

CHAPTER 44

NUISANCE

DEFINITIONS

4400. Definitions.

Unless the context specifically indicates otherwise, the meanings of terms used in this chapter shall be as follows. (Ord. 725, Sec. 1, Eff. 9-27-79)

4401. Abandoned, Wrecked, Damaged, Demolished, or Disabled Vehicles.

Abandoned, Wrecked, Damaged, Demolished, or Disabled vehicles means any abandoned, wrecked, damaged, demolished or disabled vehicle, or portion of a vehicle which is:

a. Attractive Nuisance. Left or permitted to remain on any property which is accessible to children for a period in excess of fifteen (15) days and which may be an attractive nuisance to children and constitute a danger to children;

b. Vegetation Growing Around or In Vehicle. Left or permitted to remain on any property where weeds, grass and other vegetation are allowed to grow in or around the vehicle; or

c. Breeding Place for Vermin. Left or permitted to remain on any property where the vehicle may afford a harborage place or breeding place for mosquitoes, flies, rodents, rats or other vermin. (Ord. 725, Sec. 1.1, Eff. 9-27-79)

C/R: 3409.00, vehicle defined.

4401.1 Exclusions.

Section 4401.00 shall not apply to:

a. Enclosed Within Buildings. Any vehicle enclosed within a building on private property;

b. Vehicle in Connection With Business. Any vehicle held in connection with a lawfully licensed and properly operated business enterprise in the appropriate zoning district, pursuant to the zoning order of the county;

c. Operation on Drag Strips or Raceways. Any motor vehicle in operable condition specifically adapted or designed for operation on drag strips or raceways; or

d. Antique Collection. Any vehicle retained by the owner for antique

collection purposes, and currently registered with and licensed by the Missouri Department of Revenue as a historic vehicle. (Ord. 725, Sec. 1.1, Eff. 9-27-79; Ord. 3748, Eff. 4/26/2006)

C/R 3409.00 Vehicle defined.

4402. Dangerous Dilapidated Decayed Unsafe or Unsanitary Buildings and Structures.
Dangerous, dilapidated, decayed, unsafe or unsanitary buildings and structures mean all buildings or structures which have any or all of the following defects. (Ord. 725, Sec. 1.2, Eff. 9-27-79)

4402.1 Interior Walls List, Lean or Buckle.

Section 4402.00 includes those buildings or structures whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line dropped from the center of the upper portion of the member falls outside the middle third of the member at any point. (Ord. 725, Sec. 1.2(a), Eff. 9-27-79)

4402.2 Damage or Deterioration.

Section 4402.00 includes those buildings or structures which, exclusive of the foundation, show thirty-three percent (33%) or more, of damage or deterioration of the supporting members or fifty percent (50%) of damage or deterioration of non-supporting enclosing or outside walls or covering. (Ord. 725, Sec. 1.2(b), Eff. 9-27-79)

4402.3 Improperly Distributed Loads.

Section 4402.00 includes those buildings or structures which have improperly distributed loads on floors or roofs, those in which the same are over loaded or those which have insufficient strength to be reasonably safe for the purpose used. (Ord. 725, Sec. 1.2(c), Eff. 9-27-79)

4402.4 Dangerous to Life Safety or General Health or Welfare.

Section 4402.00 includes those buildings or structures which have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the area. (Ord. 725, Sec. 1.2(d), Eff. 9-27-79)

4402.5 Likely to Cause Sickness or Disease.

Section 4402.00 includes those buildings or structures which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living in the buildings or structures. (Ord. 725, Sec. 1.2(e), Eff. 9-27-79)

4402.6 Unsafe, Unsanitary or Dangerous.

Section 4402.06 includes those buildings or structures which because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the residents of the area. (Ord. 725, Sec. 1.2(f), Eff. 9-27-79)

4403. Health Officer.

Health Officer means the Director of the Jackson County Health Department or his authorized representative. (Ord. 725, Sec. 1.4, Eff. 9-27-79)

