

Chapter 28

Code Enforcement

(updated 12-22-2014)

Article I. Administration

- Sec. 28-1.1 Intent and Applicability
- Sec. 28-1.2 Chief Code Official
- Sec. 28-1.3 Repealed
- Sec. 28-1.4 Repealed
- Sec. 28-1.5 Repealed
- Sec. 28-1.6 Means of Appeal

Article II. Definitions

- Sec. 28-2.1 General Interpretation
- Sec. 28-2.2 Definition of Terms

Article III. Minimum Property Standards

- Sec. 28-3.1 Adoption
- Sec. 28-3.2 Revisions
- Sec. 28-3.3 Conflicts

Article IV. Additional Violations

- Sec. 28-4.1 Violations Enumerated
- Sec. 28-4.2 Violations Requiring Immediate Resolution

Article V. Open Burning

- Sec. 28-5.1 General
- Sec. 28-5.2 Burning Regulations
- Sec. 28-5.3 Exemptions

Article VI. Nuisances

- Sec. 28-6.1 Definitions
- Sec. 28-6.2 Remedies not exclusive
- Sec. 28-6.3 Nuisances enumerated
- Sec. 28-6.4 Nuisances prohibited
- Sec. 28-6.5 Liability for nuisance
- Sec. 28-6.6 Defense
- Sec. 28-6.7 Continuing violation
- Sec. 28-6.8 Penalty
- Sec. 28-6.9 Abatement procedure
- Sec. 28-6.10 Abatement by city
- Sec. 28-6.11 Collection of abatement costs
- Sec. 28-6.12 Emergency abatement

Article VII. Weeds and Trash

- Sec. 28-7.1. Definitions
- Sec. 28-7.2 Weeds and accumulations of trash declared a nuisance

- Sec. 28-7.3 Weeds and accumulations of trash prohibited
- Sec. 28-7.4 Defense
- Sec. 28-7.5 Continuing violation
- Sec. 28-7.6 Abatement of weeds and trash accumulation

Article VII. Dangerous Structures

- Sec. 28-8.1 Defined
- Sec. 28-8.2 Placarding as dangerous
- Sec. 28-8.3 Standards for vacation, demolition or repair
- Sec. 28-8.4 Inspections; sending notices of violations; search warrants
- Sec. 28-8.5 Contents of notice of violations
- Sec. 28-8.6 Actions upon noncompliance with building inspector's notice
- Sec. 28-8.7 Correction by city upon noncompliance with board's order
- Sec. 28-8.8 Lien for expenses of correction by city
- Sec. 28-8.9 Emergency action
- Sec. 28-8.10 Building official to make reports of and give testimony concerning structures
- Sec. 28-8.11 Violations
- Sec. 28-8.12 Judicial review
- Sec. 28-8.13 Insurance proceeds from damage or loss to buildings or structures
- Sec. 28-8.14 Penalties

Article I. Administration

Section 28-1.1. Intent and Applicability.

The intent of this ordinance is to ensure public health, safety and welfare within the city limits of Ashland, Missouri. The provisions of this code shall apply to all properties with City limits regardless of use or ownership. Where, in a specific case, different sections of Ashland's adopted Code of Ordinances specify different requirements, the most restrictive shall govern.

Section 28-1.2. Chief Code Official.

For the purpose of this chapter, the City Administrator of the City of Ashland shall serve as Chief Code Official charged with authority to administer this chapter and to enforce the regulations herein. For the purpose of administering and enforcing the regulations within this chapter, the Chief Code Official may designate appropriate persons as necessary to enforce the regulations. The Chief Code Official or designee, in the performance of enforcement duties and functions, may enter upon any land and make examinations and surveys that do not occasion damage or injury to private property.

Section 28-1.3 Repealed

Section 28.1-4 Repealed

Section 28-1.5 Repealed

Section 28-1.6. Means of Appeal.

Any person directly affected by a decision of the Chief Code Official or a notice or order issued under this chapter shall have the right to appeal to the Board of Adjustment. Such appeals shall be submitted in writing within fourteen (14) days from the date the decision, first notice, or first order was issued. An application for appeal shall be based on a claim that the true intent of this chapter or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

Article II. Definitions

Section 28-2.1. General Interpretation.

For the purpose of this chapter, certain terms used herein are herewith defined. When not inconsistent with the context, words used in the present tense include the future; words in the singular number include the plural; and words in the plural number include the singular number. The particular shall govern the general; in case of any

difference of meaning or implication between the text of this article and any caption, table or illustration, the text shall control. The word “shall” is always mandatory and not merely directory, whereas the word “may” is permissive. The word “structure” shall include the word “building”. The word “used” shall include “arranged”, “converted”, “rented”, “leased” or “intended to be used”. The word “lot” shall include the word “plot”, “tract”, “parcel” and “building site”. The word “person” includes an individual, a corporation, a partnership, and incorporated association, or any similar entity. Words using the masculine gender includes the female and neuter.

