

Nuisance Ordinance

#20-1

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Recorder of Deeds

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Village of Leawood
P.O Bx 2032
Joplin, MO
64803
(Denis Desmond)

CK# 3413

BILL NO. _____

ORDINANCE NO. 2020-1

AN ORDINANCE REPEALLING THE NUISANCE ORDINANCE OF THE VILLAGE OF LEAWOOD, MISSOURI, AND ENACTING A NUISANCE ORDINANCE FOR THE VILLAGE OF LEAWOOD, MISSOURI.

WHEREAS, the nuisance ordinance of the Village of Leawood is out of date and requires revision; and

WHEREAS, the Board of Trustees of the Village of Leawood wish to enact an ordinance to regulate and prevent nuisances in the Village of Leawood;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF LEAWOOD, MISSOURI, AS FOLLOWS:

SECTION 1: Ordinance No. 99-01, Bill No. 1, Nuisance Ordinance is hereby repealed in full.

SECTION 2: The following Nuisance Ordinance is enacted, effective the 16th day of July, 2020.

ARTICLE I

In General

Section __.010 Nuisances Prohibited.

No person shall permit, cause, keep, maintain or do any nuisance or contribute to any nuisance as defined by the laws of this State, the provisions of this Code or the ordinances of the Village or cause or permit to be committed, caused, kept, maintained or done or contribute to the committing, causing, keeping or maintaining of any such nuisance within the corporate limits of the Village.

Section __.020 Common Law and Statutory Nuisances.

In all cases where no provisions are made in this Article defining what are nuisances and how the nuisances may be removed, abated or prevented, in addition to what may be declared such in this Article, those offenses which are known to the common law of the land and the Statutes of the State as nuisances may, in case such offenses exist within the Village limits, be treated as such and proceeded against as provided in this Code or in accordance with any other provision of law.

Section __.030 Definitions.

- A. For the purposes of this Article, the word "*nuisance*" is defined as any person doing an unlawful act or omitting to perform a duty or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:
1. Injures or endangers the comfort, repose, health or safety of others;
 2. Offends decency;
 3. Is offensive to the senses;
 4. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;
 5. In any way renders other persons insecure in life or the use of property; or
 6. Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.

Section __.040 Enumeration.

- A. The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions is hereby declared to be and constitute a nuisance; provided however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

1. *Substances emitting foul odors.* All substances which emit or cause any foul, noxious, unhealthful or disagreeable odor or effluvia.
2. *Carcasses.* All carcasses of animals remaining exposed after death, except such animals as are killed for use as food.
3. *Establishments emitting noxious odors.* Every soap factory, grocery, cellar shop, tannery, brewery, distillery, meat shop, sausage factory, beef or pork packing house, stable or barn which emits or causes any offensive, disagreeable or noxious smell or odor.
4. *Foul liquids generally.* All slop, foul or dirty water, liquor, beer or saloon washings and all filth, refuse or offal discharged through drains or spouts or otherwise thrown, swept or deposited in or upon any street, avenue, sidewalk, alley, lot, park or public or private enclosure.
5. *Hides.* All green or salted hides left or exposed in any open place for a longer period than six (6) hours.
6. *Odiferous matter.* All vegetables or other articles that emit or cause any offensive or disagreeable smell or odor.
7. *Injurious or annoying articles.* All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, inconvenience or annoyance of the public or of any neighborhood.
8. *Signs or other devices hanging over street or sidewalk.* All hanging signs, ropes, networks or other devices stretched over or across any street, avenue, alley or sidewalk, unless such devices are permitted by ordinance.
9. *Refuse, garbage and ashes generally.* All ashes, cinders, slops, filth, excrement, sawdust, stones, rocks, dirt, straw, soot, sticks, shavings, oyster shells, cans, dust, paper, trash, rubbish, manure, refuse and offal, wastewater, chamber lye, fish, putrid meat, entrails, decayed fruit and vegetables, broken ware, rags, old iron or other metal or old wearing apparel, all animal or vegetable matter, all dead animals or any other offensive or disagreeable substance or thing thrown, left or deposited or caused to be thrown, left or deposited by anyone in or upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot, vacant or occupied, or pond or pool of water.
10. *Accumulations of refuse.* The accumulation on any lot or piece of ground in the Village of any refuse matter in such a manner as to be offensive or be injurious to the health of any person or of the neighborhood.
11. *Burning materials creating noxious odor.* The burning within the Village limits of any animal, vegetable or other substance, the burning of which creates or generates any disagreeable, noxious or unwholesome smell or odor.
12. *Obstructing watercourse.* The placing or maintaining of any obstruction of any kind in any natural or living watercourse of the Village so as to impede the natural flow of water therein.

