

Boone County Public Nuisance Ordinance

Chapter 6

- 6.1 **Purposes:** The regulations in this chapter are enacted for the purpose of regulating and eliminating public health hazards and public nuisances in order to protect and promote the public health and safety and prevent the entrance of infectious, contagious, communicable or dangerous disease into Boone County, Missouri.
- 6.2 **Authority:** These regulations are enacted under authority vested in the County Commission of Boone County, Missouri by sections 192.300 and 67.402, RSMo
- 6.3 **Definitions:** As used in this chapter, unless the context clearly indicates otherwise, the following words and terms shall have the following meanings:
- 6.3.1 **Agricultural Property** -Property which is zoned for agricultural uses under the zoning regulations of Boone County except properties within such zones which have been subdivided under the subdivision regulations of Boone County for residential uses.
- 6.3.2 **Dismantled vehicle** - means any vehicle missing significant body parts such as the hood, fender, cab, door or trunk lid.
- 6.3.3 **Health Director** - Any person appointed by the Boone County Commission to supervise the administration of this chapter or such other person(s) so designated on a temporary basis by order of the Boone County Commission.
- 6.3.4 **Health Official** - Any employee of the Boone County, Missouri Health Department or any other person so appointed by the Health Director with the

advice and consent of the Boone County Commission to administer or enforce the provisions of this chapter.

6.3.5 **Inoperable vehicle** - means any vehicle that does not possess an engine, has one or more flat or missing tires, or is otherwise incapable of being operated for lack of a major component of the vehicle.

6.3.6 **Junk** - means worn, scrap, salvage or discarded materials of any nature including, but not limited to metal, glass, paper, cardboard, wood, clothing, furniture, carpeting, vehicle parts, appliances, construction material, trash and refuse.

6.3.7 **Junk-filled vehicle** - means any vehicle used to store junk provided that the junk occupies more than one-half of the enclosed area of the vehicle, or junk is piled on the hood, roof or trunk of the vehicle, or if the vehicle is a truck, any junk in the bed of the vehicle extends higher than three feet above the bed of the vehicle.

6.3.8 **Person** - Any natural person, business entity of any type, corporation, trust, association of any type, or any agent, officer or employee of any of the foregoing.

6.3.9 **Public Health Hazard** - Any condition upon real property which poses an immediate and direct hazard to human health due to the existence of the condition itself or due to the immediate threat of transmission of disease through insects, animals, or other means of transmission or infection.

6.3.10 **Public Nuisance** - A condition in real estate creating a potential danger or hazard to human health if left unremedied due to the existence of the condition

itself or due to the potential transmission of disease through insects, animals or other means of transmission or infection. Such conditions may include the presence of rubbish and trash, lumber, bricks, tin, steel, parts of derelict motorcycles, derelict cars, derelict trucks, derelict construction equipment, derelict appliances, broken furniture, or overgrown or noxious weeds in residential subdivisions which may endanger public safety or which are unhealthy or unsafe and therefore declared to be a public health nuisance.

6.3.11 Property Occupant - Any person who owns real property upon which a public health hazard or nuisance exists, and any person in possession or charge of real property who has created, maintained, or otherwise facilitated a health hazard or public nuisance upon such property.

6.3.12 Unlicensed vehicle - means any vehicle that is not validly registered under the motor vehicle laws of the State of Missouri or the laws of any other jurisdiction and any vehicle that does not display a valid current license plate in conformance with the laws of the jurisdiction in which it is registered.

6.3.13 Vehicle - means any device designed for the motorized transportation of persons or property over public ways.

6.3.14 Weeds - The term weeds shall be interpreted to include all vegetation commonly known as weeds, excluding cultivated vegetation, which shall have attained a height of 12 inches or more and vegetation which may exhale unpleasant or noxious odors.

6.4 Jurisdiction: The regulations contained in this chapter shall be applicable to all unincorporated areas within Boone County, Missouri. Any incorporated area in

Boone County not included in these regulations may be declared included by order of the Boone County Commission only after petition for such declaration has been filed by the governing body of such incorporated area and after public hearing thereon. These regulations shall particularly exclude agricultural interests which in these matters are regulated by other state and national agencies.

6.5 **Solid Waste Storage:** It shall be unlawful for any property occupant or other person who possesses or uses real estate in the jurisdiction to which these regulations are applicable to place, permit placement, or maintain upon such real estate an accumulation of trash, rubbish, garbage, lumber, bricks, tin, steel, derelict and inoperable construction equipment, derelict and inoperable appliances, broken furniture or other refuse in a condition which constitutes a public nuisance, except that this section shall not apply to:

6.5.1 **Temporary Storage** - Temporary storage of trash, garbage or other refuse in closed containers which prevent invasion of animals or insects for a time period not exceeding fourteen calendar days from the date they are disposed of lawfully,

6.5.2 **Composting** - Composting nontoxic agricultural, organic or domestic waste.

6.6 **Rat Harborages:** It shall be unlawful to keep, maintain or store upon real property refuse in a manner or condition which is conducive to rat infestation or breeding; any such violation shall constitute a public health nuisance.

