


BILL # 1058-22

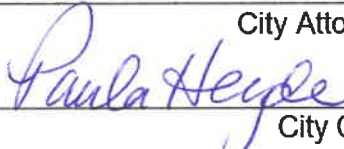
AN ORDINANCE AUTHORIZING AN AMENDMENT TO SECTION 4-13 "SUSPENSION, REVOCATION AND/OR IMPOSITION OF AN ADMINISTRATIVE PENALTY ON LICENSES," SECTION 8-37 "DOING BUSINESS WITHOUT LICENSE," AND SECTION 15-1 "DEFINITIONS," AND THE ADDITION OF A NEW ARTICLE IV TITLED "CHRONIC NUISANCE BUSINESSES" TO CHAPTER 15 "EXTERIOR PROPERTY MAINTENANCE" OF THE CODE OF ORDINANCES TO PROVIDE FOR REGULATIONS FOR CHRONIC NUISANCE BUSINESSES.


BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ST. JOSEPH, MISSOURI, AS FOLLOWS:

- SECTION 1.** That Chapter 4 of the Code of Ordinances of the City of St. Joseph, Missouri, be, and hereby is, amended by repealing Section 4-13 entitled "Suspension, revocation and/or imposition of an administrative penalty on licenses" and enacting in lieu thereof a new Section 4-13 to be numbered and read as shown on the attached "Exhibit A."
- SECTION 2.** That Chapter 8 of the Code of Ordinances of the City of St. Joseph, Missouri, be, and hereby is, amended by repealing Section 8-37 entitled "Doing business without license" and enacting in lieu thereof a new Section 8-37 to be numbered and read as shown on the attached "Exhibit A."
- SECTION 3.** That Chapter 15 of the Code of Ordinances of the City of St. Joseph, Missouri, be, and hereby is, amended by repealing Section 15-1 entitled "Definitions" and enacting in lieu thereof a new Section 15-1 to be numbered and read as shown on the attached "Exhibit A."
- SECTION 4.** That Chapter 15 of the Code of Ordinances of the City of St. Joseph, Missouri, be, and hereby is, amended by adding a new Article IV to be numbered, entitled and read as shown on the attached "Exhibit A."
- SECTION 5.** That any ordinances or parts of ordinances in conflict with this ordinance be, and hereby are, repealed.
- SECTION 6.** That if any provision of this ordinance is found to be invalid, such provision shall be severable from the other parts of this ordinance and shall not affect the validity of the remaining parts of this ordinance.
- SECTION 7.** That this ordinance shall be in full force and effect from and after date of passage.

Approved as to form:



Attest:  Paula Heyse
City Clerk

Passed: November 25, 2025


Mayor

	Davis	Eslinger	Grimm	Josendale	Novak	Randolph	Schomburg	Schultz	Trout	Total
Aye	1	1		1	1	1	1	1		7
Nay										
Pass										
Absent			1						1	2
Abstain										

General Ordinance

Council Agenda #: 49379, 49431-2

Ordinance #: 3111

Sponsored by Councilmember:

AGENDA ACCEPTED BY COUNCIL

Read first time: November 12, 2024

Statutory wait after first reading complied with

November 18, 2024

Passed November 24, 2024

CITY CLERK
2024 NOV -7 AM 10:07

Date: November 12, 2024
Amount: N/A
Account Number: N/A

EXPLANATION TO COUNCIL BILL

ORIGINATING DEPARTMENT: Planning & Community Development

PURPOSE: To amend Section 4-13 "Suspension, Revocation and/or Imposition of an Administrative Penalty on Licenses," Section 8-37 "Doing Business Without License," and Section 15-1 "Definitions;" and the addition of a new Article IV titled "Chronic Nuisance Businesses" to Chapter 15 "Exterior Property Maintenance" of the Code of Ordinances to provide for regulations for chronic nuisance businesses.