13. *Polluting water supply.* The doing of any act which shall tend to pollute or contaminate the water supply of the Village.
14. *Unwholesome or offensive standing water.* Any lot or piece of ground within the limits of the Village on which there is a pond or pool of unwholesome, stagnant, impure or offensive water.
15. *Wells containing impure water.* Any well or cistern on any property within the limits of the Village, whenever a chemical analysis shows that the water therein is of an impure or unwholesome nature.
16. *Airborne matter.* Sieving, agitating, handling or exposing lime, ashes, coal, dry sand, hair, feathers, dust or other substances liable to be blown by the wind to the injury, annoyance or inconvenience of the public or of any neighborhood.
17. *Premises not connected with sewer.* Any improved real estate abutting upon or adjoining any sanitary sewer system but which is not connected to such sewer system.
18. *Open storage of furniture or appliances.* All furniture, bedding, refrigerators, freezers, heating stoves, kitchen ranges, laundry and dishwashing equipment, air-conditioning units or any other such appliances, articles or equipment designed for use inside a dwelling unit if stored, placed or set upon the ground, on any open porch, in any attached carport, in any freestanding carport or in any garage or shed that is without doors to conceal such articles.
19. *Unsanitary buildings.* Any building or part thereof which, by reason of its unsanitary condition or of its being infected with disease, is unfit for human habitation or which from any other cause is a source of sickness among the inhabitants of the Village or which otherwise endangers the public health.
20. *Abandoned objects or equipment.* Abandoned, discarded or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers.
21. *Abandoned shafts or excavations.* Any open abandoned shaft or excavation.
22. *Non-operating vehicles.* Any partially dismantled, wrecked, junked, discarded or otherwise non-operating motor vehicle remaining upon any public or private premises within the Village not in an enclosed building or so located upon the premises as not to be readily visible from any public place or from any surrounding private property.
23. *Offensive garbage, rubbish or trash.* The accumulation on any lot or piece of ground in the Village of any garbage, rubbish or trash in such a manner as to be offensive or be injurious to the health of any person or of the neighborhood.
24. *Vegetation blocking roadway.* Any vegetation, tree or shrub blocking any roadway or line of sight at any intersection.
25. *Construction debris.* Any construction debris, residue, fill, rocks, concrete upon any open lot or property.

26. *Unlawful noise.* It shall be unlawful for any person to make, continue, or cause to make or continue any loud, unnecessary, or unusual noise, or any noise which unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, or safety of others within the Village limits of the Village of Leawood, Missouri.

a. *Standards.* The standards which shall be considered in determining whether or not a violation of this subparagraph exists shall include, but not be limited to, the following:

- (1) The volume of noise;
- (2) The intensity of the noise;
- (3) Whether the noise is unusual or usual;
- (4) Whether the origin of the noise is natural or unnatural;
- (5) The volume and intensity of the background noise, if any;
- (6) The proximity of the noise to residential sleeping facilities;
- (7) The nature and zoning of the area within which the noise emanates;
- (8) The density of inhabitation of the area within which the noise arrives;
- (9) The time of day or night the noise occurs;
- (10) The duration of the noise;
- (11) Whether the noise is recurrent, intermittent, or constant; and
- (12) Whether the noise is produced by a commercial or non-commercial activity.

b. *Enumeration of prohibited noises.* The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this Subparagraph, but the enumeration shall not be deemed to be exclusive.

- (1) The sounding of any horn or signal device of any automobile, taxicab, motorcycle, bus, or other vehicle, whether or not in motion, except when necessary to give warning of threatened collision with another vehicle or with a pedestrian; except nothing herein shall apply to emergency vehicles.
- (2) The using, operating, or permitted to be played, used, or operated any radio receiving set, musical instrument, phonograph, stereo, amplifier, or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants.