4404. Litter, Trash and Garbage.

Litter, trash and garbage means all ashes, cinders, slops, filth, excrement, boards, sawdust, wood or metal shavings, rubber, old tires, stones, rocks, sand, oil, coal oil, gasoline, paint, dirt, dust, straw, soot, sticks, lumber scraps, boxes, barrels, kegs, crates, cans, bottles, cartons, paper trash, leavings, sweepings, rubbish, refuse, debris, slag, garbage, manure, offal, putrid fish, meat entrails, decayed fruit or vegetables, waste water, animal or vegetable products or matter, broken wire, broken glass, rags, bones, old iron, tracks, nails, wire or other metal, grass, leaves, weeds, foliage or shrub cuttings or clippings, old wearing apparel, all dead animals or other offensive or disagreeable substance or things thrown, cast, dropped, blown, spilled, poured, discharged, swept, let or deposited by anyone in or on any, curb, gutter, street, alley, boulevard, highway, right of way, viaduct, tunnel, sidewalk, park, parkway, public square, public building, lot, parcel, plot, acreage, vacant or occupied, vacant building, pond, stream or pool of water. (Ord. 725 Sec. 1.3, Eff. 9-27-79)

4404.1 Exclusive Use of Solid Waste for Farming.

Section 4404.00 shall not apply to prohibit the use of or to require a permit for the use of solid waste (nonfood, animal or vegetable products or matter) in normal farming operations in a manner which will not create a public nuisance or adversely affect the public health, safety or general welfare. (Ord. 725, Sec. 1.3, Eff. 9-27-79)

4404.2 Exclusive Disposal of Solid Waste by Individual.

Section 4404.00 shall not prohibit the disposal of or require that a permit for the disposal by an individual of solid waste resulting from the residential activities of that individual on property owned or lawfully occupied by that individual when the solid waste does not create a public nuisance or adversely affect the public health, safety or general welfare. (Ord. 725, Sec. 1.3, Eff. 7-27-79)

4404.3 Use or Disposal of Solid Waste.

Any use of disposal of solid waste under Sections 4404.01 and 4404.02 shall be done in such a way as to not create an unsightly or untidy appearance and the appropriate precautions shall be taken to limit the blowing spilling, pouring, discharge, sweeping and letter such solid waste. (Ord. 725, Sec. 1.3, Eff. 9-27-79)

4404.4 Exclusion, Commercial Hauler or Collector.

Section 4414.00 shall not apply to any commercial hauler or collector of litter, trash,

garbage or refuse, lawfully licensed and properly operated in the appropriate zoning district, pursuant to the zoning order of the county. (Ord. 725, Sec. 1.3, Eff. 9-27-79)
C/R: 4406.00, properly operated defined.

4405. Properly Operated.

Properly operated shall mean that all litter, trash, garbage or refuse that must be transported over any street, road or highway shall be carried in covered vehicle so that it cannot be dropped, blown, spilled, poured or discharged. (Ord. 725, Sec. 1.3, Eff. 9-17-79)

4406. Nuisance.

The following are defined, deemed and declared to be nuisances specifically defined by the laws of the State of Missouri or other ordinances of Jackson County, Missouri. (Ord. 725, Sec. 2, Eff. 9-27-79)

C/R: Chptr. 46, Weeds, Chptr. 45, Animals

4406.1 Abandoned Vehicles.

Abandoned, wrecked damaged, demolished or disabled vehicles constitute a public nuisance. (Ord. 725, Sec. 2.1, Eff. 9-27-79)

C/R: 4401.00, Abandoned, wrecked damaged, demolished or disabled vehicles defined and 4409.00, vehicles defined.

4406.2 Dangerous Building or Structures.

Dangerous, dilapidated, decayed, unsafe or unsanitary buildings or structures constitute a public nuisance. (Ord. 725, Sec. 2.2, Eff. 9-27-79)

C/R: 4402.00, of dangerous, dilapidated, decayed, unsafe or unsanitary buildings or structures, defined.

4406.3 Litter, Trash or Garbage.

Litter, trash or garbage constitutes a public nuisance. (Ord. 725, Sec. 2.3, Eff. 9-27-79)

C/R: 4404.00, litter, trash or garbage, defined.

4406.4 Wells, Cisterns or Basements.

Abandoned, open, uncovered, unprotected or unsafe wells, cisterns or basements constitute a public nuisance. (Ord. 725, Sec. 2.4, Eff. 9-27-79)

C/R: 4410.00, wells, cisterns or basements, defined.