REMARKS: Identified in the Council's Strategic Action Plan, "Create a Clean and Vibrant City" identified opportunities improve the community appearance. Proposal will amend existing City Code language to better address property maintenance issues related to chronic nuisances. Currently, the City Code covers exterior property maintenance, but only deals with issues such as debris, vermin, noxious odors, pooling water, weeds, and rank growth vegetation. No language currently exists to sufficiently address businesses that allow their property to become a nuisance throughout the day causing disturbances.

Amendment to the City Code includes provisions related to chronic nuisance properties and specify that allowing members of the public to loiter or linger on the business property can constitute a public nuisance, making the business owner responsible in certain circumstances for the actions of its patrons who cause a public nuisance within 200 feet of the business. Enforcement will be administered through a series of notices which will culminate in a hearing before the Administrative Violation Review Board to determine if the chronic nuisance business should have its business license or liquor license revoked or if the business should be ordered closed for a certain period of time pending abatement of the nuisance conditions, which is currently not authorized by City Code.

Goal of code change is to provide Police Officers and other code enforcement officers with an additional form of enforcement to discourage or prohibit businesses from becoming chronic nuisances. Several local businesses have become gathering places for the City's vagrants. These businesses have become an eyesore and are a blight upon the City, especially where the neighborhood surrounding the business is in a highly trafficked area or where economic development is underway. As such, it is imperative that the City consider options to amend the City Code to discourage business owners from allowing their property to become a gathering place for unseemly activities, and a mechanism to penalize the business owners who refuse to correct or abate such nuisances.

This policy reflects the following action items in the City's strategic plan:

Create a Clean & Vibrant City:

Continue to keep city properties clean and well maintained and properly maintain exteriors of city-owned buildings to ensure they are safe and functional.

Revitalize Community Spaces & become a Destination Location: Establish a strong role for the city to play in downtown redevelopment.

Exhibit A

Sec. 4-13. Suspension, revocation and/or imposition of an administrative penalty on licenses.

- (a) Whenever it shall be shown to the designated city representative, or whenever the designated city representative shall have knowledge that any licensee under this Chapter 4 of the City Code has violated any provisions of said chapter, or has not complied with other applicable laws and ordinances of the city, the licensee shall be promptly notified to appear before the city manager, or his/her designee, at an administrative hearing to be conducted in accordance with Chapter 2, Article XIII, Division 1 of this City Code. If the city manager, or his/her designee, shall be satisfied after being presented with all relevant information that a violation has occurred, then he/she may proceed in accordance with subsection (b) below
- (b) Any violation of any provision of this article during any given fiscal year, including the standards adopted by reference:
 - (1) Shall be punishable upon an administrative decision rendered by an administrative hearing officer that a business entity or individual failed to comply with the sections of this Code; and
 - (2) Shall be assessed an administrative penalty, which shall be either a:
 - a. Civil monetary penalty for a violation; and/or
 - b. Suspension of the liquor license of the business entity or individual for a term of not less than one day, nor greater than 90 days; or
 - c. Revocation of the liquor license of the business entity or individual, effective when confirmed by resolution of the city council.
- (c) A license may be suspended or revoked for the following reasons:
 - (1) Engaging in business prior to the issuance of a license;
 - (2) Failing to set out the names and residences of all owners, partners, members (LLC), stockholders, corporate officers and/or managing officers;
 - (3) Failing to provide full, true and complete answers to all questions in the application;
 - (4) Violating any oath taken in connection with the application;
 - (5) Failing to provide or attach to the application photographs, licenses and/or tax receipts to the extent required; ~~and/or~~
 - (6) Violating or allowing an employee to violate any city ordinance pertaining to intoxicating liquor or non intoxicating beer; and or.
 - (7) Operating the business in such a manner that it constitutes a “chronic nuisance” to the neighborhood, as such term is defined and set forth in Chapter 15 of the City Code. For purposes of this section, the “business” shall include the licensed premises, the parking lots and areas around the business which are owned, used,**

and/or maintained as part of the business, and all other property within 200 feet of the premises.

The above list is not meant to be all inclusive.

- (d) Any party aggrieved by a decision rendered by a hearing officer in conjunction with the administrative hearing process shall have the right to further appeal in accordance with Section 2-1404.