- (a) The operation of any such sound amplification device in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, or vehicle in which it is located shall be prima facie evidence for violation of this Section between the hours of 10:00 P.M. and 8:00 A.M.
- (b) The playing or permitting to be played of any device described in this paragraph between the hours of 8:00 A.M. and 10:00 P.M. so that it is plainly audible at a distance of one hundred (100) feet from the building, structure or outdoor area in which the device is located shall be prima facie evidence for violation of this Section.
- (3) No person operating or occupying a motor vehicle on a street, highway, alley, parking lot, or driveway shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of fifty (50) feet or more from the vehicle.
- (4) For purposes of this Subsection, the term "*plainly audible*" means any sound produced by a sound amplification system from within the vehicle which can be heard at the required distance within the required times. Measurement standards shall be by the auditory senses based upon the direct line of sight. Words or phrases need not be discernible, and bass reverberations are included.

c. Sound levels.

- (1) *Definitions.* The following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to them in this Subsection, except where the context clearly indicates a different meaning.

A-WEIGHTED SOUND LEVEL

The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

DECIBEL (dB)

A unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ration of the presence of the sound measured to the reference pressure, which is twenty (20) micro pascals (twenty (20) micronewtons per square meter). A decibel is one-tenth (.1) of a bel.

MOTOR VEHICLE

Any self-propelled vehicle not operated exclusively upon tracks, except farm tractors.

MOTORCYCLE

Every motor vehicle having a seat or saddle for the use of the rider and designated to travel on not more than three (3) wheels in contact with the ground but excluding a tractor.

SOUND LEVEL METER

An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels.

SOUND PRESSURE LEVEL

Twenty (20) times the logarithm to the base ten (10) of the ration pressure of twenty (20) micro pascals (20×10^{-6} N/m²). The sound pressure level is denoted Lp or SPL and is expressed in decibels.

- (2) *Motor vehicles.* It shall be unlawful to operate a motor vehicle within the Village which creates a noise or sound which exceeds the sound levels listed below, when measured at fifty (50) feet with a sound level meter. If the distance is less than fifty (50) feet, such listed sound level shall be corrected to reflect the equivalent sound levels dB(A) for the actual distance. Noise level limits shall be as follows:

Noise limit in relation to posted speed limit.

	Speed Limit 35 mph or less	Speed Limit over mph 35
Motor carrier vehicles engaged in interstate commerce of GVWR (gross vehicle weight rating) or GCWR (gross combination weight rating) of 10,000 pounds or more	86	92
All other motor vehicles of GVWR or GCWR of 10,000 pounds or more.	86	92

The sound or noise shall be measured on fast response with a type II or better sound-level meter meeting the standards prescribed by the American Standards Association. The instrument shall be maintained in calibration and good working order. A calibration check shall be made of the system before and after any series of noise measurements. Measurements shall be taken to provide a proper representation of the noise source. The microphone during measurements shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. Traffic, aircraft, and other transportation noise sources and other background noises shall not invalidate measurements, except where such background noises interfere with the primary noise being measured.

- (3) *Places of public or private entertainment.* It shall be unlawful to create in any place of public or private entertainment, including, but not limited to, a restaurant, bar, cafe, discotheque, or dance hall, or any other public or private gathering, any noise which exceeds eighty (80) dB(A). The measurement of such sound or noise shall be measured with a sound-level meter meeting the standards prescribed by the American Standards Association. The instrument shall be maintained in calibration and good working order. A calibration check shall be made of the system immediately after any noise measurement. Measurements recorded shall be taken to provide a proper representation of the noise source. The microphone during measurements shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements, except where such background noise interferes with the primary noise being measured. Such measurement shall be taken at or near the property line nearest the source of the noise.

