

DRAFT VERSION: May 14, 2010

BILL NO. _____

ORDINANCE NO. _____

**AN ORDINANCE APPROVING AN AMENDMENT TO CHAPTER 58 OF THE
BRANSON MUNICIPAL CODE ADDRESSING NUISANCES**

WHEREAS, a need has been determined for regulations and procedures for the upkeep of properties within the city of Branson to provide for the health, safety and welfare of the community; and

WHEREAS, the Board of Aldermen wishes to amend the Branson Municipal Code as follows:

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

Section 1: That Chapter 58, Article VIII, be amended by the addition of new sections as follows:

Section 58-193. Definitions.

For the purpose of this title, certain terms and words are hereby defined as follows. Any word not defined herein or in the Code shall have its usual meaning.

Abatement is the act of eliminating or terminating a condition.

Debris means the remains of anything broken down, destroyed, or in ruins.

Developed Property means any lot or parcel of land upon which has been erected or placed any permitted house, trailer, shed, tower, or structure of any type, excluding fences.

Director means the person appointed as the Director of Planning & Development, and in the context of this title, unless otherwise noted, shall mean the Director of Planning & Development or their designee.

Dismantled Vehicle means any vehicle missing significant body parts, including, but not limited to, hood, fender, cab, door, window glass, or trunk lid.

DRAFT VERSION: May 14, 2010

Garbage means animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food or food products.

Inoperable Vehicle means any vehicle that cannot be legally driven upon a public street for reasons including, but not limited to, being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

Junked Vehicle means any vehicle that is considered an inoperable vehicle and has no resale value or use except as a source of parts or scrap.

Motor Vehicle means any self-propelled vehicle not operated exclusively upon tracks, except farm tractors and motorized bicycles.

Noxious Weeds means plants, such as poison ivy, poison oak, ragweed, or other poisonous plants or plants detrimental to health, kudzu, and those weeds prohibited as per the current Missouri Department of Agriculture listing.

Nuisance means something that invades or interferes with another's rights or interests by being offensive, annoying, dangerous, obstructive, or unhealthful.

Person means any corporation, firm, partnership, association, organization, or other group acting as a unit, as well as individuals. It shall include an executor, administrator, trustee, receiver or other representative appointed according to applicable law. Whenever the word "person" is used in any section of this article prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of this section.

Portable Storage Unit is, in the context of this article, any structure or container used for temporary, short-term storage of residential or commercial furniture, equipment, or other materials, and that can be moved and transported by towing or carry.

Premises means a lot, plot, or parcel of land, easement or public way, including any structures thereon.

DRAFT VERSION: May 14, 2010

Private Property means any property within the corporate limits of the city that is not owned or controlled by a public governing body.

Rear Yard means that portion of the yard, on the same lot with a building, between the rear building line and the rear lot line, for the full width of the lot (in those locations where an alley is platted in the rear of the lots, half the width of the platted alley may be included in the rear yard) not including steps, unenclosed balconies and unenclosed porches.

Recreational Vehicle (RV) means any vehicle designed, constructed or substantially modified so that it may be used for the purposes of temporary housing, including therein sleeping and/or eating facilities that are either permanently attached to the vehicle or attached to a unit that is securely attached to the vehicle.

Refuse means, in the context of this article, collectively that which is garbage, trash, rubbish or debris.

Right of Way is any property owned by a public governmental body of the purposes of streets and associated public improvements, alleys sidewalks, pedestrian walkways, and the like.

Rubbish means, with the exception of garbage, combustible and non-combustible materials, paper, rags, cardboard, wood and wood shavings, rubber, leather, plastics, tree branches, yard trimmings, dead plant material, furniture, appliances, bedding, used construction materials, metal cans, metals, mineral matter, glass, crockery and other similar materials, and includes the residue from the burning of wood, fossil fuels and other combustible materials.

Trailer means any vehicle without motive power designed to carry property or passengers on its own structure and for being drawn by a self-propelled vehicle, including a semi-trailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle.

Trash means any and all materials defined as rubbish.

Unlicensed Vehicle means any vehicle that does not display a valid license and current inspection sticker, as required by the state in which the vehicle is legally registered in order to operate said vehicle upon public roads. If the license plate of the vehicle is screened from view (by any structure, vegetation, cover, tarp, wrap

DRAFT VERSION: May 14, 2010

or similar), the vehicle shall be considered unlicensed. This excludes vehicles provided for sale by an appropriately licensed seller of new or used vehicles that are stored and displayed on property so permitted for such sale.

