

## EXHIBIT A

### **Sec. 34-240. - Declaration of acts or conditions.**

In addition to any other act declared to be a nuisance by this Code or other ordinances of the city, nuisances are hereby defined and declared to be as follows:

- (1) Any ~~act done or committed~~condition of property permitted or allowed to ~~be done or committed, by any person~~exist, or any substance or thing kept, maintained, placed or found in or upon any public or private place, which is injurious or dangerous to public health;
- (2) ~~Any pursuit followed or act done by any person to the hurt, injury, annoyance, inconvenience or damage of the public; Intentionally deleted;~~
- (3) The existence of graffiti, as defined in section 34-263, which graffiti is visible to any person utilizing any public or private right-of-way;
- (4) Any building or other structure of whatever type kept or maintained, or which is permitted by any person owning or having control of such structure to be kept or maintained, in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public;
- (5) Any building where hazardous materials are stored or materials used for explosives are stored which is not maintained in compliance with federal law, state statute, county ordinance or this Code;
- (6) Any factory or business place permitted by the person owning or having charge of the same to operate or be in such condition as to become offensive, annoying or injurious to the public;
- (7) Any animal pen or cage permitted by the person owning or controlling the same to be in such condition as to be offensive, annoying or injurious to the public or harmful to the animal confined;
- (8) Any swimming pool, open containers of water, or pool of water kept, maintained or allowed to remain stagnant, or which enables the breeding of mosquitoes, and any foul or dirty water or liquid discharged through any pipe, or thrown into or upon any public right-of-way or private property to the injury or annoyance of the public;
- (9) Any toilet, private sewer, vault or basement kept in such a condition as to emit an offensive odor; and any urine, liquid waste, or substance emitting an offensive, noxious, unhealthy or disagreeable odor in any public place;
- (10) Any condition which is conducive to the feeding or harborage of rats;
- (11) Any garbage, refuse, debris or other materials stored or allowed to remain on any premises as prohibited in section 12-117, pertaining to the adoption of the property maintenance code;
- (12) Any carcass of a dead animal which the owner or keeper thereof permits to remain within the limits of this city exceeding 12 hours;

- (13) Any animal or vegetable matter upon any premises liable to become putrid, offensive, or unhealthy, except manure deposits which are promptly incorporated into cultivated soil;
- (14) Any compost pile or any compost materials or pile not maintained in compliance with [section 40-29](#), pertaining to composting;
- (15) Any obstruction caused or permitted on any street or sidewalk to the danger or annoyance of the public, and any rock, dirt, garbage, refuse or debris thrown or placed by any person on any street, alley, sidewalk or other public place or on any premises or in any stream of water within the city which in any way may cause or is liable to cause injury or annoyance to the public;
- (16) Any sidewalk, gutter or curb permitted to remain in an unsafe condition or out of repair by any person required to keep the sidewalk, gutter or curb in good condition or repair;
- (17) Any premises upon which any of the following acts or conditions have occurred or continue to occur, whether by the owner, occupants or persons frequenting or congregating about the property:
  - a. Commission of acts which are prohibited by federal law or state statute committed within the premises, or on the property thereof, or within the immediate vicinity of the property, and which have resulted in arrests that are classified as felonies occurring two or more times within a period of 90 days which acts affect the safety, convenience and tranquility of persons residing, making use or conducting business within the adjacent area;
  - b. Manufacture, distribution, sale or use of illegal drugs prohibited by federal law, state statute or city ordinance within the premises, or on the property, or within the immediate vicinity of the premises;
  - c. More than two instances within a ~~180~~[90](#)-day period of commission of acts which are prohibited by [criminal](#) state statute or city ordinance committed within the premises, or on the property thereof, or within the immediate vicinity of the property and which have resulted in arrests which acts affect the safety, convenience and tranquility of persons residing, making use or conducting business within the adjacent area;
  - d. More than two instances within a 180-day period of consumption of alcoholic beverages on the public right-of-way adjacent to the premises or on the parking lot of the premises as prohibited in [section 34-169](#), pertaining to drinking in public;
  - e. More than two instances within a 180-day period of incidents of:
    - 1. Indecent conduct as prohibited by [section 34-66](#); or
    - 2. Public urination;
  - f. More than two instances within a 180-day period of incidents of peace disturbance or ~~domestic violence resulting in calls to the police~~[assault](#);

- g. More than two instances within a 180-day period of peace disturbance of the public or behavior which intimidates the public committed by unsupervised juveniles ~~resulting in calls to the police;~~
- h. More than two instances within a 180-day period of incidents of harassing or intimidating behavior, such as by blocking the path of persons passing by, making rude comments, or comments intended to frighten nearby inhabitants or persons passing by the property;
- i. More than two instances within a 180-day period of failure by the property owner to remove any litter as required in article X of this chapter, pertaining to littering;
- j. More than two instances within a 180-day period of incidents of loud noise emitted from electronic equipment of any type including radios and televisions on the premises or any parked vehicles belonging to the owner, occupants or persons frequenting the premises plainly audible at a distance of 50 feet outdoors, or which disturbs the peace of persons residing within the same building or an adjacent building;
- k. ~~Any violation of this Code, which if continued is liable to endanger, annoy or injure the public;~~ Intentionally deleted;
- l. Each act or thing done or made, or any condition or use of property, permitted, allowed or continued to exist, on any property, public or private, by any persons or corporation, their agents or employees, ~~to the damage or injury of any of the inhabitants of this city, and not specified above~~ which is injurious or dangerous to any person or to the public health and safety.