* * * * *

Sec. 8-37. Doing business without license; suspension, revocation, and denial; penalty; appeal.

- (a) Doing business without a license. It shall be unlawful for any person to engage in any business, occupation, pursuit, profession or trade or to keep or maintain any institution, establishment, article, utility or commodity without first procuring and paying for a license to do so, unless otherwise exempted by law.
- (b) Suspension and revocation of business license; denial. No licensee shall cause, maintain, or permit a nuisance to exist on the licensed premises as is prohibited by Chapter 15 of this City Code, nor shall any licensee operate the business in violation of any provision of this Code. Any person or entity that operates a business licensed pursuant to this Chapter in violation of any provision of this Code, or who maintains, causes, permits, or contributes to a nuisance, or operates a business that is determined to be a "chronic nuisance business" as prohibited by Chapter 15, in the conduct of the business or on the property where the licensed business is located, shall be subject to having the business license suspended, revoked, or not renewed by the director of finance. The director of finance shall not issue a business license when the director has reason to believe that the issuance of the license will result in the operation of the business in violation of this Code or that the operation of the business will cause or result in a nuisance or that a nuisance currently exists on the property where the business is to be licensed and/or located. If the director determines that grounds exist to deny, not renew, suspend, or revoke a business license, the director shall notify the applicant/licensee in writing of the decision and stating the reasons for such denial, nonrenewal, suspension, or revocation.
- (c) Penalty. Any individual or entity operating a business without a license shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$100.00 and not to exceed \$500.00 for each offense and a further sum of not less than \$100.00 and not to exceed \$500.00 for each day such individual or entity operates the business without a license.
- (d) Procedure to appeal denial, nonrenewal, suspension, or revocation. Any person or entity aggrieved by a decision made pursuant to this section may appeal the decision pursuant to the procedure set forth in Chapter 2, Article XIII, Division 1, of the City Code.

- c. Possession or right to possession of real property, a building or structure or a part thereof under a contract for deed; or
- d. Legal title of a vehicle.

Person. Any agent, private corporation, firm, partnership, association, administrator, and any executor, receiver, representative or trustee appointed according to law.

Rank growth of vegetation. Vegetation in the condition(s) which constitute "rank growth of vegetation" as such conditions are provided elsewhere in this chapter.

Solid waste. Solid and semisolid waste materials resulting from industrial, commercial, agricultural, governmental and domestic and residential activities, including, but not limited to, animal wastes, appliances, ashes, construction and demolition wastes, garbage, major appliances, refuse, rubbish, street refuse, household waste, trash and yard wastes, but not hazardous waste or waste material resulting from mining, milling or smelting.

Solid waste collection service. A service business licensed or permitted by the city to collect, transport and dispose solid waste.

Tarpaulin. A piece of opaque material (usually durable plastic) used for protecting exposed objects or areas.

Unsafe. A state or condition of danger, harm or risk; unsecured from threat of danger, harm or loss.

Unsanitary. A state or condition that endangers personal or public health.

Weeds. Grasses and unattended growths of other plants, bushes and shrubbery.

Woodland. A large, dense growth of trees, plants and underbrush.

Yard waste. Leaves, grass clippings, yard and garden vegetation, tree trimmings and Christmas trees.

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CHAPTER 15. EXTERIOR PROPERTY MAINTENANCE

ARTICLE IV. CHRONIC NUISANCE BUSINESSES

Sec. 15-61. General prohibition and definitions.

- (a) It shall be unlawful for any owner, occupant, or employee of a business to cause, permit, encourage, or allow a chronic nuisance to exist upon the business property, premises, lot, tract, parcel, or adjacent property within 200 feet of the business.
- (b) It shall be the responsibility of the owner, lessee, or occupant, or any agent, servant, representative, or employee of any such owner, lessee, or occupant having control of the business, to remove or abate such chronic nuisance condition(s) in accordance with this Article.

* * * * *

Sec. 15-1, Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Chronic nuisance business. A business operated in such a manner that it constitutes an ongoing nuisance that is detrimental to the neighborhood and surrounding property, and as further defined and described in this Chapter.