Section 28-2.2. Definition of Terms.

Terms not otherwise defined herein shall be interpreted first by reference to the 2009 International Property Maintenance Code adopted by Section 28-3.1 of this chapter; secondly, by reference to generally accepted engineering, planning, or other professional terminology if technical; and otherwise according to common terminology as found in Webster’s Unabridged Third New International Dictionary or a dictionary based thereon, unless the context clearly indicates otherwise.

For the purpose of enforcing and administering the regulations of this chapter, the following words shall have the definition and meaning herein ascribed:

Easement: A grant to a person, government entity, corporation, or public utility providing limited rights of use or interest to a property. Such easements are given by the property owner for a specific purpose, or a prescriptive right as determined by a court of law.

Leg Hold Trap: A spring-operated (usually steel) steel trap shaped like a large animal jaw that will clamp any appendage that triggers it.

Nuisance: For the purposes of this chapter, the word “nuisance” is hereby defined, when not otherwise defined, as an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist which act, omission condition or thing either:

- A. Injures or endangers the comfort, repose, health or safety of others; or
- B. Offends decency; or
- C. Is offensive to the senses; or
- D. Unlawfully interferes with, obstructs or renders dangerous for passage any public or private street, highway, sidewalk, stream ditch, drainage, etc; or
- E. In any way renders other persons insecure in life or the use of property; or

F. Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others; or

G. Any property which is in violation of this chapter.

Private Property: Land or spaces owned by a person or group and kept for their exclusive use.

Public Space: Any space which is open and available to the public and is designed and intended to be used by the general public.

Right-of-way: A public property acquired by dedication, easement, prescription, or condemnation and intended to be occupied by a street, sidewalk, water line, sanitary sewer and/or other public utility or facility.

Vegetation: All plant life within a specific area, typically a lot or tract of land.

Watercourse: Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks and includes any area adjacent thereto subject to inundation by reason of overflow or flooding.

Article III. Minimum Property Standards

Section 28-3.1. Adoption.

The City of Ashland hereby adopts the 2009 edition of the *International Property Maintenance Code*, regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the City of Ashland. This 2009 *International Property Maintenance Code* is adopted by reference and made a part of this chapter as if it were set forth in its entirety. Three (3) copies of this document are on file in City Hall and are available for public review.

Section 28-3.2. Revisions.

The following sections of the 2009 edition of the *International Property Maintenance Code* are hereby revised as shown:

- Section 101.1. Insert [City of Ashland]
- Section 103.5. Insert [The City of Ashland will determine fees on a case-by-case basis depending on the specific cost of the activity. All activities

will be charged as a reimbursement fee based solely upon the actual cost incurred by the City.]

- Section 302.4. Insert [10 inches]
- Section 304.14. Insert [April 1st to November 1st]
- Section 602.3. Insert [October 1st to April 1st]
- Section 602.4. Insert [October 1st to April 1st]

Section 28-3.3. Conflicts.

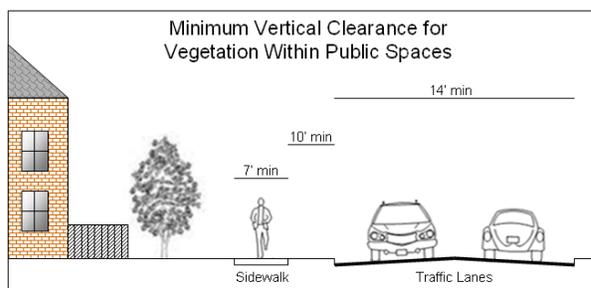
In the case of conflicts between the provisions of the 2009 edition of the *International Property Maintenance Code* and the provisions provided elsewhere within the chapter, the provisions of this chapter shall prevail.

Article IV. Additional Violations

Section 28-4.1. Violations Enumerated.

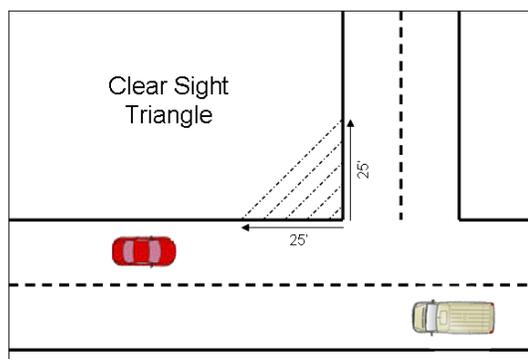
In addition to the violations included under Article III of this chapter the following activities are considered nuisances and are hereby identified as violations of Ashland's city code:

- A. *Stagnant Water.* Any accumulation of stagnant water upon any property. Stagnant water shall be considered any accumulation found in an improperly drained pool, pond, or collector that has not been dispersed within five (5) days.
- B. *Vegetation.* Trees, shrubbery, bushes, or other vegetation on private property, including easements shall be trimmed as specified below to prevent obstruction of the view and movements of vehicles and pedestrians.
 1. Persons who own property adjacent to publically maintained street right of way shall be responsible for trimming, mowing, or otherwise pruning all vegetation between their property line and the centerline of the street right of way. Such maintenance shall be performed at the property owner's expense. No trees or shrubs shall be installed or removed from the publically maintained street right of way without express permission from the Chief Code Official or designee.
 2. All vegetation shall be maintained to provide at least seven (7) vertical feet above any paved sidewalk, walkway, or public right-of-way used by the public as indicated by a worn path or walkway on a public easement. A vertical clearance of at least ten (10) feet is required immediately adjacent to public streets and at least fourteen (14) feet of vertical clearance is required above any traffic lanes. The minimum clearances are depicted in Figure 1 below.



3. Vegetation shall be trimmed to provide a clear line of sight for at least seventy-five (75) feet for vehicles approaching traffic signals or traffic control postings.
4. In order to provide visually clear street intersections no vegetation shall exceed twenty-four (24) inches in height within the triangular space (known as the Clear Sight Triangle) created by diagonally connecting two points twenty-five (25) feet equidistant from the intersection of intersecting streets as shown in Figure 2 below.

FIGURE 2



5. Vegetation shall be maintained so as to provide easy and clear visibility, operation, and use of a fire hydrant or other utility structure.
 6. Dead trees, limbs or shrubs which the Chief Code Official or designee finds hazardous or injurious to the public welfare shall be removed.
- C. *Obstruction of Public Space.* Obstructions caused or permitted to remain on or in any street, alley, sidewalk, or other public space. Such obstructions shall include, but not be limited to, stones, dirt, mud, snow, ice, garbage, filth, vegetable matter, and debris of any kind. Parking vehicles or conveyances of any kind over a public sidewalk is also considered an obstruction of space.
- D. *Animal Pens.* Any stable, animal pen, poultry yard or coop permitted to be in such condition as to become offensive, foul, hazardous or injurious to the public.

- E. *Pools, Sinkholes, etc.* Any cellar, vault, private drain, pool, pond, privy, sewer, cistern, sinkhole, or similar on any premises which has been permitted to become foul, offensive, hazardous, or injurious to the public health.
- F. *Surface Areas.* Any surface 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 area which would be liable to deposit mud or harmful silt, or create erosion or damage on public property.
- G. *Trash, Debris, Junk.* Any lot or land, public or private, if it has the presence of trash, debris, or junk of any kind including, but not limited to, lumber not stacked twelve (12) 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 or and material which is unhealthy or unsafe and determined to be a public nuisance by the Chief Code Official or designee.
- H. *Obstructing Watercourses.* Any person who, in the city, places or suffers to be placed in any watercourse or stream of water 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. (State Law Reference 77.140. RSMo)
- I. *Watercourse Channels.* Any person who changes the natural or legally established channel of any watercourse, without having lawful authority to do so.
- J. *Obstructing Storm water Systems.* It is unlawful for any person to fill or otherwise obstruct the free passage of water through any sewer, gutter, trench or channel dug or made or used for the purpose of carrying off water or draining any street, or other places within the city.
- K. *Discharge.* Any foul or dirty water or liquid which is discharged through any drain, pipe or spout into any street, thoroughfare or premise to the injury or hazard of the public.
- L. *Abandoned Wells or Cisterns.* It shall be unlawful for any person owning lot or land within the city to abandon or discontinue the use of any well or cistern located on their 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.
- M. *Barbed Wire Fences.* Barbed wire or similar materials are prohibited on residentially zoned properties and any property which contains a residential dwelling. Barbed wire or similar materials may be used within commercial or industrial properties provided the use is limited to a maximum of three strands installed a minimum of six (6) feet above the finished grade. Agriculturally zoned properties which contain permitted agricultural uses are exempt from the above

barbed wire regulations and may utilize barbed wire or similar materials in any areas which are not immediately adjacent to a public right-of-way.

- N. *Obstruction of Handicap Accessible Parking Spaces.* It shall be unlawful for any person to obstruct a posted handicap accessible parking space through the placement of merchandise, materials, or equipment within the space. Allowing the accumulation of any trash, debris, junk, snow, etc which impedes the function of the space is also considered an unlawful obstruction.

Section 28-4.2. Violations Requiring Immediate Resolution

The following violations are considered especially hazardous to the public and require immediate resolution. Upon identifying any of the violations listed in this section the Chief Code Official or designee shall immediately contact law enforcement personnel and stay at the violation site until the violation is abated. Any person, firm, or corporation found to be responsible for such violations shall be guilty of a misdemeanor and subject to the penalties listed in this chapter. However, due to the immediate need for abatement these violations will not be subject to the notification procedures listed elsewhere in this chapter.