- (4) *Time factor — reduction of noise level.* If any of the noises or sounds regulated in Subsections (2) and (3) of this Section occurs between the hours of 10:00 P.M. and 7:00 A.M., the maximum noise levels specified in Subsections (2) and (3) of this Section shall be reduced by three (3) decibels.
- (5) *Exemptions.* The following sounds or noises are exempt from the provisions of this Section:
 - (a) Noise of safety signals or warning devices, including horns used while warning of impending peril or trains.
 - (b) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
 - (c) Any aircraft operated in conformity with or pursuant to Federal law, Federal air regulations and air traffic control instruction used pursuant to and within the duly adopted Federal air regulations shall be exempt from the provisions of Subsection (4) of this Section, as well as the other regulations of this Section. Any aircraft operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under Federal air regulations shall also be exempt from the provisions of Subsection (4) of this Section, as well as the other regulations of this Section.
- (6) *Unavailability of sound level meter.* When a sound level meter is not available or not in working order at the time a noise occurs, the provisions of this Section shall not bar the prosecution of person creating excessive noises with motor vehicles or places of public or private entertainment pursuant to Section ___.040(26) of this Code.

d. *Permit.* The Board of Trustees may authorize a temporary permit to a place of public or private entertainment upon such conditions as the Board deems appropriate, provided that such permit may be revoked immediately by the Chairman of the Board or Chairman Pro Tem, in his absence, in the event a complaint is lodged regarding such noise.

Section ___.050 Notice to Abate.

Whenever the Village Clerk shall ascertain or have knowledge that a nuisance exists in or upon any building, lot or premises within the Village, he/she shall, in writing, notify the owner or person occupying or having possession and control of such house, building, lot or premises to abate or remove such nuisance within a time to be specified in such notice; provided however, that when the owner of the property is a non-resident of the Village and no person occupies, possesses or controls such building, lot or premises, no notice need be served on such owner if the Board of Trustees shall first find and declare that the abatement of such nuisance is required for the protection and preservation of the public health, safety and welfare and that an emergency exists for the abatement of such nuisance.

Section ___.060 Failure to Comply with Notice.

Any person who shall be notified to abate a nuisance and who shall fail, neglect or refuse to obey and comply

with the provisions of such notice within the time therein specified shall be deemed guilty of a misdemeanor.

Section __.070 Right of Entry for Abatement Purposes.

Duly appointed and authorized agents and/or employees of the Village are hereby authorized and required to go in the daytime in and upon any house, building, lot or premises, public or private, for the purpose of removing or abating any nuisance thereon.

Section __.080 Abatement by Village.

If the owner or person occupying or having possession and control of any premises upon which a nuisance exists in violation of this Article does not abate the nuisance within the time stated in the notice to abate such nuisance, the Village may enter upon such premises and abate such nuisance. The costs and expenses of such abatement by the Village shall, like taxes, be a first (1st) lien on the property affected thereby until paid.

Section __.090 Legal Action by Private Persons.

Any person who, by reason of another's violation of any provision of this Article, suffers special damage to himself/herself different from that suffered by other property owners throughout the Village generally may bring an action to enjoin or otherwise abate a nuisance.

Section __.100 Summary Abatement.

Whenever a nuisance clearly exists in the Village, the continuance of which, in the judgment of the Board of Trustees, will be dangerous to public health, the Board may declare such condition to be such a nuisance and dangerous in its continuance and enter such declaration in the records of the Village and shall then immediately abate such nuisance.

Article II

Weeds

Section __.110 Weeds.

- A. *Cutting And Removal Of Grass, Weeds And Abatement Of Other Nuisances.* It shall be unlawful for any owner, lessee or occupant or any agent, servant, representative or employee of any such owner, lessee or occupant having control of any occupied lot or land or any part thereof in the Village or for any owner, lessee or occupant or any agent, servant, representative or employee of any such owner, lessee or occupant having control of any unoccupied lot or land or any part thereof in the Village which is surrounded on one (1) or more sides by occupied land to permit or maintain on any such lot or land or on or along the sidewalk, street or alley adjacent to the same between the property line and the curb, any growth of weeds, grass, to a height of more than seven (7) inches on the average, or poisonous or harmful vegetation, or to allow the accumulation of any rubbish, trash, lumber not piled or stacked twelve (12) inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, cut and fallen trees and shrubs, broken furniture, any flammable material which may endanger public safety or any material which is unhealthy or unsafe and it shall also be unlawful for person or persons to cause, suffer or allow poison ivy, ragweed or other plant detrimental to health to grow on any such lot or land in such manner that any part of such ivy, ragweed or other poisonous or harmful 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 and the growth of such weeds, grass to a height of more than seven (7) inches on the average, or poisonous or harmful vegetation and the other enumerated conditions are hereby declared to be a nuisance.