Composting. A controlled biological reduction of organic waste to humus.

Director of administrative services. That person designated as the director of administrative services, his or her designee, or another person designated by the city manager to perform the duties described in this chapter to be performed by the director of administrative services.

Director of planning and community development. That person designated as the director of planning and community development, his or her designee, or another person designated by the city manager to perform the duties described in this chapter to be performed by the director of planning and community development.

Dwelling. A building or portion thereof, designed exclusively for residential occupancy, but not motels, hotels or travel trailers.

Enclosed structure. An enclosed structure built according to city code, i.e., garage with three permanent walls and a roof.

Establishment. A building, structure, or land used primarily for institutional, commercial, industrial, agricultural or business activity, and any other building, structure, or land that is not a dwelling under this chapter.

Garbage. Putrescible animal or vegetable wastes resulting from the handling, preparation, cooking, serving or consumption of food. Typically a form of "solid waste" as defined in this chapter.

Habitability. Capable of being lived-in; suitable for habitation.

Occupant. Any person who has a legal or equitable interest in a parcel of real property, other than a fee interest, including a life tenant, lessee, tenant at will, tenant at sufferance or adverse possessor, as well as a person in possession or a person who has charge, care or control of the parcel of real property as the agent or personal representative of the person holding legal title of a fee interest. Possession, charge, care or control may include living, sleeping, cooking or eating at the parcel of real property.

Owner. Any person who, alone or jointly or severally with others, has any of the following:

- a. Legal title to any parcel of real property, building or structure, or part thereof, with or without accompanying actual possession thereof; or
- b. Charge, care or control of real property, building or structure, or part thereof, as agent or personal representative of the person having legal title to the building or structure, or part thereof; or

(c) Definitions.

- (1) Business. Any commercial, industrial, or mercantile activity or enterprise operating within the city limits of the City of St. Joseph, regardless of whether licensed by the City of St. Joseph or registered to do business in the State of Missouri. For purposes of this Article, the term *business* shall include the owner, lessee, or occupant of the property where the business operates.
- (2) Chronic nuisance. Repeatedly causing, permitting, encouraging, allowing, or contributing to the commission of any unlawful act, or omitting to perform a duty required by law, or causing permitting, encouraging, allowing, or contributing to any act, omission, condition or thing which either:
 - a. Injures or endangers the comfort, repose, health, or safety of others;
 - b. Offends decency;
 - c. Is offensive to the senses;
 - d. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch, or drainage;
 - e. In any way renders other persons insecure in life or the use of property;
 - f. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others; or
 - g. Constitutes a violation of the City's Property Maintenance Code.
- (3) Repeatedly. Failure of the business to correct the act, omission, commission, or thing that constitutes the chronic nuisance after being given written notice or citation requiring corrective action on three separate occasions within a 180-day period.

(d) Illustrative enumeration of chronic nuisance activities. The following list of chronic nuisance acts, omission, conditions, or things is intended to be illustrative only and not exhaustive.

- (1) Noxious weeds and other rank vegetation over 12 inches in height;
- (2) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things;
- (3) Any condition which provides harborage for rats, mice, snakes and other vermin;
- (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located;
- (5) All unnecessary or unauthorized noises and annoying vibrations, including animal noises;

- (6) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches;
- (7) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained;
- (8) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground;
- (9) Dense smoke, noxious fumes, gas, soot, dust or cinders, in unreasonable quantities;
- (10) Dead trees and dead limbs of trees so located that the falling thereof would endanger the safety of persons using any public sidewalks in the City, or endanger the safety of any pedestrian or occupant of any motor vehicle traveling upon any public street;
- (11) Junked motor vehicles.
- (12) Illegal use, possession, or distribution of drugs or drug paraphernalia;
- (13) Drinking alcoholic beverages in public places;
- (14) Any activity that constitutes a misdemeanor or felony under state or federal law;
- (15) Disorderly conduct or threatening behavior;
- (16) Allowing patrons of the business to loiter or linger at or around the business premises for an excessive amount of time.

Sec. 15-62. Enforcement, notice, and abatement.

