

TITLE 15 – PUBLIC NUISANCE

Chapter 15.01 – Definitions

15.01.010 Definitions

The following words or terms, when used herein, shall be deemed to have the meanings set forth below:

1. Abandoned Vehicle shall include without limitation any vehicle which has remained on private property for a period of forty-eight (48) continuous hours, or more, without consent of the owner or occupant of the property or for a period of forty-eight (48) continuous hours or more, after the consent of the owner or occupant has been revoked.
2. Blighted Structure shall include without limitation any dwelling, garages, or outbuilding, or any factory, shop, store, warehouse or any other structure or part of a structure which because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, not useful for the purpose for which it may have been intended.
3. Building Materials shall include without limitation, lumber, bricks, concrete or cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure.
4. Inoperative shall mean a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned, or unable to perform the functions of purposes for which a vehicle was originally constructed.
5. Junk shall include without limitation parts of machinery or motor vehicles, unused furniture, stoves, refrigerators, or other appliances, remnants of wood, metal, or any other castoff material of any kind, whether or not the same could be put to any reasonable use.
6. Junk Automobiles shall include without limitation any motor vehicle which is not licensed for use upon the highways of the state for a period in excess of sixty (60) days and shall also include whether licensed or not any motor vehicle which is inoperative for any reason for a period in excess of sixty (60) days, provided that there is excepted from this definition unlicensed but operative vehicles which are kept as a stock in trade of regularly licensed and established new or used automobile dealer.
7. Person shall include all natural person, firms, co-partnerships, corporations, and all associations of natural person, incorporated or unincorporated, whether acting themselves or by a servant, agent, or employee. Persons shall also include landlords and tenants jointly or severally. All persons who violate any of the provisions of this article, whether as owner, occupant, lessee, agent, servant or employee shall, except as herein otherwise provided, be equally liable as principals.
8. Portable Storage Container – Containers that are used for storage purposes and are also known as shipping containers, cargo containers, cargo-trailer contains, metal freight containers, and metal containers designed for freight and cargo.
9. Trash and Rubbish shall include any and all forms of debris not herein otherwise classified.

Chapter 15.02 – Accumulation of Garbage – Nuisance

The accumulation of garbage within the City of Rolla so as to become a menace to health, or detract from the general cleanliness of the City, and the storing or keeping of garbage contrary to the public health and safety, is hereby declared to be a public nuisance and unlawful. The accumulation of fallen or cut trees and branches and other items of is also declared to be a public nuisance and unlawful. Such nuisance shall be abated in the manner prescribed by this Title.

Chapter 15.03 – Trees – Nuisance

15.03.010 Public Nuisance – When

The following are considered public nuisances whenever they may be found within the City of Rolla:

1. Any living or standing elm tree or part thereof infected to any degree with the Dutch elm disease fungus, *Ceratocystis ulmi*, and which harbors any of the elm bark beetles, *Scolytus multistriatus* or *Hylurgopinus rufipes*.
2. Any tree harboring insect or disease organisms of a contagious and fatal nature which pose a serious threat to surrounding trees if not immediately removed and disposed of.
3. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed to chipped or buried in a land fill.
4. Any tree, shrub, or hedge, or part thereof, growing upon public property or upon private property and/or overhanging or interfering with the use or vision of any public walk, street or highway, park, public place or street sign, within the City of Rolla, which in the opinion of the Public Works Supervisor endangers the life, health, safety, or property of the public, shall be declared a public nuisance.
5. Any tree, shrub, or hedge, or part thereof growing upon public property or upon private property which is found to be dangerous or unsafe shall be declared a public nuisance.

15.03.030 Abatement

It is unlawful for any person to willfully permit any public nuisance as defined above to remain on any premises owned or controlled by him within the City. Such nuisance must be abated in the manner prescribed by this Title.