Vegetation means any plant or plant species, taken as a whole.

Vehicle means any mechanical device on wheels, excluding motorized bicycles, vehicles propelled or drawn by horses or human power, vehicles used exclusively on fixed rails or tracks, and motorized wheelchairs operated by handicapped persons. The term "vehicle" includes, but is not limited to, commercial and non-commercial motor vehicles, dismantled vehicles, inoperable vehicles, junked vehicles, motor vehicles, recreational vehicles, trailers, and unlicensed vehicles.

Weeds, in the context of this title and unless otherwise stated, means vegetation generally recognized as wild or undesirable, whether found upon residentially or commercially zoned properties.

Yard means an open space on the same lot or property as a structure.

Section 58-194. Nuisances; general.

It shall be required that any person who is the owner, agent, tenant, occupant, et.al., of any premises complies with the requirements set forth as follows:

(1) Requirements; general.

(a) Not allow any condition, substance or thing on public or private property that is injurious or dangerous to public health or safety.

(b) Not allow any condition or thing defined as a nuisance in this article or any code adopted by the city or by the Revised Statutes and decisions of the State of Missouri.

(c) Not allow any substances that generate, emit or cause noxious or toxic odor, dust vapor, fume, mist in the area where they exist.

DRAFT VERSION: May 14, 2010

(d) Not allow any establishments or structures that generate, emit or cause any hazardous, noxious or toxic dust, vapor, fume, mist, odor or condition.

(e) Any barn or other place where animal or fowl waste collects shall be kept in a clean and sanitary condition so that no odors offensive to a person of ordinary sensibilities are allowed to escape the premises.

(f) Prevent deposits of leaves, grass, dirt or any other material from interfering with the proper functioning of any sanitary or storm sewer improvement.

(g) Not to deposit leaves, grass, dirt or other materials on a public right-of-way.

(h) Not allow any accumulation or deposit of foul, dirty or polluted water or liquid, including water that does or could afford harborage for the breeding of mosquitoes.

(i) Not allow an accumulation of material that does or could afford harborage of rats, mice, snakes, or other vermin.

(j) Not allow to exist any condition or substance that may generate, transmit or promote disease or that may present a safety hazard to the general public.

(2) Requirements; rubbish.

(a) Not allow any accumulation or deposits of garbage, rubbish or debris other than that which is properly contained and temporarily stored for lawful disposal and that which complies with the requirements of this Code.

(b) Refuse containers shall be leak-proof, waterproof, and fitted with a lid designed to reasonably prevent the entry of birds and animals, and to prevent the dispersal of refuse onto other properties, both private and public, by wind, water, or other reason, and shall be maintained in good repair.

(c) Sturdy plastic trash bags, as manufactured for the containment of refuse, may be used as secondary

DRAFT VERSION: May 14, 2010

containment and be limited in use to non-food, animal or vegetable waste so as to not attract animals or fowl, and only as permitted by the waste removal service.

(d) Garbage and rubbish generated by multi-residential complexes with four (4) or more dwelling units, and garbage and rubbish generated by commercial properties shall be stored in dumpsters that are leak-proof and fitted with lids designed to prevent the entry of birds and animals, and shall comply with applicable size, weight and accessibility requirements of the waste removal service.

(e) The area surrounding the refuse containers shall be maintained in a clean, neat and sanitary condition at all times and shall be maintained in good repair.

(f) Portable refuse containers, being those that can be moved without the use of special machinery, shall be placed for collection in an area appropriate and convenient for the waste removal service but shall not be placed where they may interfere with traffic, be on public roadways, or where they can cause a safety hazard.

(g) Rubbish, such as leaves, grass clippings, tree trimmings, brush and the like, that cannot be stored in approved refuse containers because of bulk and/or weight may be temporarily stored without the use of such containers provided it is neatly stacked and confined, placed so that it does not present a safety hazard, and secured so as to prevent their dispersal upon the premises served, upon adjacent premises, and upon public property.

(3) Requirements; weeds and vegetation.

(a) Not allow weeds or undesirable vegetation exceeding seven (7) inches in height, or any noxious weeds to grow on any lot or land in such a manner that any part of such noxious weed shall extend upon, overhang or border any public place, and not to allow seed, pollen or other poisonous emanations there from to be carried through the air into any public place.

DRAFT VERSION: May 14, 2010

Exceptions: The following exceptions shall comply with the *Minimum Standards* as follows:

(i) All or any part of any lot or tract of land that is a natural forest, within the meaning of this Code, or a woodland meadow.