- A. *Dead Animals.* Any carcass of a dead animal which the owner or keeper thereof permits to remain on private property for more than twenty-four (24) hours after death.
- B. *Leg Hold Traps.* Any leg hold traps or similar animal traps which have been placed outdoors on public or private property for the capture of animals.
- C. *Foreign Substances from Wheels.* Any accumulation of mud, dirt, sticky substances, litter or other foreign matter which is deposited from the wheels of a vehicle or tuck 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 created.
- D. *Load Contents.* 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.
- E. *Storm water System.* No person shall discharge or cause to be discharged into a storm water system any waste material, liquid, vapor, fat, gasoline, benzene, naphtha, oil or petroleum product, mud, straw, lawn clipping, tree limbs or branches, metal or plastic objects, rags, ash, garbage or any other substance which is capable of causing an obstruction to the flow of the storm system or interfere with the proper operation of the system or which will pollute the natural creeks or waterways.

Article V. Open Burning

Section 28-5.1. General

Open burning of residential yard waste consisting of leaves and brush from vegetation grown on a residential property is permitted within City limits. Open burning is permitted only on properties containing approved residential uses. The burning of construction waste, garbage, tires, fabric, furniture and other kinds of waste is prohibited.

Section 28-5.2. Burning Regulations

Where permitted, the burning of residential yard waste shall adhere to the following regulations:

- A. *Fire Location.* All fires shall be at least 20 feet away from any building, structure or property line. At no time shall a fire be located on a public street or within any public space.
- B. *Containment.* All fires started under this chapter shall be contained if necessary. Firefighting material sufficient to contain the fire shall be kept at the site of burning.
- C. *Monitoring.* All fires started under this chapter on shall be monitored from a point on the property where the fire is located by individuals capable of containing the fire, should containment be necessary.
- D. *Public Safety.* If at any time the Chief Code Official or Police personnel determine that a fire started under this chapter represents a hazard to public health or safety they may require that the fire be immediately extinguished. In addition, if the Chief Code Official or Police personnel determine that climatological conditions indicate that open burning may be hazardous or that fires may endanger public health or safety then they may invoke a temporary burning ban for a specific period of time.
- E. *Violations.* Violations of this section are considered especially hazardous to the public and require immediate resolution. Upon identifying such violations the Chief Code Official or designee shall immediately contact law enforcement and fire district personnel and stay at the violation site until the violation is abated. Any person engaged in open burning in violation of this section shall be guilty of a misdemeanor and subject to the penalties listed in this chapter. However, due to

the immediate need for abatement such violations will not be subject to the notification procedures located in this chapter.

Section 28-5.3. Exemptions

The open burning regulations contained in this chapter are not intended to limit, regulate, or disallow the following activities.

- Fireplaces located wholly within an approved residential dwelling.
- Outdoor barbeques for the preparation of food.
- Properly supervised fires set for recreational or ceremonial purposes.

Article VI. Nuisances

Section 28-6.1 Definitions

The following definitions apply to this article:

Enforcement official means any person designated by the Chief Code Official to enforce the provisions of this article.

Hearing officer means the Chief Code Official or a person designated by the Chief Code Official to conduct hearings under this article.

Private property means any property within the corporate limits of the city that is not owned or controlled by the city.

Section 28-6.2 Remedies not exclusive

The remedies set forth in this article are cumulative and not exclusive. The city may pursue any available civil remedies in addition to prosecuting violations and following the abatement procedures of this article.

Section 28-6.3 Nuisances enumerated

The following are declared to be nuisances:

- (1) Any condition, substance or thing on public or private property that is injurious or dangerous to public health or safety.
- (2) Any condition or thing defined as a nuisance in the Ashland City Code or any code adopted by the Ashland City Code.
- (3) A tree or any tree limb that is dead and that is a hazard to life or property.
- (4) A tree or any tree limb that causes a safety hazard by obstructing the line of sight of a motor vehicle driver, bicyclist or pedestrian at a street intersection.

- (5) A tree or any tree limb that could interfere with the passage of motor vehicles, bicycles or pedestrians on any public right-of-way.
- (6) A tree that harbors insects or disease that constitutes a potential threat to other trees.
- (7) Noxious fumes.
- (8) Accumulations or deposits of garbage other than garbage temporarily stored for lawful disposal provided that the garbage is temporarily stored in a leak proof container designed for the storage of garbage.
- (9) Sewage or other human organic waste discharged or exposed on any land 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, or which contaminates surface water or ground water.
- (10) Any barn or other place where animal or fowl waste collects that is not kept in a clean and wholesome condition so that no odors offensive to a person of ordinary sensibilities are allowed to escape the premises.
- (11) Deposits of leaves, grass, dirt or other material that interfere with the proper functioning of any sewer inlet or fixture.
- (12) Any accumulation of unwholesome, impure or stagnant water.
- (13) Any accumulation of material that does or could afford harborage for rats, mice or snakes.
- (14) Any condition or thing listed as a nuisance in Section 67.398 RSMo.

