ORDINANCE PROHIBITING THE ACCUMULATION OF WASTE MATERIAL AND PROHIBITING OTHER NUISANCES IN THE COUNTY OF TANEY, MISSOURI

The ordinance is adopted pursuant to Section 49.650 RSMo, Section 67.400 et seq. RSMo, Section 260 RSMo, and Section 192.300 RSMo and establishes minimum regulations governing the conditions of all property, buildings and structures, and prohibits and regulates various nuisances, including the control of rubbish and garbage in order to enhance the public health, safety and welfare.

WHEREAS, order to promote the public safety, health and general welfare of the citizens of Taney County, Missouri, it is necessary to adopt a Nuisance Ordinance regulating the following nuisances:

INOPERABLE MOTOR VEHICLES, PARTS OF VEHICLES, GARBAGE, RUBBISH, SCRAP AND/OR USED BUILDING MATERIALS, SOLID WASTES, TIRES, APPLIANCES, FURNITURE, UNCLEAN DRAIN AND SEPTIC SYSTEMS, ABANDONED/VACANT STRUCTURES; AND;

WHEREAS, the Taney County Commission desires to establish a restriction against the foregoing nuisances and provide for penalties for allowing said nuisances to persist; and;

WHEREAS, the Taney County Commission has full power and authority to initiate the prosecution of actions pursuant to Section 49.650 RSMo, Section 67.400 RSMo, Section 260 RSMo and Section 192.300 RSMo; therefore;

BE IT ORDIANED BY the Taney County Commission, Taney County, Missouri as follows:

SECTION 1. Nuisance Forbidden.

No person, including corporations, partnerships, associations and/or other entities shall cause, maintain or permit on premises owned or controlled by such person or entity, a nuisance as defined by the laws of the State of Missouri or by this Ordinance.

SECTION 2. Definitions.

A. "Inoperable motor vehicle" means any vehicle that has been inoperable for more than ninety (90) days or in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. To be considered operable, a motor vehicle must be able to move on its own power, be listed as personal property by the owner with the Taney County Assessor and must be properly titled.

Exception: One vehicle; agricultural equipment; or vehicles on the premises of a duly licensed automobile/truck repair or sales business; or in a duly licensed salvage yard or not visible from a public road or more than four hundred (400) feet from a public roadway and property line. At no time shall vehicles be stacked. Any more than one (1) vehicle must be fenced from sight or covered with a vehicle cover.

B. "Used building material" means any scrap or used: lumber, insulation, drywall, wiring, metal, shingles or other materials used in the construction of residences or commercial buildings deposited in such quantity or in such condition as to be offensive to the sight or smell or to be a menace to health or safety.

C. "Accumulation" means to gather or pile up.

D. "Nuisance" means a used of property or course of conduct that interferes with the legal rights of others by causing damage, annoyance, or inconvenience.

E. "Putrescible" means liable to be putrefied. Chemical decomposition of animal or vegetable tissue, caused by bacteria.

F. "Abate" means to eliminate, or to reduce the magnitude to such a degree that the stated condition no longer violates any provision contained in this ordinance.

G. "Garbage" means any putrescible animal or vegetable waste.

H. "Rubbish" means non-putrescible solid wastes, consisting of both combustible and non-combustile wastes, such as paper, cardboard, tin cans, wood, glass, crockery, furniture, appliances and similar materials.

I. "Solid waste" means unwanted or discarded waste materials in a solid or semi-solid state resulting from industrial, commercial, governmental and domestic activities.

J. "Menace" means something that threatens, or causes annoyance.

K. "Tire" means a ring of rubber that was designed to be placed over the rim of a wheel to provide traction or resistance to wear.

L. "Abandoned/vacant structure" means any abandoned structure not being maintained in a safe, secure condition so as not to cause a blighting problem or adversely affect the public health and safety.

M. "Unclean drain or septic systems" means any unclean, stinging, foul, defective, or filthy drain, including septic tanks or systems, outfalls, and

laterals, or an improper sewer lagoon or other improper on-site sewage disposal system, and any drains therefrom.

N. "On-site sewage disposal system" means any system handling or any treatment facility receiving domestic sewage which discharges into a subsurface soil absorption system and discharges less than three thousand (3,000) gallons per day.

O. "Abandoned" means to five up control, to cease from maintaining or using.

SECTION 3. Rubbuage and garbage.

A. Accumulation of rubbish or garbage. All exterior property and premises shall be free from any accumulation of rubbish or garbage.

Exception: Properties of two (2) acres or more where accumulation is not visible from a public road or adjacent property and does not create a public health hazard.

B. Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in covered containers.

C. Rubbish storage containers. The owner/occupant of every occupied premise whether single family or multi-family shall supply covered containers for rubbish and the owner/occupant of the premises shall be responsible for the removal of rubbish.

D. Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in a covered garbage disposal facility or covered garbage containers.

E. Garbage facilities. The owner/occupant of every dwelling whether single family or multi-family storing garbage outside, shall supply a covered outside garbage container for all accumulated rubbish or garbage.

F. Containers. The operator of every commercial establishment producing garbage or rubbish shall provide and at all times cause to be utilized, containers provided with close-fitting covers for the safe and santitary containment of such materials until removed from the premises for disposal.