Chapter 15.04 – Noxious Weeds & Tall Grass

15.04.010 Definition

Whenever used in this ordinance, the term “noxious weeds” shall mean and include all weeds of the kind known as Canada Thistle, sow thistle, quack grass, leafy spurge (*Euphorbia esula* or *Ruphrobia virgata*), field bindweed, Russian knapweed, (*Centaurea picris*), dandelions,

hoary cress (*Lepidium draba*, *Lepidium reebs*, and *Hymenophyllum pubescens*), dodder, or any similar unwanted vegetation over eight inches in height.

Whenever used in this ordinance, the term “tall grasses” shall mean all grass in excess of eight inches in height.

15.04.030 Weeds and Tall Grasses Prohibited

No owner of any lot, place or area within the City or the agent of such owner, shall permit on such lot, place or area and the one-half of any road or street lying next to the lands or boulevards abutting thereon, noxious weeds, other deleterious, unhealthful growths or tall grasses.

15.04.050 Notice to Destroy

The City auditor, Chief of Police, or any other person designated by the City Council is hereby authorized and empowered to notify in writing the owner of any lot, place, or area within the City or the agent of such owner, to cut, destroy, and /or remove any noxious weeds or tall grasses found growing, lying, or located on such owner’s property or upon the one-half of any road or street lying next to the lands or boulevards abutting thereon. The notice shall be by registered or certified mail addressed to said owner or agent of said owner at their last known address or placed on the front door of such residence and shall give such owner or agent a minimum of ten days to cut or destroy the noxious weeds or tall grasses.

15.04.070 Action Upon Non-Compliance

Upon the failure, neglect, or refusal of any owner or agent to cut, destroy and/or remove noxious weeds or tall grasses growing, lying or located upon the owner’s property or upon the one-half of any road or street lying next to the lands or boulevards abutting thereon, after receipt of the written notice provided for above or within ten days after the date of such notice in the event the same is returned to the City because of inability to make delivery thereof, the city auditor, Chief of Police, or other person designated by the City is hereby authorized and empowered to pay for the cutting, destroying, and/or removal of such noxious weeds or tall grasses or to order their removal by the City.

15.04.090 Cost Assessed to Property

When the City has effected the removal of such noxious weeds or tall grasses or has paid for their removal, the actual cost thereof, if not paid by the owner prior thereto, shall be charged and assessed against the property upon which the noxious weeds or tall grasses were cut or destroyed. An assessment list showing the lots or tracts to be assessed with the cost against each lot or tract shall be prepared as are other special assessment lists and shall be approved by the governing body. Such assessments shall be subject to the same procedure for certification to the county auditor, payment and collection as are other special assessments under state law.

Chapter 15.05 – Lot Nuisance

15.05.030 Storage of Junk, Junk Automobiles- Contrary to Public Health and Safety - Nuisance

It is hereby determined that the storage or accumulations of trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials, and the maintenance of blighted structures upon any private property within the city tends to result in blighted and deteriorated neighborhoods, increased criminal activity, spread of vermin and disease and is contrary to the public peace, health, safety and general welfare of the community and therefore constitutes a nuisance.

15.05.050 Unlawful to Store or Accumulate Junk, Junk Automobiles, etc.

It shall be unlawful and is declared a nuisance for any person to store, or permit the storage or accumulation of trash, rubbish, junk, junk automobiles, or abandoned vehicle on any private property in the city except as follows:

1. Within a completely enclosed building.
2. Upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods or junk gatherer. However, any junk dealer, junk buyer, dealer in used parts or dealer in secondhand goods or junk gatherer shall store said items in an area which shall be enclosed in a building or located behind a site fence approved by the city and shall be stored in a manner so as not to create an unsightly mess, deterioration of the neighborhood, increased criminal activities, spread of vermin and disease or in any way create a situation contrary to the public peace, health, safety or general welfare of the community.
3. Vehicles which are covered by a secured automobile cover, specifically designed to cover the individual vehicles in question, when the vehicles are not being used or worked on shall be located in such an area on the vehicle owner's property and in a manner so as not to create an unsightly mess, deterioration of the neighborhood, increased criminal activities, spread of vermin and disease, or in any other way create a situation contrary to the public peace, health, safety, or general welfare of the community. Where practicable storage should be out of sight or as near out of sight as possible from a public street or neighbor's yard.