Section 28-6.4 Nuisances prohibited

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

Section 28-6.5 Liability for nuisance

It is the duty of every owner of property within the city, as well as the owner's agent in charge of the property and every tenant and occupant of the property, to maintain the property free of nuisances.

Section 28-6.6 Defense

It is an affirmative defense to a charge of permitting, maintaining or allowing the creation or maintenance of a nuisance in violation of this division, that the defendant did not have the legal right to control the location where the alleged violation occurred.

Section 28-6.7 Continuing violation

Each day that a violation of this division continues shall be deemed a separate offense.

Section 28-6.8 Penalty

Any person who violates Section 28-6.4 shall, upon conviction, be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

Section 28-6.9 Abatement procedure

(a) *Applicability.* The provisions of this section shall apply only to violations of this chapter that do not have specific abatement procedures. The notice provisions of this section are not required as a prerequisite for prosecution of an ordinance violation under Section 28-7.4.

(b) *Abatement notice.* When an enforcement official determines that a nuisance exists in violation of this article, the enforcement official may initiate a nuisance abatement procedure by serving an abatement notice on the owner of the property upon which the nuisance is believed to exist. The abatement notice shall contain the following:

- (1) a description of the location and nature of the alleged nuisance,
- (2) a statement of the acts necessary to abate the alleged nuisance,
- (3) an order establishing the time for beginning (which shall not be less than seven days after receiving the notice) and completing abatement of the alleged nuisance and requiring that abatement activities continue without unreasonable delay,
- (4) information on the right and manner of requesting a hearing to contest the enforcement official's abatement notice, and
- (5) a statement that if the nuisance is not abated as ordered and if no request for hearing is made within the prescribed time, the city may abate the alleged nuisance and assess the costs against the property owner and the property.

(c) *Service of abatement notice.*

- (1) The enforcement official shall serve the abatement notice on the property owner by first class mail or by personal service in the same manner as legal process is served under any Missouri statute or court rule. Mailed notice shall be presumed received three (3) days after it is mailed.
- (2) If the enforcement official is unable to obtain service by either of the above methods, service may be obtained by publishing the abatement notice once in a newspaper of general circulation in the city and by posting the abatement notice on the property where the alleged nuisance exists. Notice shall be considered given on the date the notice is published or the notice is posted, whichever is later.

(d) *Request for hearing.* The owner of property on which the nuisance is alleged to exist may contest the abatement notice by requesting a hearing. The request for hearing must be made in writing and received by the Chief Code Official within seven (7) days of service of the abatement notice. The request for hearing must be either hand-delivered to the office of the Chief Code Official or sent to the Chief Code Official by United States mail, facsimile machine or electronic mail. The request for hearing must state an address to which a notice of hearing may be sent.

(e) *Notice of hearing.* At least ten (10) days written notice of the hearing shall be given to the property owner except in cases where the public health, safety or interest shall make a shorter time reasonable. Notice shall be hand-delivered to the property owner or mailed to the address provided by the property owner in the request for hearing. Notice shall be presumed received three (3) days after it is mailed.

(f) *Hearing and decision.* The hearing officer shall conduct the hearing and enter a decision in accordance with the requirements of chapter 536, RSMo. If the hearing officer determines that a nuisance exists as charged in the abatement notice, the hearing officer may enter an order of abatement directing that the nuisance be abated under such conditions and within such time as the hearing officer deems appropriate under the circumstances.

(g) *Appeal.* An appeal from the decision of the hearing officer may be made to the circuit court of Boone County in accordance with chapter 536, RSMo.

Section 28-6.10 Abatement by city

If the order of abatement is not complied with or if no hearing is requested and the abatement notice is not complied with, the Chief Code Official may have the nuisance abated by city employees or by persons under contract with the city.

Section 28-6.11 Collection of abatement costs

(a) The Chief Code Official shall certify the cost of abatement to the City Clerk. The cost shall include administrative costs as well as the actual cost of abating the nuisance. The City Clerk shall cause a special tax bill against the property to be prepared in the amount of the abatement costs. The tax bill from the date of its issuance shall be a lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity. No clerical error or informality in the tax bill or in the proceedings leading up to the issuance of the tax bill shall be a defense in an action to collect the tax bill. Tax bills issued under this section, if not paid when due, shall bear interest at the rate of eight percent (8%) per annum.

(b) The cost of abatement shall also constitute a personal obligation of the owner of the property and of any other person who caused the nuisance.

Section 28-6.12 Emergency abatement

(a) The Chief Code Official may abate any nuisance without following the abatement procedures of this article if the nuisance presents an immediate threat to the health, safety or welfare of any inhabitant of the city.