G. Compost. A person does not commit a violation of this Ordinance if vegerable waste is accumulated in a non-commercial home composting operation maintained in such manner as to control noxious odors, discourage the growth of harmful bacteria and limit access by animals and vermin.

SECTION 4.

It is a violation of this ordinance to allow on one's property any condition described in Section 2 (M) of this ordinance, and it is also a violation of this ordinance when any sewage, human excreta, or other human organic waste is discharged or exposed on an owner's land or any other land from an on-site disposal system in a manner that makes it a potential instrument or medium for the breeding of flies and mosquitoes, the production of odors, or the transmission of disease to or between a person or persons, or which contaminates surface waters or ground water.

SECTION 5.

Any motor vehicle inoperable for more than ninety (90) days, an accumulation of solid waste, used building materials or ten (10) tires on any property as defined in Section 2 is a violation of this ordinance.

SECTION 6.

Any structure or building which is abandoned and not being maintained in a safe and secure condition that creates a blighting problem or adversely effects the public health, safety or welfare shall be deemed a nuisance and a violation of this ordinance.

SECTION 7. Criminal Remedy.

Any person violating or failing to comply with any provision of this ordinance or with any lawful order of the Taney County Commission or its representatives made pursuant to the provisions of this ordinance shall be subject to the criminal penalties set forth in the applicable state statute upon conviction. Any person convicted of maintaining a nuisance shall within five (5) days thereafter remove such nuisance and failure to do so shall be a second offense and every like neglect for each succeeding five (5) day period thereafter shall be an additional offense.

SECTION 8. Civil Remedy.

In addition to the remedies set forth in Section 4, if any person shall fail to comply with a lawful notice to abate under such section, the County Commission may bring a civil action to enjoin the alleged violation. In the event that the County Commission is successful in obtaining an injunction under this section it shall be entitled to be reimbursed for the costs incurred in obtaining the injunction, as well as a reasonable attorney's fee. Cost for cleanup and any other cost required to bring a property into compliance with this ordinance shall be assessed against the landowner and/or violator. The County may incur the expense, and upon completion of cleanup and/or other required compliance action, the County may file a lien against said property to recoup costs so expended.

SECTION 9. Transportation.

Any motor transportation vehicle used for the purpose of transporting solid waste or hazardous waste, whether a licensed vehicle utilized by a solid waste transportation business or a private individual or entity, shall provide a closed container cover, covers or be sufficiently secured to prevent any of the material being transported from spilling upon the private or public lands within the unincorporated areas of Taney County.

SECTION 10. Applicability.

No accumulation of any of the nuisances listed in this ordinance, which exists upon the effective date of this ordinance, and no person who keeps or permits such an accumulation upon the effective date of this ordinance shall be exempt from the provisions of this ordinance.

SECTION 11. Notice to Abate.

A. Whenever the Taney County Commission or its representative has reason to believe that a person is keeping or permitting an accumulation of any nuisance listed in this ordinance they shall give written notice to such person to abate the accumulation.

B. Such written notice shall include:

   a. The location of the nuisance.
   b. A description and a photograph of the nuisance.
   c. A statement of suggested action necessary to abate the nuisance.

C. If the nuisance has not been abated within forty-five (45) days, a second letter with the same information as the first and including "D" below will be sent.

D. Response required as of receipt of written notice.

   a. A comprehensive plan for the abatement of the nuisance must be submitted in writing to the Taney County Commission within fourteen (14) days of receipt of the written notice.

   b. The nuisance must be abated within ninety (90) days of the receipt of the written plan, unless otherwise approved by the Taney County Commission.

   c. Receipts from the appropriate disposal facility must be submitted to the Taney County Commission.

d. Any person or persons having received a notice to abate may at any time schedule an appointment with the full Commission to discuss the notice or receive assistance with development of their abatement plan.

SECTION 12.

It is not the intent of this Ordinance to conflict with any rules or regulations authorized or made by the State Department of Health pursuant to Chapter 192.300 of the Revised Statutes of Missouri, nor is it the intent of this Ordinance to conflict with any such rules or regulations made by the State Department of Social Services pursuant to Chapter 198 directly contradict any provision in the Missouri Constitution or of any Missouri Statute. It is also not the intent that this ordinance should directly contradict any applicable state rule or regulation. Should any provision in this Ordinance conflict with Section 192.300 RSMo or directly contradict any of the other above-mentioned provisions, or should this ordinance in any way be unenforceable, vague or overbroad, said Ordinance should be read as if it did not include the specific provision that would make this ordinance unenforceable.

SECTION 13.

This current or any future Taney County Commission may not amend this ordinance without first conducting a public hearing on the amendment.

SECTION 14.

This Ordinance will sunset November 27, 2010, and shall be of no further effect unless readopted at that time.

This Ordinance was accepted, extended, and enacted by vote of the undersigned Taney County Commission on the 27th day of November, 2006.

Taney County Commission

Chuck Pennel
Presiding Commissioner

Danny Strahan
Eastern District Commissioner

Ron Herschend
Western District Commissioner

Attest:

Donna Neeley
County Clerk