

AN ORDINANCE AMENDING CHAPTER 46 ENVIRONMENT BY REPEALING SEC. 46-35. WEED, GRASS, TRASH AND DEBRIS ABATEMENT IN ITS ENTIRETY AND ENACTING A NEW SEC. 46-35. GRASS, WEEDS AND DEBRIS AS PUBLIC NUISANCE, AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULTON, MISSOURI AS FOLLOWS:

SECTION ONE: That Chapter 46 Environment be amended by repealing Sec. 46-35. Weed, Grass, Trash and Debris Abatement in its entirety, and enacting a new Sec. 46-35, as follows:

Sec. 46-35. Grass, Weeds and Debris As Public Nuisance.

No person in charge or control of any property within the city, whether as owner, tenant, occupant lessee or mortgagee shall cause weeds, grass, trash and debris to grow or accumulate on any property in violation of this Code.

(a) *Debris defined:* Any condition on any lot or land that has the presence of debris of any kind which may endanger the public safety or any material which is unhealthy or unsafe is hereby declared to be a public nuisance, subject to abatement. Debris shall include but is not necessarily limited to grass, weed cuttings, cut and fallen trees and shrubs, overgrown vegetation, noxious weeds which are eight (8) inches or more in height, rubbish, **garbage** and trash, lumber not piled or stacked twelve (12) inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture and/or any flammable material.

(b) *Notice:* Enforcement of this chapter shall be the responsibility of the building inspector. After inspection of property by the building inspector or his designee, if the building inspector believes the property to be in violation, he shall provide notice to the owner of the property by personal service or by certified mail, return receipt requested. The notice shall state:

(1) Within seven (7) days of receipt of the notice (which shall be the date of delivery as to personal service, the date of receipt of certified mail, which is not refused or five (5) days after the date of mailing as to certified mail, return receipt requested which was refused by the owner) the property owner must begin and continue without unnecessary delay the abatement or removal of the nuisance condition.

(2) The nature of the nuisance.

(3) The notice shall indicate that a hearing may be requested before the building inspector or his designee, city administrator or director of public works depending upon availability. It is the responsibility of the owner to schedule the hearing and the hearing must be conducted within seven (7) days of receipt of the notice unless none of the three specified hearing officers are available and under such circumstance, the hearing shall be scheduled with the hearing officer with the quickest availability to conduct the hearing.

(4) The notice shall indicate that in the event the owner does not request a hearing as provided for herein or begin abatement of the nuisance within seven (7) days of receipt of the notice and continue the abatement without unnecessary delay that the building inspector or other designated officer may cause a condition which constitutes the nuisance to be removed. The owner will have **forty-five** days after the work is completed to pay the abatement or removal costs. If after **forty-five** days the bill remains unpaid the cost of such abatement or removal shall be certified to

the city clerk who shall cause the certified costs 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 costs shall be collected by the collecting official in the same manner and procedure for collecting real estate taxes. If the certified costs are not paid, the tax bill shall be considered delinquent and 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 until paid.

(c) *Abatement of nuisance by city:* If no hearing is requested by the property owner as provided in this section, or hearing is conducted and the hearing officer finds that a public nuisance under this section does exist and should be abated, or the owner fails to begin within seven days of receipt of notice and continue without unnecessary delay to abate or remove the nuisance, the building inspector shall cause the condition which constitutes the nuisance to be removed or abated. The owner shall have **forty-five** days after the work is completed to pay the abatement cost. If after said **forty-five** days the bill remains unpaid the cost of such abatement or removal shall be certified to the city clerk who shall cause the certified costs **in addition to any recording fees** to be included in a special tax bill or added to the annual real estate tax bill for the property, at the collection official's option. The certified costs shall be collected by the collecting official in the same manner and procedure for collecting real estate taxes. If the certified costs are not paid, the tax bill shall be considered delinquent and the collection of delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

(d) *Collection of abatement costs:* The charge for abatement costs shall be based upon a minimum fee plus hourly labor fee per employee, equipment cost if necessary and disposal costs. If the work is done by contract the fee will be the amount charged to the city. The owner shall have forty-five days after the work is completed to pay the abatement fee. If after the said forty-five days the bill remains unpaid the city clerk shall cause a special tax bill against the property to be prepared in the amount of the abatement costs plus any recording fees. Each special tax bill shall be issued by the City Clerk and delivered to the appropriate county official. The tax bill from the date of its issuance shall be a lien on the property until paid and if not contested shall be evidence of the statements therein and of its validity. No clerical error or informality in the tax bill or in the proceedings leading up to the issuance of the tax bill shall be a defense in an action to collect the tax bill. Tax bills issued under this section, if not paid when due, shall be collected consistent with methods used to collect the regular real estate taxes in regard to both due date and interest and late penalties. The cost of abatement shall also constitute a personal obligation of the property owner.

(e) *Violation is an offense:* An owner who fails to begin removal of a nuisance within seven (7) days of notice or fails to continue the removal without unnecessary delay as provided for in this section shall be guilty of an offense and may be charged in municipal court with the offense of failure to abate a nuisance.

SECTION TWO: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION THREE: This ordinance shall be in full force and effect after its passage by the Council and approval by the Mayor.

READ THREE TIMES AND PASSED THIS _____ DAY OF _____, 2011.

LeRoy D. Benton
President of the Council

APPROVED THIS _____ DAY OF _____, 2011.

LeRoy D. Benton
Mayor

ATTEST:

Carolyn L. Laswell, CMC/MRCC
City Clerk