(b) The Chief Code Official may assess the cost, including administrative costs, of abating a nuisance under this section against the property on which the nuisance was located. Before assessing costs, the Chief Code Official shall serve a bill of costs on the property owner. The bill of costs shall describe the nuisance that was abated, state the cost of abatement and inform the owner of the right and manner of requesting a hearing.

(c) The bill of costs shall be served on the property owner by first class mail, or by personal service in the same manner as legal process is served under any Missouri statute or court rule. Mailed notice shall be presumed received three (3) days after it is mailed. If

service is not able to be obtained by either of the above methods, service may be obtained by publishing notice of the bill of costs in a newspaper of general circulation in the city.

(d) The property owner may contest the assessment of costs by requesting a hearing. The request for hearing must be made in writing and received by the Chief Code Official within seven (7) days of service of the bill of costs or publication of notice of the bill of costs. The request for hearing must be either hand-delivered to the office of the Chief Code Official or sent to the Chief Code Official by United States mail, facsimile machine or electronic mail. The request for hearing must state an address to which a notice of hearing may be sent.

(e) *Notice of hearing.* At least ten (10) days written notice of the hearing shall be given to the property owner. Notice shall be hand-delivered to the property owner or mailed to the address provided by the property owner in the request for hearing. Notice shall be presumed received three (3) days after it is mailed.

(f) *Hearing and decision.* The hearing officer shall conduct the hearing and enter a decision in accordance with the requirements of chapter 536, RSMo. If the hearing officer determines that the abatement was justified under subsection (a), the hearing officer shall certify the cost of abatement to the City Clerk for collection pursuant to the provisions of Section 28-7.11.

(g) *Appeal.* An appeal from the decision of the hearing officer may be made to the circuit court of Boone County in accordance with chapter 536, RSMo.

(State law reference – 67.398 RSMo.)

Article VII. Weeds and Trash

Section 28-7.1. Definitions

The following definitions apply to this article:

“Hearing officer” means the Chief Code Official or a person designated by the Chief Code Official to conduct hearings under this article.

“Permit” means to give permission to; or to allow by silent consent, by not prohibiting, or by failing to exercise control.

“Weeds” mean:

(1) All vegetation, other than commonly known and recognized trees, decorative shrubs and ornamental grasses, which has attained a height of 10 inches or more and which meets any one of the following tests:

- a. Vegetation which may exhale unpleasant or noxious odors.
- b. Vegetation which does or could conceal deposits of trash or other material or which does or could afford food or harborage for rats, mice or snakes.
- c. Vegetation which is commonly known and recognized as weeds and grasses.

- d. Vegetation which causes a safety hazard by obstructing the line of sight of a motor vehicle driver, bicyclist or pedestrian at a street intersection.
- e. Vegetation which could interfere with the passage of motor vehicles, bicycles or pedestrians on any public right-of-way.

(2) Poison ivy, poison oak and poison sumac, at any height or stage of maturity.

Section 28-7.2. Weeds and accumulations of trash declared a nuisance

Any accumulation of trash or growth of weeds on any lot or ground is hereby declared to be a nuisance.

Section 28-7.3. Weeds and accumulations of trash prohibited

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of any growth of weeds in violation of this article. It shall be unlawful for any person to cause, permit, maintain or allow the accumulation of trash in violation of this article.

Section 28-7.4. Defense

(a) It is an affirmative defense that the defendant did not have the legal right to control the location where a violation of this article occurred.

(b) It is an affirmative defense that a growth of weeds was for agricultural purposes, provided that a fifteen foot wide, weed-free buffer was maintained on the perimeter of the property wherever the property adjoins property used for residential or commercial purposes.

(c) It is an affirmative defense that the growth of weeds was part of a federal or state agricultural or conservation program.

Section 28-7.5 Continuing violation

Each day that a violation of this article continues shall be deemed a separate offense.

Section 28-7.6 Abatement of weeds and trash accumulation.

(a) *Initiation of abatement procedure.* When the Chief Code Official has reason to believe that trash has accumulated or weeds have been allowed to grow on any property in violation of this article, the Chief Code Official may initiate an abatement procedure by calling a hearing to determine whether a violation exists.

(b) *Notice of hearing.* The owner of the property on which the violation of this article is believed to exist shall be given notice of the hearing at least four (4) days before the hearing. The notice shall describe the location and nature of the alleged violation and state the time and place of the hearing. When there is more than one owner of the property, notice need be given to only one of the owners.

(c) *Service of notice.* The notice shall be served by at least one of the following methods:

- (1) Personal service on the owner or the owner's agent,
- (2) Service by mail addressed to the last known address of the owner or the owner's agent,
- (3) Posting the notice on the property where the violation is alleged to exist.

Notice shall be considered given on the date the notice is personally served, mailed or posted.