15.05.070 Unlawful to Dismantle Automobile Except on Business Premises

It shall be unlawful and is declared a nuisance for any person to dismantle, cut up, remove parts from, or otherwise disassemble any automobile, whether or not the same is a junk automobile, abandoned vehicle or otherwise, or any appliance or machinery, except as set forth below:

1. Dismantling may take place in a completely enclosed building.
2. Dismantling may take place upon the business premises of a duly licensed junk dealer, junk buyer, dealer in used auto parts, dealer in secondhand goods or junk gatherer.
3. Automobiles may be dismantled on private property, for purposes of making necessary repairs or improvements to said vehicles provided that said vehicles may not be

dismantled for a period of time longer than sixty (60) consecutive days and that said dismantling shall be done in a manner so as not to create an unsightly mess, unreasonable noise, deterioration of the neighborhood, increased criminal activities, spread of vermin and disease or in a any other way create a situation contrary to the public peace, healthy, safety, or general welfare of the community. In all cases, vehicles dismantled on private property shall be the property of the owner or resident of the property.

15.05.090 Unlawful to Maintain Blighted Structure

It shall be unlawful and is declared a nuisance for any person to keep or maintain any blighted or vacant structure, dwelling, garage, or outbuilding, factory, shop, store, or warehouse unless the same is kept securely locked, the windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by unauthorized person or unless such structure is in the course for construction in accordance with a valid building permit issued by the city and unless such construction is complete within a reasonable time.

15.05.110 Unlawful to Store Building Materials Except on Business Premises

It shall be unlawful and is declared a nuisance for any person to store or permit the storage or accumulation of building materials on any private property, except as follows:

1. When in a completely enclosed building.
2. When stacked in a neat and orderly manner so as not to be unsightly. No storage method or arrangement shall be allowed if it presents a safety or health hazard or contributes to the spread of vermin or disease.
3. When building materials are part of the stock in trade of a business located on the property.
4. When such materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the city.

15.05.130 City Police Department May Remove Junk Automobiles or Abandoned Vehicles

1. The City Police Department is hereby authorized and empowered to notify the owner, tenant, occupant, lessee or agent of the owner, of any property within the city to obey and remove junk, junk automobiles, or any other items or materials found accumulated, lying or located on such property (whether private or public). Such notice shall be served personally or delivered by certified mail, return receipt requested, to the last reasonably known address of the owner, tenant, occupant, lessee or agent of the owner if such address is reasonably ascertainable or shall be posted on the premises at least twenty (20) days prior to abatement of the nuisance. The notice shall specify the legal description of the premises and shall set forth, if possible, the street address of the premises. It shall include an explanation of the right to a hearing on the necessity for the abatement which is provided in this ordinance.
2. Upon the failure, neglect, or refusal of the owner, tenant, occupant, lessee or agent of the owner, so notified to abate and remove the nuisance caused by the accumulation of junk,

junk automobiles, or other nuisances as specified in the this ordinance, the Chief of Police is hereby authorized and empowered to pay for the abatement and removal of said nuisance. If within twenty (20) days after the date of any letter containing such notice is returned to the city because of inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner, occupant, or agent of the owner, and if the City Police Department is unable to contact such owner, occupant or agent by telephone upon reasonable effort, the City Police Department may also pay for the abatement of the nuisance or order its removal by the city. In order to abate said nuisance, the City Police Department or their Agent is authorized to enter upon the premises described in such notice and to take whatever steps as might be reasonably required to abate the nuisance and such entry, if reasonable in nature and undertaken in good faith, shall not constitute a trespass or conversion.

