

Chapter 18

NUISANCES

CONTENTS

ARTICLE I. IN GENERAL

- § 18-1. Nuisances
- § 18-2. Cutting and removal of grass, weeds, and vegetation.
- § 18-3. Duty of owner, lessee, or occupant.
- § 18-4. When City to do work.
- § 18-5. Penalty.
- § 18-6. Weeds between sidewalk and curb or street.
- § 18-7. Nuisances defined.
- § 18-8. Notice and abatement of nuisance.
- § 18-9. Removal of nuisance by owner or the Village and penalty for failure to abate nuisance.

Chapter 18

NUISANCES

ARTICLE I. IN GENERAL

Sec. 18-1. Nuisances.

A bill for an ordinance relating to nuisances.

Be it ordained by the board of trustees of the town of Freeburg, as follows:

1. That any person who shall create, construct, erect or permit to remain on or in any property or premises owned or occupied by him or under his management or control, within the limits of the town of Freeburg, any nuisances, shall, on conviction, be fined in a sum of not more than \$100. (Ord. 19, §1)
2. That any person who shall deposit or leave the carcass, or any part thereof, of any dead animal, fowl or fish in any part of this town, or who shall permit the same to remain in or upon any premises or property owned or occupied by him or under his control or management; or who shall place or deposit any filth, offal or other matter, which is offensive or unwholesome or likely to become so, or who shall permit the same to remain in or upon any premises or property owned or occupied by him or under his management control; or who shall allow any hog pen, lot, stable, privy, or other place in or upon any premises or property owned or occupied by him, or under his management or control, within the limits of the town of Freeburg, to become offensive or unwholesome, shall, no conviction, be fined in a sum not exceeding \$15. (Ord. 19, §2)
3. That when the town marshal or street commissioner shall have knowledge, upon compliant or otherwise, that such nuisances, or offensive or unwholesome matter, as prohibited by this ordinances, does exist, he shall forthwith notify the person responsible for same to remove or remedy it within a reasonable time, to be fixed by the marshal or street commissioner, and if such person shall refuse or neglect to conform to the direction of the town marshal or street commissioner, then said marshal or street commissioner shall cause the same to be remedied or removed at the expense of the town, and the person responsible therefor shall, on conviction, be fined in a sum not exceeding \$15, and in addition thereto, whatever sum it may have cost the town for such removal or remedy. (Ord. 19, §3)
4. That any person who shall be responsible, as provided by this ordinance, for the continuance of any violation hereof, after the time set by the town marshal or street commissioner for the removal or remedy of the same, as herein provided, shall be liable, on conviction, to a separate fine in a sum not exceeding \$15 for each and every day he shall allow or permit such violation to continue or remain after said time. (Ord. 19, §4)

5. That should the town marshal or street commissioner have knowledge, upon compliant or otherwise, of the existence of any of the things or conditions as prohibited by this ordinance, and be unable to fix the responsibility of same upon any person or persons, he shall cause the same to be remedied or removed at the expense of the town. (Ord. 19, §4)

Sec. 18-2. Cutting and removal of grass, weeds, and vegetation.

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 City, 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 City which is surrounded on three 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 and poisonous or harmful vegetation to a greater height than six (6) inches on the average, and it shall also be unlawful for any person or persons to cause, suffer, or allow poison ivy, ragweed, or other poisonous plant, or plants 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, overhand, or border any public place or allow said 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, and poisonous or harmful vegetation of a height of more than six (6) inches is hereby declared to be a nuisance.
(Ord. 157, §1)

Sec. 18-3. Duty of owner, lessee, or occupant.

It shall be the duty of any owner, lessee, or occupant of any lot or land to cut and remove or cause to be cut and removed all such weeds, grass, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of Section 18-2.
(Ord. 157, §2)

Sec. 18-4. When City to do work.

If the provisions of this section are not complied with, the Police Chief or other official designated by the Mayor, shall hold a hearing after ten (10) days notice thereof given to the owner of the lot or his agent, the occupant if any, and the lessee if any. Following the hearing, the Police Chief or other designated officials may declare the weeds to be a nuisance and order the same to be abated within ten (10) days, the Police Chief or other designated official shall have the weeds, grass and vegetation cut down and removed and shall certify the cost of the same to the City Clerk. The City Clerk shall cause a special tax bill therefor against the property to be prepared and to be collected by the county collector, with other taxes assessed against the property. The tax bill from the date of its issuance shall be first lien on the property until paid

and shall be prima facie evidence of the recitals therein and of its validity and no mere clerical error 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 City Clerk and delivered to the county collector on or before the first day of June each year. Such bills if not paid when due shall bear interest at the legal rate of interest as provided by state statute.
(Ord. 157, §3)

Sec. 18-5. Penalty.