(d) *Hearing and order.* The hearing officer shall conduct an informal hearing at the time and place designated in the notice of hearing. If the hearing officer determines, after reviewing all evidence presented at the hearing, that trash has been allowed to accumulate or that weeds have been allowed to grow on the subject property in violation of this article, the hearing officer may declare the accumulation of trash or the weeds to be a nuisance and order the nuisance to be abated within five (5) business days.

(e) *Abatement by city.* If the accumulation of trash has not been removed or the weeds are not cut down and removed as ordered by the hearing officer, the hearing officer may have trash accumulations removed or the weeds cut down and removed by city employees or by persons under contract with the city.

(f) *Collection of abatement costs.* The Chief Code Official shall certify the cost of abatement to the City Clerk. The cost shall include administrative costs as well as the actual cost of removing the trash or cutting and removing the weeds. The City Clerk shall cause a special tax bill against the property to be prepared in the amount of the abatement cost. The tax bill from the date of its issuance shall be a lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity. No clerical error or informality in the taxbill or in the proceedings leading up to the issuance of the tax bill shall be a defense in an action to collect the tax bill. Tax bills issued under this section, if not paid when due, shall bear interest at the rate of eight percent (8%) per annum. The cost of abatement shall also constitute a personal obligation of the property owner. (State law reference – 71.285 RSMo.)

Article VIII. Dangerous Structures

28-8.1 Defined

The following buildings are declared to be dangerous buildings:

(1) Any building or structure having interior walls or other vertical structural members which list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.

(2) Any building or structure which, exclusive of the foundation, shows thirty-three (33) percent, or more, of damage or deterioration of the supporting member or members, or fifty (50) percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering.

(3) Any building or structure having 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) Any building or structure having been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the residents of the city.

(5) Any building or structure which has become so dilapidated, decayed, unsafe or unsanitary, or which so utterly fails to provide the amenities essential to decent living that the same is unfit for human habitation, or is likely to cause sickness or disease so as to injure the health, morals, safety or general welfare of those living therein.

(6) Any building or structure having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.

(7) Any building or structure having inadequate facilities for egress in case of fire or panic, or having insufficient stairways, elevators or fire escapes.

(8) Any building or structure having parts thereof which are so attached that they may fall and thereby cause injury or damage to some person or property.

(9) Any building or structure which is otherwise dangerous to human life, or which in relation to existing use constitutes a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard or abandonment.

28-8.2 Placarding as dangerous

(a) The City Administrator, or the Administrator's designee, shall appoint and supervise one or more persons to serve as the City building inspector. If the building inspector upon inspection of a building or structure determines that it is an unsafe building, he shall place a notice on such building or structure found by him to be a dangerous building reading as follows:

This building has been found to be a dangerous building by the building inspector of the City of Ashland, Missouri. This notice is to remain on this building until it is vacated, repaired, reconditioned, removed or demolished in accordance with the notice which has been given to the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in the building, as shown by the records of the Recorder of Deeds of Boone County, Missouri. It is unlawful to remove, deface or mutilate this notice until such notice is complied with.

The posting of the notice shall not be construed as to deprive any person of the notice and hearing as prescribed by this article.

(b) It shall be unlawful for any person to remove any placard placed on a building pursuant to subsection (a) without the permission of the building inspector.

28-8.3 Standards for vacation, demolition or repair

If upon inspection any building or structure is found to be a dangerous building, the building or structure shall be vacated, demolished or repaired as follows:

(1) If the building or structure can reasonably be repaired so that it will no longer exist in violation of the terms of this article, it shall be repaired or demolished.

(2) If the building or structure is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be vacated.

(3) If the building or structure is fifty (50) percent damaged or decayed, or deteriorated from its original value or structure, it shall be demolished.

(4) If the building or structure cannot be repaired so that it will no longer exist in violation of the terms of this article, it shall be demolished.

(5) If the building or structure is a fire hazard existing or erected in violation of the terms of this article or any other ordinance or state statute, it shall be demolished, providing the fire hazard is not eliminated by the owner or other interested person within a reasonable time.

28-8.4 Inspections; sending notices of violations; search warrants

(a) The building inspector, or his authorized representative, shall inspect or cause to be inspected every building or structure reported as being a dangerous building, and shall notify in writing the owner, occupant, lessee, mortgagee, agent and any other person having an interest in the building or structure as shown by the land records of the county recorder of deeds of any violations of this article that are found upon such inspection.

(b) The notice shall be served either by personal service or by certified mail with return receipt requested, but if service cannot be had by either of these methods then service may be had by publication in a newspaper of general circulation published in the city and such notice shall be published at least once each week for four (4) consecutive weeks.

