

**CHAPTER 28**  
**NUISANCES**  
**TABLE OF CONTENTS**

28.005. Definitions	Pg. 2
28.010. Nuisances enumerated	Pg. 2
28.015. Prohibited	Pg. 4
28.020. Inspections	Pg. 4
28.025. Notice to abate, hearing & collections	Pg. 4
28.030. Obstructing watercourses	Pg. 5
28.035. Changing channel of watercourse	Pg. 5
28.040. Abandoned wells or cisterns	Pg. 6
28.045. Barbed wire fences, etc.	Pg. 6
28.050. Polluting or defiling reservoirs	Pg. 6
28.055. Polluting or fouling wells, cisterns, etc.	Pg. 6
28.060. Use of sound amplifying equipment so as to Constitute nuisance	Pg. 6
28.062. Regulating open burning of residential yard	Pg.8
28.063. Recreational Vehicles as et al as dwellings	Pg. 9
28.065. Penalties	Pg. 9

## **CHAPTER 28 NUISANCES**

### **28.005. Definitions**

Litter. Litter shall be defined as garbage, trash, junk, refuse, tree limbs, or other perishable or nonperishable solid waste.

Nuisance. A nuisance shall be defined as an unlawful act, or omitting to perform a duty, or condition or thing to be or exist, which act, omission, condition or thing either; injures or endangers the comfort, repose, health or safety of others, offends decency, is offensive to the senses, unlawfully interferes with, obstructs or tends to obstruct or render dangerous for passage any public or private stream, ditch or drain, in any way renders other persons insecure in life or in use of property or essentially interfere with the comfortable enjoyment of life and property, or tends to depreciate the value of property.

Private property. Private property includes property owned privately and property owned privately that is subject to a public easement, including dedicated street right of way.

Public Premises. A public premise shall be defined as any area open to the general public, either privately or publicly owned.

### **28.010. Nuisances enumerated**

The maintaining, using, placing, depositing, leaving or permitting to remain on any public or private property of any conditions or actions as hereby stipulated shall be declared to be or constitute a nuisance; however, this enumeration shall not be deemed conclusive, limiting or restrictive:

1. Any accumulation of stagnant water upon any premise. Stagnant water shall be any accumulation found in an improperly drained pool, pond, or collector that has not been dispersed within five (5) days.
2. Any foul or dirty water or liquid when discharged through any drain, pipe or spout, or thrown into or upon any street, thoroughfare or premise to the injury or hazard of the public.
3. Any carcass of a dead animal which the owner or keeper thereof permits to remain within the limits of the city for more than twenty-four (24) hours after death.
4. Trees, shrubbery, bushes, or vegetation on private property, including easements, shall be trimmed as specified in the following subsections to prevent obstruction of the view and movements of vehicles and pedestrians.

5. A vertical clearance of at least seven (7) feet above any paved sidewalk, walkway, or public right-of-way used by the public as indicated by a worn path, or a walkway on a public easement. A vertical clearance of at least ten (10) feet beyond the edge of the street and fourteen (14) feet above the center of any traffic lane.
6. To provide a clear line of sight for at least seventy-five (75) feet on the approach side for all traffic signals or traffic control postings.
7. To a height of not more than twenty-four (24) inches as to provide a visually clear triangular space at street intersections, determined by a diagonal line connecting two points measuring twenty-five (25) feet equidistant from the intersection or edge of the intersecting streets.
8. To provide easy and clear visibility, operation, and use of a fire hydrant or other utility or structure.
9. Any dead trees, limbs or shrubs, which are hazardous or injurious to the public.
10. Any trees or shrubbery which interferes with the operation or visibility of a fire hydrant.
11. Any obstruction including dirt, mud, snow, ice or filth, caused or permitted on any sidewalk to the danger of the public.
12. Any stones, dirt, garbage, filth, vegetable matter or other articles allowed to remain on or in any street, alley, sidewalk or other public place or on any public premise.
13. Any stable, animal pen, poultry yard or coup permitted to be in such condition as to become offensive, foul, hazardous or injurious to the public.
14. Any cellar, vault, private drain, pool, privy, sewer, cistern or sinkhole upon any premises permitted to become foul, offensive, hazardous, or injurious to the public health.
15. Leg hold traps placed outdoors on public or private property for the capture of animals.
16. Any vegetation commonly known as weeds and grasses on private property over twelve (12) inches in height or any vegetation on any property, public or private that may cause through, direct contact with skin, an irritation or lesion.
17. Any area which is not covered by lawn or vegetation and treated to prevent dust or the blowing and scattering of dust particles into the air. Any altered surface of

the ground which would be liable to deposit mud or harmful silt, or create erosion or damage on public property.