(ii) All or any part of any lot or tract of land that cannot be mowed using conventional mowing or weed removal equipment due to steepness of grade or rocky terrain, or is an undeveloped lot or tract, shall comply with defined minimum standards.

Minimum Standards: All lots and acreage shall, under the excepted conditions listed above, be maintained from the centerline of an abutting street or alley by:

(i) Mowing at least five (5) feet beyond the edge of the street or road surface, curb line or sidewalk, whichever is greater; and

(ii) Mowing and removing all overhanging vegetation within the intersection clear sight triangle as shown in the City of Branson Design Criteria for Public Improvement Projects.

(b) Not allow any dead or dying tree, limb, bush or brush that constitutes a hazard to the safety of persons or of property, private or public, including a safety hazard that obstructs the line of sight of a motor vehicle driver, bicyclist or pedestrian at a street intersection, a hazard that could interfere with the passage of motor vehicles, bicycles or pedestrians on any public right-of-way, or a tree that harbors insects or disease that constitutes a potential threat to other trees.

(4) Requirements; vehicles.

(a) Not allow any vehicle or trailer to be used for the storage of materials, goods or equipment other than those items considered to be a part of the vehicle or trailer or essential to its immediate use.

(b) A vehicle may be displayed for the principal purpose of sale, provided that:

DRAFT VERSION: May 14, 2010

(i) The vehicle is located on a private residential driveway; or

(ii) The vehicle is located on property that is legally licensed and permitted by the city for the sale of vehicles.

(c) Vehicles shall be parked only on a driveway or on that portion that is constructed and surfaced for parking purposes.

Section 58-195. Nuisances; residential properties.

It shall be required that any person who is the owner, agent, tenant, occupant, et.al., of any residential property complies with the requirements set forth as follows:

(1) Requirements; general.

Portable storage units may be used provided they do not remain on the premises for more than seven (7) calendar days.

(2) Requirements; rubbish.

(a) Residential premises and vacant residential lots shall be maintained in a clean manner and shall not be used for the open storage of items or materials other than yard furniture, neatly stacked firewood, garden or yard tools, toys, or usable building materials. The open storage of usable building materials is permitted if the open storage is temporary, the building materials are to be used on such premises, the building materials are not stored against any structure, and the building materials are neatly stacked and stacked to a height not to exceed four (4) feet from ground level.

(b) Not allow any of the following items to remain on such premises, for longer than forty-eight (48) hours, in any outside area that can be viewed from a ground location off the premises: any appliance manufactured for indoor use only, bedding, bottles, boxes, broken glass, cans, cardboard, cartons, furniture manufactured for indoor use only, jars, machine parts, motor vehicle parts, pallets, paper, plumbing fixtures, rags, scrap

DRAFT VERSION: May 14, 2010

metal, tires, tire rims, water heaters, or any other debris.

(3) Requirements; weeds and vegetation.

Not allow on the premises any accumulation of grass clippings, leaves, chipped brush, weeds, chipped foliage or shrub cuttings or clippings, or vegetable waste unless contained within a composting bin located within the rear yard and at least ten (10) feet from any property line. Composting bins shall be constructed and maintained in such a manner as to prevent the emission of a noxious odor, and such that they do not provide bedding or shelter for rats, mice or other pests, nor be in violation of any other provisions of the Code.

(4) Requirements; vehicles.

(a) Not allow on the premises any vehicle that is dismantled, inoperable, junked, or unlicensed, unless the vehicle is stored within an enclosed building or in a location that cannot be viewed from a ground location off the premises.

Exception: One such vehicle may be dismantled, repaired, stripped or serviced provided that the work is completed within seven (7) days by the owner of the property and that the vehicle is licensed to that owner.

(b) Not allow or cause to remain on the premises, except for the purposes of loading and unloading, and for more than five (5) days, any large commercial vehicle or large commercial trailer.

(c) Not allow or cause to remain on the premises more than one (1) small commercial vehicle and one (1) small commercial trailer.

Section 58-196. Nuisances; non-residential properties.

It shall be required that any person who is the owner, agent, tenant, occupant, et.al., of any non-residential property complies with the requirements set forth as follows:

DRAFT VERSION: May 14, 2010

(1) Requirements; general

No specific requirements in this subsection.

(2) Requirements; rubbish.

Not allow or cause any of the following items to remain on such premises, for longer than forty-eight (48) hours, in any outside area that can be viewed from a ground location off premises: any appliance manufactured for indoor use only, bedding, bottles, boxes, broken glass, cans, cardboard, cartons, furniture manufactured for indoor use only, jars, machine parts, motor vehicle parts, pallets, paper, plumbing fixtures, rags, scrap metal, water heaters, or any other debris not specifically permitted for such premises.