6.7 **Weeds and Rank or Noxious Plants:** It shall be unlawful to permit the growth of weeds or other rank or noxious plants as the terms are defined in these regulations upon any residential lot or within any residential subdivision or district except

agricultural property; provided, however, that this exemption for agricultural property does not supersede any provision of state law governing the control or elimination of weeds or other rank or noxious plants.

- 6.8 **On Site Sewage Treatment and Disposal:** It shall be unlawful to discharge untreated and uncontained household or human sewage effluent from any building or structure above or below the ground surface. It shall be unlawful to operate or maintain or permit the operation or maintenance of a subsurface wastewater treatment system which causes chronic surface discharge of treated or untreated effluent. It shall be unlawful to operate or maintain or permit the operation or maintenance of a wastewater lagoon treatment system which causes chronic surface or subterranean discharge of treated or untreated effluent. Any unlawful discharge described herein shall constitute a public nuisance.
- 6.9 **Vehicle Nuisance; Exceptions -** The presence upon any private property within the jurisdiction to which these regulations are applicable of an unlicensed, dismantled, inoperable or junk-filled vehicle is declared to be a public nuisance and it is hereby declared unlawful for any person to cause, permit, maintain or allow the creation or maintenance of any vehicle nuisance in violation of this section. This declaration of nuisance in this section shall not apply to any property that is the site of a lawful motor vehicle sales or service business, a lawful towing or storage facility or a lawful junkyard; to any vehicle that is kept or stored in a garage or similar fully enclosed structure; to any vehicle that is enclosed within a locked fenced area and is not clearly visible from adjacent public or private property, and to any unlicensed vehicle that is kept or stored in a carport provided

that the unlicensed vehicle is not also a dismantled or inoperable or junk-filled vehicle.

6.10 **Abatement of Public Health Hazards and Public Nuisances:** Public health hazards and public nuisances shall be abated in accordance with the following rules and procedures:

6.10.1 **Determination of Public Health Hazards and Public Nuisances:** It shall be the duty of the Health Director and/or Health Official to determine whether or not a public health hazard or public nuisance as defined in these regulations exists. In the event the Health Director or a Health Official determines that a public health hazard or nuisance exists upon any real estate, then he or she shall promptly give written notice of that determination to the property occupant, owner, and any other persons having an interest in the property as shown by the land records maintained by the Recorder of Deeds of the County, by personal service upon such persons, or by certified mail, return receipt requested, or if service cannot be had by either of these methods, then service upon them by publication in a newspaper of general circulation published within the geographic vicinity where the violation occurred. Such notice shall identify the nuisance and require the persons to whom notice was given to abate the nuisance within 15 days of receipt of notice, or such other shorter or longer time as reasonably determined by the Director or Health Official giving notice. Further, if the Director or Health Official determines that the immediate abatement is necessary to preserve the public health or safety, then in such cases immediate abatement

may be ordered as provided in section 6.10.2 regardless of property occupant abatement obligations hereunder.

6.10.2 Governmental Abatement of Public Health Hazards and Public

Nuisances –If a property occupant, or other person having interest in real estate upon which a nuisance has been ordered abated by the Health Director or Health Official fails to abate a health hazard or nuisance within the time specified in the notice for abatement, or if any such person fails to proceed continuously with abatement without unnecessary delay, then the Health Director or other Health Official may request a hearing before the County Commission for an order to abate any public health hazard or nuisance as defined in these regulations through use of governmental resources or by government contract with the expense of such abatement to be charged against the property as a special tax bill, or added to the real estate taxes due and owing for the year in which governmental abatement occurs. Notice of such hearing shall be given to all persons to whom a notice of abatement had been previously given and to such other persons who may have been disclosed to the Health Director or Health Official as having an interest in the property; such notice shall be given at least 10 days in advance of the hearing. At such hearing all persons to whom notice has been given shall have an opportunity to be heard as to whether the property is a public health hazard or public nuisance, or otherwise detrimental to the health, safety or welfare of the residents of the county, provided, however, it shall be presumed that the public health hazard or public nuisance exists upon such property if no appeal of the decision of the Health Director or Health Official that such public health hazard

and nuisance exists is made in the time and manner as prescribed by section 6.10.3 of this regulation. Upon the conclusion of any such hearing the County Commission shall issue its order making specific findings of fact based upon competent and substantial evidence presented at such hearing, which shows the property does or does not constitute a public health hazard or public nuisance, or is otherwise detrimental to the health, safety and welfare of the residents of the County. If the County Commission finds such public health hazard or public nuisance exists, it may order abatement of such health hazard or nuisance at governmental expense with the cost thereof to be certified to the County Clerk and County Collector for purposes of issuance of a special tax bill or additional tax on the real estate tax bill to be collected as other real estate taxes as prescribed by §67.402.3 RSMo.

6.10.3 Right of Appeal: A property occupant or other person given notice by the Health Director or Health Official shall have the right to appeal such decision to the County Commission provided such appeal is made and filed with the County Commission within 15 days of personal service or receipt of written notice by certified mail of the Health Director's decision, or before the time specified for abatement, whichever is shorter. Decisions made by the County Commission concerning such appeals shall be final for purposes of judicial review.