18. Any litter allowed to remain longer than one (1) week in or on any occupied private or public property or any open or vacant private property within the city.
19. Any substance, vegetable or mineral, which emits an offensive, noxious, putrid, or unhealthy odor in the city.
20. Any lot or land, public or private, if it has the presence of debris of any kind including, but not limited to those previously enumerated in this ordinance, lumber not piled or stacked twelve inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, any flammable material that may endanger the public safety or any material which is unhealthy or unsafe and declared to be public nuisance.
21. All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
22. Any accumulation of mud, dirt, sticky substances, litter or other foreign matter which is deposited from the wheels of a vehicle or truck upon any public or private property and which is not abated at the end of the work day in which the substance was deposited or was created.
23. Any load contents, litter or debris which is blown or otherwise deposited upon any public or private property from any vehicle or truck operated within the City. (State Law Reference 67.398 RSMo.)

#### **28.015. Prohibited**

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance.

#### **28.020. Inspections**

Subject to constitutional limitations, authorized agents of the city are hereby authorized to enter into or upon any premise suspect of the existence of any nuisance.

#### **28.025. Notice to abate, hearings, and collections**

1. Any nuisance created by a vehicle or truck operated within the City shall be abated by the end of the working day in which the nuisance was created, unless such nuisance is determined to be an immediate hazard by a representative of the Ashland Police Department or other designated City employee. In the case of such an immediate hazard the nuisance shall be abated immediately. If the order to abate is refused or upon failure to comply the City employee or representative

of the Police Department may cause to have the nuisance abated at the expense of the operator of the vehicle. Such expenses will be documented and billed in accordance with other provisions of this section.

2. Whenever a nuisance is found to exist within the city or within the jurisdiction of the city, a representative of the Ashland Police Department shall give seven (7) days notice in writing, delivered in person or by U.S. Mail, to the owner or occupant of the property upon which such nuisance exists or upon the person causing such nuisance to abate the nuisance. Owners of said property may request a hearing before the Chief of Police, by contacting the City Clerk.
3. If at such a hearing, the Chief of Police determines that such nuisance does exist, the owner of the property shall abate the nuisance within five (5) days.
4. If the nuisance has not been abated within the original notice period, or within five (5) days of the hearing, the Chief of Police may order the city maintenance department, or such other person or entities contracted to perform such service, to abate the nuisance. A bill will be prepared for the costs, including applicable overhead charges, but in no event shall the costs be less than two hundred (\$200.00) dollars. The costs shall be certified to the City Clerk to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property and the certified cost shall be collected by the official collecting taxes for the City, in the same manner and procedure as for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.  
(State Law Reference 67.398 RSMo.)

#### **28.030. Obstructing watercourses**

Any person who, in the city, shall place or suffer to be placed in any watercourse or stream of water, the Missouri River excepted, any dirt, stones, rubbish, tin cans, refuse, logs, tree branches or any other object which would fill up the channel or obstruct the free passage of water through any such watercourse or stream of water shall be deemed guilty of a misdemeanor.

(State Law Reference 77.140. RSMo)

#### **28.035. Changing channel of watercourse**

Any person in the city, who shall change the natural or legally established channel of any watercourse, without having lawful authority to do so, shall be deemed guilty of a misdemeanor.

**28.040. Abandoned wells or cisterns**

It shall be unlawful for any person owning real estate property within the corporate limits to abandon or discontinue the use of any well or cistern located on his property, unless such well or cistern is completely sealed with concrete or metal or some other material of a durable nature which is securely fixed in place over the top of such well or cistern.

**28.045. Barbed wire fences, etc.**

Any person who shall erect or cause to be erected, maintain or cause to be maintained, upon, across, along or adjoining any street of the city, any fence, wall or other obstruction, any part of which is built or composed of barbed wire, and any person who shall stretch or place along the building line of any property adjoining or abutting on any street, alley, avenue or other public thoroughfare any barbed wire, whether used for fencing or for other purposes, shall be deemed guilty of a misdemeanor.

(State Law Reference 77.510. RSMo)

Exception: Livestock or agricultural fencing as the top wire of a woven wire or board fence on lots or tracts where, on the subject property and on the adjoining lots or tracts, the housing density averages one home per 2.5 acres or greater.