- B. *Duty Of Owner, Lessee Or Occupant.* It shall be the duty of any owner, lessee or occupant of any lot or land to cut or remove or cause to be cut and removed all such weeds, grass, poisonous or harmful vegetation or other conditions as enumerated as nuisances pursuant to Subsection (A) above or as enumerated by any other Section of this Code.
- C. *When Village To Do Work.* When the provisions of this Article are not complied with, the Chairman of the Board of Trustees of the Village or his designee shall hold a hearing after at least four (4) days' notice thereof to the owner of the lot or his/her agent, the occupant, if any, and the lessee, if any. For the purposes of this Section, notice shall be deemed to be given if personal notice of the same was served upon such individual or if at least four (4) days prior to the intended hearing, the Village Clerk or his or her agent shall have deposited in the U.S. mail, postage prepaid, to such names and to such addresses as known to the Village Clerk, after a due and diligent search of records available to him or her of the people enumerated therein. Following the hearing, the Chairman or his designee may declare the weeds or other conditions to be a nuisance and cause the Clerk to order, by written notice, that the nuisance be abated within five (5) days. In the event the weeds are not cut down or other nuisances are not abated or removed within five (5) days, the Village Clerk or other designated official shall cause the weeds to be cut down and other nuisances enumerated herein to be removed and shall certify the cost of the same to the Village Clerk. The Village Clerk shall cause a special tax bill therefore against the property to be prepared and to be collected by the Village Clerk with other taxes that may be assessed against the property. In addition to the cost of the abatement of such nuisance, it shall be a personal debt of the owner, occupant, lessee, or agent. The special tax bill from the date of its issuance shall be a first (1st) lien upon property until paid and shall be prima facie evidence of the recital 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 Village Clerk, delivered to the Chairman of the Board of Trustees, and endorsed by the Chairman thereof. Such bills if not paid when due shall bear interest at the rate of eight percent (8%) per annum.
- D. *Penalty.* Each person who shall neglect to cut and remove weeds, grass or other vegetation as directed in this Article or who shall fail, neglect or refuse to comply with the provisions of any notice herein provided or who shall resist or obstruct the Village Board or other representative of the Village in the cutting and removal of weeds, grass and other vegetation shall upon conviction thereof be guilty of a misdemeanor. The preparation of a tax bill, as authorized by Section .110(C) shall not relieve any person of liability under this Section.
1. Each person convicted of a violation of this Article shall be penalized by a fine not exceeding five hundred dollars (\$500.00), provided that in any case wherein the penalty for an offense is fixed by a Statute of the State, the statutory penalty, and no other, shall be imposed.
 2. Each day on which a violation of this Article continues shall constitute a separate offense.

Article III

Miscellaneous Nuisances

Section __.120 Regulations for Keeping Used or Discarded Tires.

- A. It shall be unlawful for any person, firm or corporation to keep, store or maintain discarded or used tires in such a condition or at such a location so that rodents, mosquitoes or other vermin shall live or breed therein.
- B. It shall be unlawful for any person, firm or corporation to keep, store or maintain discarded or used tires in such a number or at such a location as to be readily visible from Village, County or State right-of-way or from abutting property owners. A fence or ornamental screening constructed pursuant to Section 405.180(6) of this Code shall comply with this Section.
- C. For the purposes of this Section, it shall be presumed that the existence of fifty (50) or more used tires on one (1) tract of property is a violation of this Section.

FIRST READING: July 16, 2020

SECOND READING: July 16, 2020

Passed by the Board of Trustees of the Village of Leawood this 16th day of July 2020.

Village of Leawood, Missouri

By: Denis Desmond
Denis Desmond, Chairman Board of Trustees

ATTEST:

Beverly Kiehl
Beverly Kiehl, Village Vice Chairman

Article III

Miscellaneous Nuisances

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ATTEST:

Beverly Kiehl
Beverly Kiehl, Village Vice Chairman

8/20/2020

Notary: Carly Barwick