4406.5 Stagnant and Offensive Water.

Stagnant and offensive water or sewage, constitutes a public nuisance. (Ord. 725, Sec. 2.5, Eff. 9-27-79)

C/R: 4407.00, stagnant and offensive water, defined.

4406.6 Unsafe Refrigerators or Freezers.

Unsafe refrigerators or freezers constitute a public nuisance. (Ord. 725, Sec. 2.6, Eff. 9-27-79)

C/R: 4408.00, unsafe refrigerators or freezers, defined.

4407. Stagnant and Offensive Water.

Stagnant and offensive water means:

a. Stagnant or Offensive Water Allowed Accumulated. Any unwholesome, impure, stagnant or offensive water, sewage, urine, waste water or wash water allowed to accumulate or remain, continue or stagnate on, in or about any lot, tract or piece of ground within the area covered by this chapter;

b. Cause or Permit Vessels to Retain Water. To cause or permit any barrels, buckets, logs, tubs, cans or vessels of any kind whatsoever to be thrown, placed or remain on any lot, property or grounds that might, could or would catch, hold, contain or retain water or sewage in which mosquitoes, insects, bugs, worms or other living creatures might be bred, hatched, raised or allowed to remain or accumulate to the detriment of the health, safety or general welfare of the inhabitants of the area. (Ord. 725, Sec. 1.7, Eff. 9-27-79)

4408. Unsafe Refrigerators Freezers.

Unsafe refrigerators or freezers mean any abandoned, unattended or discarded ice box, refrigerator, freezer or other container which has an air tight door or lid, snap-lock or other locking device which may not be released from the inside. (Ord. 725, Sec. 1.8, Eff. 9-27-79)

4409. Vehicle.

Vehicle means a machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery and shall include, without limitation, automobiles, truck trailers, motorcycles, tractors, farm implements, buggies and wagons, or any part or portion of these vehicles. (Ord. 725, Sec. 1.5, Eff. 9-27-79)

4410. Wells, Cisterns or Basements.

Wells, cisterns or basements mean any open, uncovered, unprotected or unsafe well, cistern or basement, or any well, cistern or basement containing water, chemicals or other liquids which a chemical analysis discloses to be impure or unwholesome in nature. (Ord. 725, Sec. 1.6, Eff. 9-27-79)

4411. - 4429.00 RESERVED

DUTIES OF OWNER

4430. Nuisance Prohibited.

No owner, occupant or person in control of any property within the unincorporated area of Jackson County, Missouri shall permit, cause, keep, maintain or do engage in any activity

which constitutes a nuisance as defined by this chapter. (Ord. 725, Sec. 3, Eff. 9-27-79)
C/R: 4406.00, Nuisance, defined.

4431. Duty of Owner.

It shall be the duty of every owner, occupant or person in control of any property to abate, remove, destroy or vacate if such be the case, any nuisance as declared by this chapter. (Ord. 725, Sec. 3, Eff. 9-27-79)
C/R: 4406.00, Nuisance, defined.

4432. Penalty, Nuisance Violation.

Any owner, agent, occupant or person in control of any property described in Section 4430.00 shall on conviction be fined not more than five hundred dollars (\$500) or imprisoned in the county jail for a term not to exceed six (6) months or both. (Ord. 725, Sec. 10, Eff. 9-27-79)

4433. Separate Violation.

Each day of violation shall constitute or separate offense as to each separate lot or tract of land owned or controlled by the owner, agent, occupant or person. (Ord. 725, Sec. 10, Eff. 9-27-79)

4434. - 4439. RESERVED

PROCEDURE WHEN NUISANCE FOUND

4440. Right of Entry.

The Health Officer or his agent, employee or representative is authorized to enter on and to inspect any real property or building or parts of buildings for the purpose of examining the sanitary condition and for the discovery and abatement of any nuisance on that property building. (Ord. 725, Sec. 4, Eff. 9-27-79)
C/R: 4403.00, health officer, defined and 4406.00, nuisance defined.

4441. Findings to Health Officer.

If an inspection conducted pursuant to Section 4440.00 result in a finding that any nuisance or any unsafe or unsanitary conditions exist, the same shall be reported to the Health Officer. (Ord. 725, Sec. 4, Eff. 9-27-79)
C/R: 4406.00, nuisance defined.