(3) Requirements; weeds and vegetation;

No specific requirements in this subsection.

(4) Requirements; vehicles.

(a) Not allow or cause to remain on the premises any vehicle that is dismantled, inoperable or junked unless such vehicles are stored within an enclosed building or in a location that cannot be viewed from a ground location off the premises, or the premises is validly licensed and permitted by the City.

(b) Not allow or cause to remain on the premises any vehicle that is unlicensed, unless the vehicle is stored within an enclosed building or in a location that cannot be viewed from a ground location off the premises, unless the business is validly permitted and licensed for the display and sale of such vehicles.

DRAFT VERSION: May 14, 2010

Section 58-197. Enforcement and Abatement.

(1) Any person who is the owner, agent, tenant, occupant, et.al., of any premises found to be in violation of this article, in part or in total, shall be given notification of such violation, where such notification is delivered in-person, by United States mail, or is posted on the premises, and where such are notifications for abatement of the violation(s). Failure to comply with an order to abate may cause further enforcement action by issuance of a citation and summons to municipal court, and any person upon conviction thereof be subject to the penalties of this Code.

(2) Violations for the overgrowth of weeds and undesirable vegetation shall be abated within seven (7) days from receipt of notification. Failure to comply with this order to abate may cause further enforcement action where the Director may cause such overgrowth to be cut and removed and shall certify the costs, such as reimbursements for costs, salaries, postage, processing fees, et.al., to the city clerk, who shall cause a special tax bill therefore against the property to be prepared and collected by the collector, with other taxes assessed against the property; and the tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity and no more clerical error or informality in the same, or in the proceedings leading to the issuance, shall be a defense thereto. Each special tax bill shall be issued by the city clerk and delivered to the collector on or before the first day of June of each year. Such tax bills, if not paid when due, shall accrue interest at the rate of eight (8) percent per annum. In the event that the city shall incur any costs in conjunction with the recording and/or release of the lien hereby created, each owner shall be liable for such costs, in addition to all other costs herein provided.

(3) Violations for trees, whether dead or dying, that constitute a hazard to safety or health of persons or property shall be abated within seven (7) days from receipt of notification. Failure to comply with this order to abate may cause further enforcement action where the Director may cause such trees to be trimmed, cut or removed and shall certify the costs, such as reimbursements for costs, salaries, postage, processing fees, et.al., to the city clerk, who shall cause a special tax bill therefore against the property to be prepared and collected by the collector, with other taxes

DRAFT VERSION: May 14, 2010

assessed against the property; and the tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity and no more clerical error or informality in the same, or in the proceedings leading to the issuance, shall be a defense thereto. Each special tax bill shall be issued by the city clerk and delivered to the collector on or before the first day of June of each year. Such tax bills, if not paid when due, shall accrue interest at the rate of eight (8) percent per annum. In the event that the city shall incur any costs in conjunction with the recording and/or release of the lien hereby created, each owner shall be liable for such costs, in addition to all other costs herein provided.

(4) Violations for nuisances other than the overgrowth of weeds and undesirable vegetation shall be abated within a time determined by the Director and as considered reasonable for such violation.

Section 58.198. This Code to Control in Event of Conflict.

The strictest provisions shall control in the event of conflict of codes and any provision of the adopted International Property Maintenance Code.

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED;
LANGUAGE WHICH IS ~~[BRACKETED, STRICKEN]~~ HAS BEEN REMOVED.

DRAFT VERSION: May 14, 2010

Section 2: That Chapter 22, Article VII, be amended with the additions and deletions as follows:

~~[Section 302.4: Weeds.~~

~~1. Definitions.~~

~~a. Developed property shall mean any lot or parcel of land upon which has been erected or placed any house, trailer, shed, tower, or structure of any type, excluding fences.~~

~~b. Noxious weeds include such plants as poison ivy, poison oak, ragweed, or other poisonous plants, or plants detrimental to health, kudzu, and those noxious and prohibited weeds as per the current Missouri Department of Agriculture listing.~~

~~c. The terms lot, property, tract, land and acreage shall mean all privately owned real property including all sidewalks, easements, alleys, streets, drainage ditches (natural or man made), bridges, tunnels, rights of way, parkways, or other easements running through or across such property, including planted medians. Exception, the city may maintain divided major arterials with planted medians pursuant to written agreement with private property owner(s).~~