3. The costs of abatement or removal of the nuisance which are incurred by the city shall be certified by the City Police Department to the city auditor for assessment against property, provided however, that if the property has any value it may be disposed of and funds retained shall first be applied to the expenses, as specified in this ordinance, and then shall be returned to the owner of the property, if the owner can be located within ninety (90) days. If the owner cannot be located, the funds shall be returned to the auditor of the City of Rolla.
4. Such removal by the City Police Department shall not excuse or relieve any person of the obligation imposed by this ordinance to keep his property free from storage or accumulation of junk automobiles or abandoned vehicles, or part of junk automobiles or abandoned vehicles, or parts of either, or from any other violation of this ordinance, nor from the penalties for violation thereof.

15.05.170 Disposition of Junk Automobiles or Abandoned Vehicles Determined to be of No Value

Any junk automobile , abandoned vehicle, or part of either removed from unenclosed private property as provided by this ordinance, or coming into the possession of the City Police Department by abandonment on public property in the city, which is determined by the Chief of Police to be of no value other than as scrap metal shall be disposed of by the city in such a manner as to eliminate the unsightly accumulation of such worthless hulks and the hazards to the public health attendant thereto with the least practicable delay.

Chapter 15.07 – Sanitary Nuisance

15.07.010 Residence – When Sewer and Water Required

It shall be unlawful for any person to use or occupy or permit to be used or occupied for residence purposes, any premises or building within the corporate limits of this City without first making or causing to be made proper connections with the City’s sewer and water facilities and mains.

The term “proper connections” when used in this section shall be construed to mean connections with the water mains and sanitary sewers which are equipped and furnished with

proper valves and fittings so as to enable such water connections to be used at all times. Sanitary toilets and drains and such equipment shall at all times be kept in repair so as to make them available for household use and in condition to be used at all seasons of the year. Utility Bills shall at all times be paid up to date and if at any time the City shuts off the water for delinquent bills, an individual shall be in violation of this section until such time as they reestablish connection.

Chapter 15.08 – Noises

15.08.010 Findings

1. The making, creation or maintenance of loud, unnecessary, unnatural, or unusual noises, which are prolonged, unusual, and unnatural in their time, place and use, affect or are a detriment to public health, comfort, convenience, safety, welfare, and prosperity of the residents of the city.
2. The provisions and prohibitions contained in this chapter are necessary and in the public interest.
3. The provisions and prohibitions of this article are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, prosperity, and the peace and quiet of the city and its inhabitants.

15.08.030 Unnecessary Noise Generally

It is unlawful for any person to make any loud, unnecessary, or unusual noise, or any noise that annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the limits of the city.

15.08.050 Definitions; Noises Prohibited – Decibel Provisions

1. *Tests for unlawful noise.* Factors that can be used in determining whether a violation of this chapter has occurred include, but are not limited to, the following:
 - a. The volume of the noise;
 - b. The intensity of the noise;
 - c. Whether the nature of the noise is usual or unusual;
 - d. Whether the origin of the noise is natural or unnatural;
 - e. The volume and intensity of the background noise, if any;
 - f. The proximity of the noise to residential sleeping facilities;
 - g. The proximity of the noise to a hospital or other treatment facility;
 - h. The nature and zoning of the area with which the noise emanates;
 - i. The density of inhabitation of the area within which the noise emanates;
 - j. The time of day or night when the noise occurs;
 - k. The duration of the noise;
 - l. Whether the noise is recurrent, intermittent or constant;
 - m. Whether the noise is produced by a commercial or noncommercial activity.

2. If a decibel sound level meter is used to measure the noise a reading of 55 decibels from 7:00 a.m. until 10:00 p.m. and a reading of 50 decibels from 10:00 p.m. until 7:00 a.m. shall be prima facie evidence that this chapter has been violated.

