condition which constitutes the nuisance to be removed or abated and that the cost of such removal or abatement may be included in a special tax bill or added to the annual real estate tax bill for the property and collected in the same manner and procedure for collecting real estate taxes;
  - g. State that if the owner or occupant of such property fails to begin removing or abating the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, such owner or occupant may be cited in municipal court for violating this Ordinance and shall, upon conviction in municipal court, be subject to punishment by a fine pursuant to Section 6. of this Ordinance.

#### ***Section 4. Abatement.***

If the owner or occupant fails to begin removal or abatement of the nuisance in accordance with the removal order within the time allowed, or upon failure to pursue the removal and abatement of such nuisance without unnecessary delay, the Building Official may cause the condition which constitutes the nuisance to be removed or abated.

Any person who shall refuse, hinder, or otherwise interfere with the entry of any Building Official, police officer or any other officer, agent, or employee of the city, in their lawful duties of inspection, posting notice and removal order, discovery, or abatement of any nuisance, shall be deemed guilty of a separate offense hereunder and shall be subject to a fine of not more than

five hundred dollars (\$500.00), or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment.

***Section 5. Certification of Abatement Cost.***

If the Building Official has sent notice and a removal order to the owner in accordance with Section 1.3, and causes a nuisance to be removed or abated in accordance with Section 1.4, he shall certify the cost of such removal and abatement (which may include reasonable fees for the city's costs in administering this Ordinance) and proof of notice to the property owner to the city clerk who 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 official collecting taxes in the same manner and procedure for collecting real estate taxes.

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 from the date the tax bill is delinquent until paid. In the event a lawsuit is required to enforce the tax bill, the city may charge the property owner costs of collecting the tax bill including attorney's fees.

***Section 6. Penalty for Violation.***

If the owner or occupant of such property fails to begin removal or abatement of the nuisance within the time allowed, or upon failure to pursue the removal or abatement of such nuisance without unnecessary delay, such owner or occupant may be cited in municipal court for violating this Ordinance and shall, upon conviction in municipal court, be subject to punishment by a fine, if combined with court cost, for violations committed within a twelve-month period beginning with the first violation totaling in excess of: two hundred dollars (\$200) for the first violation, two hundred seventy-five dollars (\$275) for the second violations, three hundred and fifty dollars (\$350) for the third violation, and four hundred fifty dollars (\$450) for the fourth and any subsequent violations. The Municipal Judge may not sentence a person found guilty under this Ordinance to imprisonment or confinement for failure to pay the applicable fine, unless such nonpayment violates terms of probation or unless the due process procedures mandated by Missouri Supreme Court Rule 37.65 or its successor rule are strictly followed. An owner or occupant cited in municipal court must have first received, by personal service or certified mail, the written notice and removal order described herein. Each day that a violation continues shall constitute a separate and distinct offense. All penalties are in addition to assessed costs of removal.

***Section 7. Repealing Ordinance.*** Ordinance 016-0012, an ordinance providing for the declaration and abatement of public nuisances, is hereby repealed.

***Section 8.*** The provisions of this ordinance are declared to be severable, and if any sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance, but they shall remain in effect notwithstanding the invalidity of any part, and shall be carried out as nearly as possible in accordance with its original terms and intent.

**Section 9. EFFECTIVE DATE:** That this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED THIS 17<sup>TH</sup> DAY OF SEPTEMBER, 2024, BY THE BOARD OF ALDERMEN OF THE CITY OF CLEVELAND, MISSOURI.

APPROVED:

Kevin Roberson  
Kevin Roberson, Mayor

ATTEST:

Tasneam Nawaz  
Tasneam Nawaz, City Clerk

VOTE:

Alderman Hull	<u>Aye</u>
Alderman Goben	<u>Aye</u>
Alderman B. Hull	<u>Aye</u>
Alderman Muller	<u>Aye</u>
Alderman Walker	<u>Aye</u>

Mayor Roberson (in event of tie only) \_\_\_\_\_

City Seal