- (a) Whenever the chief of police, director of the department of health, or any other director of a department charged with ordinance or code enforcement, or their respective designees, becomes aware that a business is operating in such a manner as to constitute a chronic nuisance under the terms of this Article, they shall notify the director of the department of planning and community development of such chronic nuisance business and provide sufficient information and documentation evidencing such chronic nuisance to the director.
- (b) *First Notice.* Upon receiving the notification provided for in Section 15-62(a) above, the director of planning and community development, or designee, shall cause a notice to be sent to the business informing it that failure to abate the condition(s) constituting the nuisance may cause the business to be declared a chronic nuisance under this Article. Such notice shall be delivered to the business by regular mail, certified mail, and hand delivery and shall specifically state the condition(s) at the business that constitute a nuisance.
- (c) *Chronic nuisance notice.* If the conditions constituting a chronic nuisance are not abated by the business within a reasonable time, and the director of planning and community development determines that the business continues to operate in such a

manner as to constitute a chronic nuisance, such director, or designee, shall serve notice on the business of such director's determination that the business is a chronic nuisance by regular mail, certified mail, and hand delivery. The notice informing the business that it has been determined by such director to be a chronic nuisance shall contain a description of the conditions that must be abated and any other reasonable steps that the business must take so as to comply with the terms of this Article within the time provided for in the notice, not to exceed 30 days, and informing the chronic nuisance business that failure to abate may result in additional enforcement action being taken.

Sec. 15-63. Failure to abate; notice; hearing.

- (a) Upon the expiration of the abatement period provided in the notice sent pursuant to Section 15-62(c) above, the director of planning and community development shall determine whether the conditions constituting a chronic nuisance have been abated. If the chronic nuisance conditions have been abated, no further action shall be taken. If the chronic nuisance conditions have not been abated, the director shall set the matter for public hearing and provide notice to the business. The hearing shall be conducted before the Administrative Violation Review Board (the "AVRB") according to the procedures set forth herein.
- (b) Notice. The director of planning and community development shall provide written notice to the business that a public hearing will be held by the AVRB to determine whether the business constitutes a chronic nuisance under the provisions of this Article. The notice shall be served on the business by regular mail, certified mail, and hand delivery at least 10 days prior to the hearing and shall include the following:
 - (1) The date, time, and place of the hearing.
 - (2) The conditions constituting a chronic nuisance.
 - (3) That the business has the right to be represented by legal counsel at the hearing.
 - (4) That the business may present testimony and evidence on its own behalf.
 - (5) The penalties that may be imposed by the AVRB if it determines that the business constitutes a chronic nuisance.
- (c) Hearing. At the hearing, the AVRB shall determine whether the business is a chronic nuisance. A complete and accurate record of the hearing shall be taken and transcribed by a certified court reporter. All interested parties shall be given an opportunity to present evidence under oath and to be represented by counsel. A City attorney and the director of planning and community development, or designee, shall represent the City's interest and position at the hearing.
- (d) Factors for consideration. The AVRB shall consider the following factors in making a determination as to whether the business constitutes a chronic nuisance:
 - (1) Knowledge of the business owner of the chronic nuisance conditions or otherwise illegal activities occurring on the property.