4442. Determination by Health Officer.

Whenever the Health Officer determines that a nuisance, detrimental to the health, safety or general welfare exists on any private property within the unincorporated area of Jackson County, Missouri, the Health Officer shall notify the owner or other person in control of the property that a nuisance exists. (Ord. 725, Sec. 5, Eff. 9-27-79)
C/R: 4406.00, nuisance defined; 4443.00, notice requirements.

4443. Notice of Nuisance.

The Health Officer shall notify the owner or other person in control of the property that a

nuisance has been determined to exist, that it constitutes a nuisance detrimental to the health, safety or general welfare of the residents of the area and that action must be initiated to abate, remove, destroy, recondition, demolish or vacate, if such be the case, within the time set forth by Section 4446.00. (Ord. 725, Sec. 5, Eff. 9-27-79)

4444. Service of Notice.

The notice shall be served in any of the following ways. (Ord. 725, Sec. 5, Eff. 9-27-79)

4444.1 Personal Delivery.

Notice may be served by delivering the notice to the owner, agent, occupant or other person in control either in the county or elsewhere. (Ord. 725, Sec. 5(a), Eff. 9-27-79)

4444.2 Posting Notice.

Notice may be served by posting a copy of the notice on the property in question. (Ord. 725, Sec. 5(b), Eff. 9-27-79)

4444.3 Certified or Registered Mail.

Notice may be served by sending United States, first class, certified or registered mail, the notice to the owner or other person in control of the property, either at his place of business or residence. (Ord. 725, Sec. 5(c), Eff. 9-27-79)

4445. Time Deemed Served.

Notice given in accordance with Sections 4444.02 and 4444.03 is deemed served as follows. (Ord. 725, Sec. 5, Eff. 9-27-79)

C/R: 4445.00, contents of notice.

4445.1 Posting Notice.

Notice by posting on the property in question is deemed served twenty-four (24) hours after the posting. (Ord. 725, Sec. 5(f), Eff. 9-27-79)

4445.2 By Certified or Registered Mail to Resident.

Notice given by certified or registered mail is deemed served twenty-four (24) hours after the mailing of the notice, if the business or residence address of the owner or other person in control of the property is in Jackson County, Missouri. (Ord. 725, Sec. 5, (c), Eff. 9-27-79)

4445.3 By Certified or Registered Mail to Nonresident.

Notice given by certified or registered mail is deemed served at the end of three (3) days after mailing the notice if the owner or other person in control of the property are nonresidents of Jackson County, Missouri. (Ord. 725, Sec. 5(c), Eff. 9-27-79)

4446. Time to Comply.

Action must be initiated to abate, remove, destroy, recondition, demolish or vacate, if such be the case, the nuisance within fifteen (15) days after the notice is served. (Ord. 725, Sec.

5, Eff. 9-27-79)

C/R: 4445.01, time notice is deemed served, and 4443.00, contents of notice.

4447. - 4449. RESERVED

HEARING

4450. Hearing.

The owner of the property on which the nuisance is determined to exist, may request a hearing. (Ord. 725, Sec. 5, Eff. 9-27-79)C/R: 4450.03, scope of review.

4450.1 Time to Request.

The owner of that property may request a hearing within the fifteen (15) days period referred to in Section 4446.00. (Ord. 725, Sec. 5, Eff. 9-27-79)

4450.2 Scope of Review.

The owner of that property may request that a hearing be conducted for the purpose of contesting the determination of the Director that a nuisance exists on the property or for the purpose of contesting the determination that the property is that of the alleged owner. (Ord. 725, Sec. 5, Eff. 9-27-79)

4450.3 Hearing Officer.

The Health Officer shall conduct the hearing. (Ord. 725, Sec. 5, Eff. 9-27-79)

4450.4 Notice of Hearing.

The alleged owner of that property shall be notified of the hearing by certificate or registered mail at least five (5) days prior to the date set for hearing. (Ord. 725, Sec. 5, Eff. 9-27-79)

4451. Time for Hearing.

The Health Officer shall conduct the hearing as soon as may be practicable but no earlier than five (5) days after notice by certified or registered mail is given to the alleged owner of the property. (Ord. 725, Sec. 5, Eff. 9-27-79)