15.08.070 Penalty

Any person violating any provision of this chapter is guilty of a Class B misdemeanor. Chapter 15.14 shall not apply to this Chapter.

Chapter 15.09 – Storage Containers

15.09.010 Storage Container Permit

No person shall place, keep, or allow to be placed or kept, a portable storage container upon any lot within R-1, R-2, or RMH zoning districts without first obtaining a permit. Such permit may be issued by Rolla City Council, Rolla City Auditor, or Rolla City Manager.

15.09.030 Permit Requirements

The Rolla City Council shall set by resolution the permit fees, requirements for location and placement of such portable storage container, and the issuing party.

15.09.050 Existing Storage Containers

Any owner of a portable storage container within R-1, R-2, or RMH zoning districts at the time of the passing of this ordinance shall immediately notify the City of Rolla of their existence and obtain a permit.

15.09.060 Nuisance

Failure to comply with the provisions of Chapter 15.09 shall constitute a public nuisance and be punishable as such.

15.09.070 Penalty

Violation of this Chapter shall be an infraction and may be punishable by a fine not to exceed five hundred dollars (\$500.00) for each and every day that any violator fails to comply with the provisions of these regulations. Chapter 15.14 shall not apply to this Chapter.

Chapter 15.14 – Nuisance Notice

15.14.010 Opportunity for Hearing

Any owner, tenant, occupant, lessee or agent of the owner, of any property within the city, who has been provided with a notice that they are in violation of this ordinance may seek a hearing before the Municipal Judge of the City of Rolla for the purpose of making a determination whether or not the person is in violation of this ordinance. Any person desiring said hearing shall notify the Municipal judge, in writing, within ten (10) days of the receipt of or posting of the required notice and shall be given an opportunity to appear before the Municipal Judge within thirty (30) days after said notification of a desire for hearing. The city shall have the burden of proving by a preponderance of the evidence that the conditions of which it complains, constitute a nuisance as set forth in this ordinance. The Municipal Judge shall either find for the owner of the property, in which case no further action may be taken by the city without the issuance of another notice, pursuant to this ordinance, which shall be issued only in the event of a material change in circumstance, or the . Municipal Judge shall find for the city, in which case the owner shall have an additional ten (10) days from the date of service upon him by mail or in person of a copy of the Municipal Judge's decision in which to abate the nuisance. If the owner fails, neglects, or refuses of abate the nuisance within that period of time, then the City Police Department may proceed to enter upon the property to abate the nuisance and such actions, if reasonable in nature and undertaken in good faith, shall not constitute a trespass or conversion.

15.14.030 Abatement Without Prior Notice

In the event a nuisance as defined herein shall, in the opinion of the Chief of Police constituted immediate and serious danger to the health of any person or shall constitute immediate and serious danger to the private or public property, the city may, without prior notice to the owner of the premises immediately enter upon the premises and take whatever steps are required to abate the nuisance. If such actions are reasonable in nature and undertaken in good faith, such action shall not constitute trespass or conversion. Any attempt by the city to give the owner prior notice shall not constitute a waiver of the right under this section to act without prior notice.

15.14.050 Other remedies: Harboring a Nuisance

The provisions of this ordinance shall not constitute the exclusive remedy of the City of Rolla to abate nuisances. The city reserves the right to proceed in any court of competent jurisdiction to obtain an injunction requiring abatement of the nuisance and such remedy may be asserted without regard to the notice requirements of this ordinance and the provisions for the administrative relief set forth herein. Moreover, the harboring or maintenance of a nuisance shall constitute an offense punishable under this ordinance as set forth below.

Chapter 15.15 – Penalties

15.15.010 Penalties

The first nuisance penalty for any person who violates or fails to comply with any provisions of this Ordinance shall be a fine of not more than Five Hundred Dollars (\$500.00) for each infraction, and a separate infraction shall be deemed committed on each day during or on

which the nuisance exists. Any and all subsequent violations shall be deemed a class B misdemeanor.