- (2) The nature and extent of all nuisance activity associated with the business.
 - (3) The nature and extent of any conditions that exist on the business property that are violations of the City Code or are unlawful.
 - (4) Actions taken by the business to prevent nuisance activity and to abate existing nuisance activity found to exist at the business.
 - (5) The physical characteristics of the business and surrounding property, including the proximity of the business to residential property, parks, churches, schools, and playgrounds.
 - (6) Whether there is harassing or intimidating conduct, as prohibited by law, by the owner, occupant(s), or person(s) frequenting the business toward persons living in the neighborhood or passing by the place. A person shall be considered to be frequenting the property if the person visits the property, or loiters about the property.
 - (7) Whether there is street or sidewalk congestion caused by persons frequenting the business.
 - (8) The impact of chronic nuisance determination on innocent parties, including but not limited to, owners and occupants of adjacent property and the general public.
 - (9) Any other relevant evidence.
- (e) *Determination.* At the conclusion of the evidence the AVR B shall vote as to whether the business constitutes a chronic nuisance. The members of the AVR B may deliberate among themselves prior to taking such vote and the City attorney or director of planning and community development, or designee, may make a recommendation to the AVR B as to the City's position regarding the AVR B's determination. If the AVR B determines that the business does not constitute a chronic nuisance, no further action shall be taken. If the AVR B determines that chronic nuisance conditions exist but the property owner or business is working to remedy the conditions, it may continue the hearing for up to 60 days before making a final determination. If, however, the AVR B determines that the business constitutes a chronic nuisance, the AVR B shall impose one or more of the following conditions on the business:
- (1) Order that the business's business license be revoked or suspended for a certain period of time, not to exceed one year;
 - (2) Order that the business's liquor license be revoked or suspended for a certain period of time, not to exceed one year;
 - (3) Order that the business property be vacated, secured, and closed within 30 days and for a period not to exceed one year; and/or
 - (4) Impose additional conditions on the business that the AVR B deems reasonable under the circumstances.
- (f) *Vote.* A determination that the business constitutes a chronic nuisance requires the concurring vote of four (4) members of the AVR B.

- (g) Written notice of determination. The AVRБ shall issue a final written determination within ten days of the conclusion of the hearing informing the business owner of its decision. If the AVRБ determined that the business is a chronic nuisance, the notice shall state the conditions imposed by the AVRБ. If the business was ordered closed, the notice shall state the date by which the business must be vacated, secured, and closed. The written determination shall be sent to the business by both regular and certified mail to the owner and shall also be hand delivered to the business. The notice must inform the business that it has a right to appeal the AVRБ's decision and the method and time for appeal.
- (h) Appeals. Appeals of the AVRБ's decision shall be to the Circuit Court of Buchanan County pursuant to Chapter 536 of the Missouri Revised Statutes and must be made within 30 days of the date of the written notice of determination.

Sec. 15-64. Enforcement.

- (a) If a business is determined to be a chronic nuisance and ordered closed, it shall be unlawful to occupy the business property ordered closed or allow the business property ordered closed to be occupied during the period of closure.
- (b) Any closure pursuant to this Article shall not constitute an act of possession, ownership or control of the closed structure by the City.
- (c) If the business does not obey the closure order, the City shall take all appropriate steps to undertake and complete the work necessary to abate the chronic nuisance condition(s) and/or close and secure the business and shall assess the costs to the business as a special tax bill. The special tax bill from the date of its issuance shall be deemed a personal debt against the person or persons who were the owners of record of the property at the time the City caused the nuisance thereon to be abated. If there was more than one owner of record of the property at the time the city caused the nuisance thereon to be abated, they shall be jointly and severally liable for the personal debt. The City may initiate actions against the business to collect the personal debt if payment in full is not received before the bill becomes delinquent. The special tax bill from the date of its issuance shall also be a lien on real property owned by the business until paid. Such lien may be enforced by any method appropriate for the enforcement of special assessments generally.
- (d) No order to close shall relieve the owner or occupant of any business property from complying with the building, fire, property maintenance and zoning codes or any other ordinance that regulates the condition or use of the premises.

Sec. 15-65. Violations and penalties.

- (a) It shall be unlawful for any owner, occupant, or employee of a business to cause, permit, encourage, or allow a chronic nuisance to exist upon the business property, premises, lot, tract, parcel, or adjacent property within 200 feet of the business.
- (b) It shall be unlawful to use, occupy or permit the use or occupancy of any business ordered closed through the procedures of this Article.

- (c) It shall be unlawful to interfere with any entry into or upon the business by any police officer, agent, or employee of the city whose entry into or upon the business is for the purpose of closure of a structure or otherwise abating the nuisance as ordered pursuant to this section.
- (d) Any violation of this section shall be punishable as provided in Section 15-3 of this Chapter.
- (e) Any violation of this Article may result in the business having its liquor and/or business license suspended, revoked, or not renewed.