Each person who shall neglect to cut and remove weeds, grass, or other vegetation as directed in this section, or who shall fail, neglect, or refuse to comply with the provisions of any notice herein provided or who shall resist or obstruct the Police Chief or other representative of the City 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 18-4, shall not relieve any person of liability under this section.

1. Each person convicted of a violation of this section shall be penalized by a fine of at least \$10 and up to \$100.
2. Each day on which a violation of this Ordinance continues shall constitute a separate offense.

(Ord. 157, §4)

Sec. 18-6. Weeds between sidewalk and curb or street.

As required by Section 18-2, of this Code, it is the duty of each owner, lessee, or occupant to remove weeds between sidewalk or property line of his land and any street.
(Ord. 157, §5)

Sec. 18-7. Nuisances defined.

- (a) Nuisances within the Village of Freeburg are hereby declared and defined as follows:
1. Any act done or committed, or suffered to be done or committed by any person, or any substance or thing kept and maintained in or upon any public or private place in the Village, which is injurious and dangerous to the public health, morals or public safety;
 2. All pursuits followed or acts done by any person to the hurt, injury, annoyance and inconvenience of the public;
 3. All ponds or pools of stagnant water, animal or vegetable matter or other substance permitted to become putrid, without being removed, on any of the property in the Village and permitted by the person in possession to so remain;
 4. All substances which are permitted by the owner to be kept and which emit an offensive, noxious, disagreeable or otherwise unhealthy smell or odor in the neighborhood where they exit.

5. All obstructions caused or permitted on any street or sidewalk, to the danger or annoyance of the public, all filth, slops, wash water, carcasses of dead animals, vegetable matter or other articles thrown or placed by any person on or in any street or sidewalk, alleyway in the Village, which in any manner causes injury or annoyance to the public;
 6. Any accumulation of unsightly, dangerous or noxious personal property; and
 7. Any allowance or permitting of weeds, grass or other plant material to grow or remain grown upon any parcel of property exceeding six (6) inches in height, excluding ornamental trees, shrubs and flowering or non-flowering domesticated plants.
- (b) All building or structures which have any or all of the following defects shall be deemed “dangerous building” and are declared to be public nuisances:
1. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
 2. Those which, exclusive of the foundation, show thirty-three (33) percent or more, of damage or deterioration of the supporting member or members, or show fifty (50) percent or more, of damage or deterioration of the non-supporting enclosing or outside walls or covering.
 3. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
 4. Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the people of this Village.
 5. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or utterly fail to provide the amenities or utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety, or general welfare of those living therein.
 6. Those having light, air and sanitation facilities which are inadequate to protect the health, safety, or general welfare of human beings who live or may live therein.
 7. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.
 8. Those which have parts thereof which are so attached that they may fall and injure property or members of the public.
 9. Those which because of their condition are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the people of this Village.
- (c) Every act or thing done or made, permitted, allowed or continued on any property, public or private, by any person or corporation, their agents or servants, to the damage and injury of any of the inhabitants of the Village of Freeburg and not hereinbefore specified, shall be deemed a nuisance.
- (Ord. 188, §1)

Sec. 18-8. Notice and abatement of nuisance.

- (a) Whenever the Village or any of its agents, servants, employees or elected officials shall ascertain or have knowledge of any thing or condition claimed to be a nuisance, the Chairman shall direct an investigation to be made by such Village employees as the Chairman shall designate, to examine the thing or condition and report to the Chairman on the same within ten (10) days after designation by the Chairman.
- (b) Upon receipt of the report, the Chairman shall, within ten (10) days thereafter determine whether the thing or condition constitutes a nuisance as defined in this Chapter, and proceed as follows:
 - 1. In the event the Chairman determines a nuisance exists, the Chairman shall notify the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the building or structure or land, as shown in the land records of the Recorder of Deeds of Osage County, Missouri, that the property is to be vacated, reconditioned or removed, as the case may be, and that said vacation, reconditioning, or removal be commenced within ten (10) days of the date of notice.
 - 2. In the event the Chairman determines a nuisance does not exist, the Chairman shall notify, in writing, any person or entity making a complaint of the same of the Chairman's determination.
 - 3. The notification called for in this section shall be served upon the appropriate parties, either by personal service or certified mail, return receipt requested; but if service cannot be had by either of these modes of service, then service may be had by publication.
- (c) The following standards shall be followed in ordering repair, vacation or demolition of dangerous buildings:
 - 1. If the "dangerous building" can reasonably be repaired so that it will no longer exist in violation of the terms of this ordinance it shall be ordered repaired.
 - 2. If the "dangerous building" is in such condition as to make it dangerous to the health, safety, or general welfare of its occupants it shall be ordered to be vacated and repaired.
 - 3. In any case where a "dangerous building" is fifty (50) percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this ordinance it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of any provision of this or other ordinance of the village or statute of the state it shall be repaired or demolished.