(amended 2-20-07 Council Bill No. 2007-006)

**28.050. Polluting or defiling reservoirs, water tanks, etc.**

Any person who shall put or cause to be put any dead animal carcass, or any part thereof, or any offal or other filth into any reservoir, water tank or tower, which is used or intended to be used for the purpose of supplying the inhabitants of the city with water, or who shall in any manner or by any means defile, attempt to defile or cause to be defiled the water contained in any such reservoir, water tank or tower, shall be guilty of a misdemeanor.

(State Law Reference 577.076 RSMo.)

**28.055. Polluting or fouling wells, cisterns, etc.**

Any person who shall put or cause to be put any dead animal carcass, or any part thereof, or any offal or other filth into any well, cistern, spring, drinking fountain, trough or basin used for drinking purposes, or into any brook or branch within the city, which is or may be used for household or domestic purposes, or the water of which is or may be used by the public for drinking purposes, shall be deemed guilty of a misdemeanor.

(State Law Reference 577.076 RSMo.)

**28.060. Use of sound amplifying equipment so as to constitute nuisance**

1. It shall be unlawful for any person to make, continue, or cause to make or continued any excessive, unnecessary, raucous, or unusually loud noise which terms shall mean any sound which, because of its volume level, duration and

character, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the city. The terms shall be limited to noise heard upon the public streets, in any public park, in any school or public building or upon the grounds thereof while in use, in any church or hospital or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, or in any occupied residential unit which is not the source of the noise or upon the grounds thereof, and in any event from allocation not less than fifty (50) feet from the source of the noise, measured in a straight line from the radio, loudspeaker, motor, horn or other noise source.

## 2. Noises prohibited-unnecessary noise standard

The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this ordinance, but said enumeration shall not be deemed to be exclusive, namely:

- A. Horns, Signaling Devices, etc.- The sounding of any horn or signaling device on any automobile, motorcycle, street car or other vehicle on any street or public place of the city, except as a danger warning, the creation by means of any such signaling device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand, or electricity; the use of any horn, whistle, or other device operated by engine exhaust, and the use of any such signaling device when traffic is for any reason held up.
- B. Radios, Phonographs, etc.-The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device, including motor vehicle audio systems for the producing or reproducing of sound of such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device, including motor vehicle audio systems in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- C. Loud Speakers, Amplifiers for Advertising- The using, operating or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifiers, or other machine or device for the producing or reproducing of sound which is case upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

- D. Yelling, Shouting, etc.- Yelling, shouting, hooting, whistling, or singing on the public streets particularly between the hours of 11 p.m. and 7 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose or persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.
- E. Animals, Birds, etc.- The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.
- F. Exhaust- The discharge into the open air of the exhaust of any steam engine, stationary internal combustions engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises there from.
- G. Defect in Vehicle or Load- The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- H. Schools, Courts, Churches, Hospitals- The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort, or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

(amended 8-13-03-ordinance 2003-041)

## **28.062. Regulating the open burning of residential yard waste**

### Section 1. Burning Limited

- a) Within the corporate limits of the City, the open burning of residential yard waste consisting of leaves and brush from vegetation grown on a residential property is permitted.
- b) The burning of construction waste, garbage, tires, fabric, furniture and other kinds of waste prohibited.

### Section 2. Restrictions on Burning Yard Waste

The burning of yard waste shall be conducted as follows:

- a) All fires must be at least 20 feet away from any building, structure or property line. At no time shall a fire be located on a city street.
- b) Firefighting material sufficient to contain any fire started under this section will be at the site of burning.
- c) All fires shall be monitored from a point on the property where the fire is located by a person capable of containing a fire, should containment be necessary. A minor child is not considered a person considered capable of containing a fire.
- d) If the safety of the community or the public may be endangered, the Police Chief of the City of Ashland may invoke a temporary burning ban.
- e) If climatological conditions indicate open burning may create a health hazard, the Police Chief of the City of Ashland may invoke a temporary burning ban.
- f) Any person engaged in open burning in violation of this ordinance shall be summoned for a misdemeanor violation.

Section 3. Applications where this ordinance does not apply are as follows:

Fireplaces located wholly within a residence, outdoor barbecues for the preparation of food, properly supervised fires set for recreational or ceremonial purposes.  
(amended 5-02-06 Ordinance 2006-018 adding Section 28.062)

#### **28.063. Recreational Vehicles et al as dwellings**

No recreational vehicle, motor home, travel trailer or camper within the City may be used as a dwelling or residence for more than five (5) days in a calendar year. The administrative office may suspend this section in certain situations. (added 4-01-08 Ordinance 2008-021)

#### **28.065. Penalties**

Any person violating any provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof may be fined in the sum of not less than twenty-five dollars (\$25.00) and not more than five hundred dollars (\$500.00)