~~d. All other words used here related to botanical constituents have meanings as elaborated in the landscape ordinance.~~

~~2. Cutting and removal of overgrown vegetation and noxious weeds . It shall be unlawful for any owner, lessee, occupant or executor of any lot or land or any part thereof in the City of Branson, Missouri, to permit or maintain on any such lot or land, any overgrown vegetation which is seven inches or more in height, unless exempted by the provisions of subsection 4, or any accumulation of dead weeds, grass or brush. It shall also be unlawful for any such person or persons to cause, suffer or allow noxious weeds to grow on any such lot or land in such manner that any part of such noxious weed shall extend upon, overhang or border any public place or allow seed, pollen or other poisonous particles or emanations therefrom to be carried through the air into any public place. The growth of such overgrown vegetation and noxious weeds in violation of this section shall be and hereby is declared to be a nuisance.~~

DRAFT VERSION: May 14, 2010

~~3. *Notice of violation.* Every such owner, lessee, occupant or executor shall begin removing the nuisance within seven days from receipt of notification that the nuisance has been ordered removed, either mailed or hand delivered, or posted on the premises.~~

~~4. *Exceptions.*~~

~~a. All or any part of any lot or tract of land which is a natural forest within the meaning of Section 66-219 of the Branson Municipal Code, or woodland meadow, except to meet the minimum standards of subsection 4(e).~~

~~b. All or any part of any lot or tract of land which cannot be mowed by conventional mowing equipment or weed eaters because of the steepness of the grade and rocky terrain, except to meet the minimum standards of subsection 4(e).~~

~~c. Any undeveloped lot or tract of land of more than three acres, except to meet the minimum standards of subsection 4(e).~~

~~d. Any undeveloped lot or tract of land of three acres or less, which is contiguous on all sides to undeveloped property of more than three acres, except to meet the minimum standards of subsection 4(e).~~

~~e. *Minimum standards.* When excepted in subsections 4.a, 4.b, 4.c or 4.d above, all lots and acreage shall, as a minimum, be maintained from the centerline of the abutting street or alley by:-~~

~~i. Mowing at least five feet beyond the edge of the street or alley surface, curb line or sidewalk, whichever is the greater; and~~

~~ii. Mowing and removing all overhanging vegetation within the intersection clear sight triangle as shown in the City of Branson Design Criteria for Public Improvement Projects.~~

~~5. *Enforcement.* If the provisions of the foregoing sections are not complied with, the city may exercise either or both of the following enforcement procedures.~~

~~a. *City may do work.* In the event that the overgrown vegetation or noxious weeds are not cut and removed within seven days after receipt of notice, the code official or other designated official may cause the same to be cut and removed and shall certify the cost~~

DRAFT VERSION: May 14, 2010

of the same to the city clerk. The city clerk shall cause a special tax bill therefore against the property to be prepared and to be collected by the collector, with other taxes assessed against the property. The tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. Each special tax bill shall be issued by the city clerk and delivered to the collector on or before the first day of June of each year. Such bills, if not paid when due, shall bear interest at the rate of eight percent per annum. The issuance of such seven-day notice is not required as a prerequisite to the issuance of a citation pursuant to subsection 5.b.

~~b. *Summons to municipal court.* Any person who shall neglect to cut and remove overgrown vegetation or noxious weeds as directed in this section, or who shall fail, neglect or refuse to comply with the provisions of any notice herein provided or who shall violate any of the provisions of this section or who shall resist or obstruct the code official or other representative of the City of Branson, Missouri, in the cutting and removal of overgrown vegetation or noxious weeds shall, upon conviction thereof, be subject to the penalties of section 1-11.]~~

~~[[Section PM 303.8.] Amend Section PM 303.8 so that the amended Section PM 303.8 shall read as follows:~~

~~*PM 303.8 Vehicles.* Except as provided for in other regulations, not more than one currently unlicensed, unregistered or uninspected vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled.~~

~~*Exception:* A vehicle of any type is permitted to undergo major overhaul, including bodywork, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.]~~

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED; LANGUAGE WHICH IS ~~[BRACKETED, STRICKEN]~~ HAS BEEN REMOVED.

DRAFT VERSION: May 14, 2010

Section 3: This ordinance shall be in full force and effect upon and after its passage and approval.

DRAFT

DRAFT VERSION: May 14, 2010

Read, this first time on this _____ day of _____, 2010.

Read, this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri this ____ day of _____, 2010.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk

William T. Duston
Assistant City Attorney

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