4452. Property Owner Rights at Nuisance Hearing.

At the hearing before the Health Officer, the alleged owner of the property in question shall have the following rights. (Ord. 725, Sec. 5, Eff. 9-27-79)

4452.1 Represented by Counsel.

The alleged owner of property shall have the right to be represented by counsel. (Ord. 725, Sec. 5, Eff. 9-27-79)

4452.2 Present Testimony.

The alleged owner of the property shall have the right to present testimony. (Ord. 725, Sec. 5, Eff. 9-27-79)

4452.3 Offer Evidence and Arguments.

The alleged owner of the property shall have the right to offer evidence and arguments. (Ord. 725, Sec. 5, Eff. 9-27-79)

4452.4 Cross-Examine Witnesses.

The alleged owner of the property shall have the right to cross-examine witnesses. (Ord. 725, Sec. 5, Eff. 9-27-79)

4453. Testimony Under Oath.

All testimony at the hearing shall be taken under oath. (Ord. 725, Sec. 5, Eff. 9-27-79)

4454. Determination of Health Officer.

If the Health Officer after the hearing shall determine that nuisance detrimental to health exists on the property and that the person requesting the hearing is the owner of the property on which the nuisance is located, the Health Officer shall file, in writing, findings of facts and an order that actions be initiated to abate the nuisance within fifteen (15) days. (Ord. 725, Sec. 5, Eff. 9-27-79)

4455. Notice of Determination to Owner.

The Health Officer shall cause the finding of facts and order to be served on the owner of the property by certified registered mail or by mailing a copy of the findings of facts and the order to counsel, if any, by certified or registered mail. (Ord. 725, Sec. 5, Eff. 9-27-79)

FAILURE TO COMPLY

4460. Failure to Comply.

If the owner or other person in control of the property fails to comply with the notice, the Health Officer may abate, remove, destroy, demolish or vacate if such be the case, any nuisance as declared by this chapter. (Ord. 725, Sec. 6, Eff. 9-27-79)

C/R: 4406.00, nuisance defined.

4461. Right to Enter.

The Health Officer or his representative shall have the right to enter on property on which any nuisance is situated for the purpose of enforcing Section 4460.00. (Ord. 725, Sec. 6, Eff. 9-27-79)

4462. Enforcement by Suitable Means.

The Health Officer or his representative may use any suitable means or assistance for the purpose of abating, destroying or removing the nuisance. (Ord. 725, Sec. 6, Eff. 9-27-79)

4462.1 Contract With Private Firms.

The Health Officer may contract with private firms to abate, destroy or remove any nuisance after listing of contracts by the Purchasing Manager. (Ord. 725, Sec. 6, Eff. 9-27-79)

C/R: Chapter 10, Purchasing.

4463. Nuisance Abatement, Certification of Costs.

On completion of the abatement removal, destruction or demolition of the nuisance by the Health Officer or his representative, the Health Officer shall certify the total costs to the Department of Revenue. (Ord. 725, Sec. 7, Eff. 9-27-79)

4463.1 Included Charges.

Each certificate of cost shall include a charge of ten dollars (\$10) for inspecting the property and giving the notice, and a further charge of five dollars (\$5) for issuing and recording a special tax bill. (Ord. 725, Sec. 7, Eff. 9-27-79)

C/R: 4464.00, special tax bill.

4464. Special Tax Assessment, Nuisance Abatement.

The Director of Revenue shall, on approval of the report, assess in the name of the owner of the land the costs of abatement, removal, destruction or demolition against each lot or parcel of land chargeable as a special tax for services provided the property. (Ord. 725, Sec. 8, Eff. 9-27-79)

COLLECTION

4470. Collection by Suit.

All special tax bills issued for the abatement, removal, destruction or demolition of any nuisances shall be collectible by suit brought by the County Counselor in the name of the county. (Ord. 725, Sec. 9, Eff. 9-27-79)

4471. Prima Facie Evidence.

The special tax bill and any action on that tax bill shall be prima facie evidence of the regularity of the proceedings for that special assessment, the validity of the bill, the doing of the work, the furnishing of the material charged and the liability of the property to the change stated in the bill, including the costs of bringing the action as part of the cost of abating, removing or destroying the nuisance. (Ord. 725, Sec. 9, Eff. 9-27-79)