(18) No enforcement action or abatement will be ordered against an individual who was a victim in whole or in part of the incidents that formed the basis of the nuisance enforcement action. No occupancy permit revocation or other abatement measure against an individual will be predicated upon the fact that such individual called for police or emergency services. The notice of a nuisance hearing given under Section 34.242 shall include notice of the provisions of this Section 34-240(18). Any decision or related order in a nuisance proceeding imposing enforcement or abatement action with respect to an individual shall make a finding whether that individual is a victim and may be the subject of such enforcement or abatement action under Section 34-240(18).

*(Code 1972, § 302.01(A), (B); Code 1982, § 21-1; Ord. No. 4684, § 2, 3-28-1995; Ord. No. 5373, § I, 10-24-2006)*

**Sec. 34-242. - Abatement procedures.**

Nuisances shall be abated as follows:

- (1) In cases in which an immediate threat to the public health, welfare or safety is apparent, the city manager may abate or cause the abatement of the nuisance, without notice, by any suitable means. The costs of the abatement shall be certified by the city manager to the city council that may, by ordinance, levy the cost of the abatement as a special tax against the property on which the nuisance was located. Such tax shall be collected as other city taxes are collected and shall be a first lien on the property against which it is assessed until it is paid.
- (2) In all other cases, the city manager or his designee shall hold a hearing determine whether a nuisance exists and whether and how it should be abated.
  - a. At least five days' notice shall be given of such hearing to the owner and occupant of the premises upon which the alleged nuisance exists, or to such person's agent, and to the person causing or maintaining the alleged nuisance if other than the owner or occupant and if such person can be found. Such notices shall be given in writing and delivered in person to the party's residence or place of business.
  - b. All interested parties may appear at the hearing and testify and present evidence concerning the alleged nuisance.
  - c. In determining whether the activity or conditions constitute a nuisance, the city manager or his designee shall consider the following factors:
    1. The magnitude of the harm caused by the alleged detrimental activity or conditions;
    2. The length of time that the alleged detrimental activity or conditions have existed;
    3. The effect of the activity or conditions at the property on the value of adjacent properties and those in the surrounding area;
    4. ~~The number of times that public safety officers have been dispatched to the property; and~~  
Intentionally deleted; and
    5. The extent of efforts by the owner or person having charge of the property to remedy the alleged detrimental activity or conditions.
  - d. If, after the hearing, it is found that a nuisance exists and that it must be abated, the city manager or his designee may order the owner or occupant of the premises on which the nuisance exists or the person other than the owner or occupant who caused or maintains the nuisance, to abate the nuisance within a prescribed period of time, or abate it by other means.
  - e. The city manager or his designee shall effect the abatement of the nuisance by any measures necessary to cause its cessation and the prevention of its recurrence, including the ordering of revocation of occupancy permits for the persons residing at the dwelling or place of business where the nuisance has occurred and the denial of occupancy permits within the city

to those persons for a period not to exceed six months, or the closure of the premise where the nuisance has occurred for a period not to exceed six months.

- f. The city manager or his designee shall levy a tax for the costs of the abatement incurred by the city under the provisions of subsection (1) of this section.
  - g. Any person adversely affected by the abatement order shall have a right of judicial review as provided by RSMo 536.100.
  - h. If the revocation of occupancy permits or the closure of the property is ordered, the city manager shall direct the chief of police to set a time period within which the property shall be vacated. The owner of the property, person in charge of the property and the occupant shall be notified to vacate the premises within the time period ordered by the chief of police. It shall become the duty upon such notice of both the owner and the occupant of such premises to comply by vacating the premises within the time period ordered by the chief of police. It shall be considered a violation of this Code if such premises are not vacated within the time period ordered by the chief of police. The chief of police is authorized to remove persons from the premises that have not been vacated within the time period ordered. The chief of police shall have the premises secured to prevent unlawful entry.
  - i. Failure to comply with the lawful order of the city manager or his designee under the provision of this section shall be sufficient to subject a person to the penalties prescribed for violations of a provision of this Code.
- (3) No person shall deny entry to any person authorized to abate a nuisance to the property on which the nuisance to be abated exists, nor shall any person interfere with or hinder in any way the efforts of such authorized person or persons to abate the nuisance.
  - (4) In any case, the city manager may authorize the city attorney to file suit against the owner or occupant of the property on which the nuisance exists, or the person other than the owner or occupant who caused or maintains the nuisance, to abate that nuisance.
  - (5) In case of the abatement of a nuisance on the property of more than one person, all special taxes assessed under the provisions of this chapter shall be assessed in proportion to the amount of work and expense for the abatement of the nuisance for each separate parcel.

*(Code 1972, § 302.01(D); Code 1982, § 21-3; Ord. No. 5373, § II, 10-24-2006)*