

AN ORDINANCE OF THE CITY OF CHESTERFIELD PROVIDING FOR WARNING AND SUMMONS FOR VIOLATIONS OF ORDINANCE 541, SECTION 2(H) RELATING TO PLACING OF CANS AND GARBAGE BAGS AT THE CURBSIDE (CODE §25-28).

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Definitions.

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

"Lessee" shall mean any person who leases all or a portion of a premises on a day-to-day, week-to-week or month-to-month basis.

"Owner" shall mean any person or persons or entity who has a vested fee simple title, an equitable interest, or a life interest in any lot or tract of land or in a particular part thereof, whether such tract or lot of land is held in common by joint owners.

"Person having control" shall mean any occupant, agent, servant, representative or employee of any owner, or lessee or renter of any property who exercises any control on behalf of the owner, lessee or renter over a particular residence.

"Renter" shall mean any person who rents all or a part of a premises on a day-to-day, week-to-week, month-to-month basis. For purposes of this Ordinance, a person over the age of eighteen (18) years who is living in a household with a parent but who is neither the owner, the lessee, the head of the household, or the person having control, shall be considered to be a "renter", regardless of whether they pay rent for such occupancy in money.

Section 2. Any person who shall violate the provisions of Ordinance 541 Section 2(H) (Code §25-28), hereinafter referred to as "Code", shall be noticed and warned as follows:

(a) Whenever it comes to the attention of the city, or the city becomes aware of the existence of a violation of the Code hereinafter referred to as the "violation", the City shall investigate the violation and have prepared a report concerning the same. If a violation of the Code is found to exist, a warning notice shall be left with any person occupying such property, whether such person is the owner, renter or lessee thereof, by delivering such warning notice to such person, or if no one is present in the property or

refuses to accept the notice, then by posting the warning notice on the front, or side or rear entrance to the residence or building.

(b) The warning notice provided in subsection (a) shall contain:

- (1) The address or legal description of the property;
- (2) The ordinance number of the ordinance being violated;
- (3) The nature and location of the violation.
- (4) A notice of the penalty for failure to remove or abate the violation, stating that if the nuisance reoccurs by the same occupier, owner or person in charge, a summons will be issued without further notice.

(c) If the violation occurs where the residence or building is unoccupied, the property may be posted as provided in subsection (a), and if the property is unimproved by placing the notice upon a tree or other object upon such property, as may be available.

(d) A notice shall be considered as validly received if put in writing containing the same information as provided on the warning notice provided in subsection (b) and shall be sent to the owner or any other person having control of the property at the last known address of the owner, or at the address of the person having control, by ordinary mail, postage prepaid.

Section 3. Once a notice has been given to the head of the household, the renter, the lessee, or the person having control or the owner of a lot or tract of land in or on which a violation has been created or maintained, and after abatement thereof, the same violation recurs in or on the same lot or tract of land by the same person or persons responsible therefore, no further warning notice need be given. Thereafter such responsible person or persons may be summoned into municipal court to answer to the charges against him. In addition to the court costs normally assessed in all such cases, there shall be added thereto all costs incurred by the City, if any, in abating the violation.

Section 4. Upon neglect or failure to act upon the warning notice by the property owner, head of household, renter, lessee or person having control over said property, the City shall issue a summons as follows:

(a) Summons, service of. If a warning notice is given as provided in Section 2, and if after the time for removal or abatement has lapsed the property is reinspected and the inspecting officer finds and determines that the violation has not been removed or abated, or that there is a subsequent violation of the Code, the inspecting officer shall fill out and sign as the complainant a complaint and information form, hereinafter referred to as a summons, directed by name to the occupant, head of household, renter, lessee, owners or person having control of the property, showing the address on which the violation is located, and such other information as may be available to the inspecting officer as shown on the summons, and specifying the section of the Ordinance which is being violated and setting forth in general the nature of the violation, and may serve the summons on the occupant, head of household, renter, lessee, owners or person in control, of any or all of such persons. The summons shall contain a date on which the case will be on the municipal court docket for hearing. The Prosecuting Attorney shall sign the original copy of all such summons, and the original thereof shall be forwarded to the clerk of the municipal court for inclusion on the court's docket for the date shown on the summons.

(b) Summons, delivery by mail. If no one is found at the property to accept a summons for failure to remove or abate a violation, the inspecting officer shall fill out and sign the summons as the complainant as provided in subsection (a) and deliver the original and one (1) copy of the summons to the clerk of the municipal court, who shall verify or insert the date that the case has been set for hearing before the municipal court. The clerk shall then mail the copy of the summons by ordinary mail, postage prepaid to the person named therein at the address shown on the summons, or at such other address as the person charged therewith may be found, or shall be known to reside. If the mail is duly addressed to the person named in the summons at the address as provided above and is not returned to the City, it shall be deemed to have been delivered and received by the person to whom addressed.

(c) Abatement by city; costs assessed to person responsible. If the occupant, head of house, renter, lessee, owner or person in control of property for which a warning notice has been given to remove or abate a violation, fails to remove or abate the violation in the time specified in the notice, whether on public or private property, the City may remove the same and thereby abate the violation and, if necessary, may lawfully enter upon the property on which the violation remains unabated to remove or abate such violation at the costs of the person or persons responsible for creating or maintaining the violation, if the cause therefor lies with any of the persons as defined in Section 1.

(d) Payment of costs; special tax bill or judgment. All costs and expenses incurred by the City in removing or abating any violation on any private property may be assessed against the property in the form of a special tax bill, which special tax bill shall become a lien on the property. Alternatively, the cost of removing or abating the violation, whether on public or private property, may be made a part of the judgment by the municipal judge, in addition to any other penalties and costs imposed, if the person charged either pleads guilty or is found guilty of causing, creating or maintaining a violation on public or private property.

(e) Warning notice, first offense. In all cases where the violation on public or private property is the first offense of the specified ordinance violation for the person charged therewith, the warning notice provisions of Section 2 shall be observed. The notice shall specify that the violation shall be removed or abated, which time shall not be more than one (1) day, except in emergency cases.

(f) Warning notice, subsequent offenses. In all cases where the violation on public or private property is a repeat or continued offense on such property, after the expiration of the time period set out in Section (e) above, the warning notice provisions of this Ordinance need not be observed. Each day a violation continues after the expiration of the warning period to abate such violation shall constitute a separate offense.

Section 5. Violation. (a) Any person, persons, firm, association or corporation violating any provision of the Code or any employee, assistant, agent, or any other person participating or taking part in, joining or aiding in a violation of any provision of Ordinance 541, Section 2(H) (Code §25-28) may be prosecuted as provided by law for the violation of ordinances of the City of Chesterfield and upon conviction shall be punished by a fine not exceeding Five Hundred Dollars (\$500) for any one offense. Each day a violation continues after service of written notice to abate such violation shall constitute a separate offense.

Section 6. This Ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this 19th day of AUGUST, 1991.

John L. Lousier
MAYOR

ATTEST:

Marta L. DeMay
CITY CLERK