(Ord. 188, §2)

Sec. 18-9. Removal of nuisance by owner or the Village and penalty for failure to abate nuisance.

- (a) An owner, occupant, lessee, agent, or other party having possession and control over the property having been served with a notice prescribed by Section 2(B), fails to commence the vacation, reconditioning, or removal within ten (10) days of the date of the notice or fails to proceed continuously without unnecessary delay with such vacation, reconditioning or removal shall be guilty of the offense of failing to abate a nuisance, each calendar day or portion thereof representing a separate violation, punishable by:
 1. A fine not to exceed \$1,000.00, unless the owner of the property is not also a resident of the property, then such fine shall not exceed \$2,000.00, or
 2. Imprisonment not to exceed ninety (90) days, or
 3. Both fine and imprisonment.
- (b) Upon failure to commence work of reconditioning or demolition within the time specified in the notice described in Section 2 or upon failure to proceed continuously with work without unnecessary delay, the Chairman shall call and have a full and adequate hearing before the Board of Trustees upon the matter, giving the affected parties at least ten (10) days written notice of the hearing, to be served in the same manner and on the same persons as provided in Section 2(B).
- (c) Said hearing shall be conducted before the Board of Trustees of the Village of Freeburg, Missouri. Any party may be represented by counsel, and all parties shall have an opportunity to be heard.
- (d) If the evidence presented at hearing supports a finding that a nuisance exists, the Board of Trustees shall issue an order making specific findings of fact, based upon competent and substantial evidence, which shows the building or structure to be a nuisance and detrimental to the health, safety, or welfare of the residents of the Village of Freeburg, Missouri, and ordering the building or structure to be demolished and removed, or repaired. If the evidence presented at the hearing does not support such a finding, then no order shall be issued.
- (e) Any interested party described in Section 67.410 of the Revised Statutes of Missouri shall have the right to appeal from the determination of the Board of Trustees to the Circuit Court of Osage County, Missouri, as established in Sections 536.100 to 536.140 of the Revised Statutes of Missouri, if a proper record, as defined in Section 536.130 of the Revised Statutes of Missouri, is maintained at the hearing before the Board of Trustees; otherwise, the appeal shall be made pursuant to the procedures provided by Section 536.150 of the Revised Statutes of Missouri.
- (f) If any appeal as provided for herein, any person who owns or occupies property located within one thousand, two hundred (1,200) feet of the perimeter of the building or structure which is subject of the suit shall be allowed to present evidence to the Court on behalf of the Village of Freeburg of the condition of the building or structure, whether or not such person presented such evidence at the hearing before the Board of Trustees. The appellant before the Court shall have the opportunity to cross-examine any such person presenting evidence to the Court
- (g) If the Board of Trustees or the Circuit Court of Osage County, Missouri, as the case may be, enters an order whereby the building or structure is demolished, secured or repaired, or the property is cleaned, the cost of performance shall be certified to the City Clerk who

shall cause a special tax bill or assessment therefore against the property to be prepared and collected by the City Collector, unless the building or structure is demolished, secured or repaired by a contractor pursuant to an order issued by the Board of Trustees, and such contractor files a mechanic's lien against the property where the building or structure is located. The contractor may enforce this lien as provided in Section 429.010 to 429.360 of the Revised Statutes of Missouri. At the request of the taxpayer, the special tax bill or assessment may be paid in installments over a period of not more than ten (10) years

(h) The special tax bill or assessment from the date of its issuance shall be a personal debt against property owner and shall also be a lien on the property, until paid.

(Ord. 188, §3)