(c) If an application in writing is filed by a building inspector with a judge of the circuit court of Boone County, stating that there is probable cause to believe that a certain structure or premises, more particularly described therein, is or may be in violation of this article and is within the territorial jurisdiction of the city, and if such complaint is verified by oath or affirmation stating evidential facts from which such judge determines the existence of probable cause, then the judge shall issue a search warrant directed to the building inspector commanding the building inspector to search the structure or premises therein described. Such search warrant may be executed and returned only within ten (10) days after the date of its issuance. The building inspector shall make a return promptly after concluding the search, and such return shall contain an itemization of all violations of this article discovered pursuant to such search. The refusal to admit the building inspector to a structure or premises when the building inspector is in lawful possession of a search warrant commanding the building inspector to enter therein is hereby declared to be a misdemeanor.

28-8.5 Contents of notice of violations

The notice required in 28-8.4 of this article shall:

(1) Declare the building or structure to be a nuisance.

(2) Specify that the property is to be vacated, if such be the case.

(3) Order that the building or structure be repaired or demolished, as the case may be providing for a reasonable time for commencement of such repair or demolition, but not to exceed twenty (20) days following receipt of such notice by personal service or certified mail, or following the date of last publication in a newspaper.

(4) Contain a copy of the inspection report made as provided for in this article if such notice is served personally or by certified mail, otherwise the published notice shall briefly set forth the conditions requiring vacation, repair or demolition.

28-8.6 Actions upon noncompliance with building inspector's notice

(a) If the owner or other person having any interest in a dangerous building or structure has been notified pursuant to this article and then fails to commence work of repair or demolition within the time specified or fails to proceed continuously with such work without unnecessary delay, the building inspector shall report the same to the Board of Aldermen.

(b) Thereupon the board shall call and have a full and adequate hearing upon the matter, giving the affected parties at least twenty-one (21) days written notice of the hearing in the same manner as provided for the service of the notice of violations. At such hearing any party may be represented by counsel, and all parties shall have an opportunity to be heard.

(c) After the hearing, if the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, the Board of Aldermen shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other persons having an interest in the building as shown by the county land records to repair, vacate or demolish the building; provided, that any person so notified, shall have the privilege of either repairing, or vacating and repairing the building, if such repair will comply with all ordinances, or the owner or any person having an interest in the building may vacate and demolish the building at his own risk.

(d) If the evidence does not support a finding that a building or structure is a dangerous building, no order shall be issued.

28-8.7 Correction by city upon noncompliance with board's order

If an owner, occupant, mortgagee or lessee fails to comply with the order of the Board of Aldermen issued pursuant to this article, then within thirty (30) days the board shall order the City Administrator to proceed to repair or demolish and remove the building or structure.

28-8.8 Lien for expenses of correction by city

If the Board of Aldermen issues an order to the City Administrator pursuant to this article whereby the building or structure is repaired or demolished by the city, the costs of repair, vacation or demolition and a reasonable charge for administering the provisions of this article not exceeding fifty dollars (\$50.00), shall be certified to the City Clerk who shall cause a special tax bill therefor against the property to be prepared and collected. At the request of the taxpayer the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from the date of its issuance shall be deemed a personal debt against the property owner and shall also be a lien upon the property until paid. The assessment shall bear interest at the rate of eight (8) per cent per annum until paid.

28-8.9 Emergency action

When it reasonably appears that there is an immediate danger to the health, safety or welfare of any person resulting from a dangerous building or structure, the building inspector shall report the same to the Board of Aldermen, and the board may take emergency measures including the placing of guardrails or other protection devices and suitable signs giving notice to the public of such danger, and to cause the immediate repair, vacation or demolition of any such

building or structure. The costs of any such emergency repair, vacation or demolition shall be a lien upon the property and collected in the same manner as provided for in 28-8.8 of this article.

28-8.10 Building official to make reports of and give testimony concerning structures

The building inspector shall report in writing to the Board of Aldermen the noncompliance of any person with any notice to vacate, repair or demolish any building or structure, and to appear at all hearings conducted by the Board of Aldermen and testify as to the condition of the dangerous buildings.

28-8.11 Violations

It shall be unlawful for any person to fail to obey any final notice or order issued pursuant to this article, or to fail to obey such notice or order continuously and without unnecessary delay.

28-8.12 Judicial review

The owner, occupant, lessee, mortgagee, agent or other person having an interest in any building or structure within the scope of this article shall have the right of appeal from any order or determination made pursuant to this article to a court of competent jurisdiction, as provided by chapter 526, Revised Statutes of Missouri.

28-8.13 Insurance proceeds from damage or loss to buildings or structures

If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion, or other casualty loss, and if the covered claim payment is in excess of fifty (50) percent of the face value of the policy covering a building or other structure, then the following procedure shall apply:

(1) The insurer shall withhold from the covered claim payment ten (10) percent of the covered claim payment, and shall pay that amount to the city to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under this section. If a special tax bill or assessment is issued by the city for the expenses of demolition of such building as a dangerous building, the moneys held by the city shall be applied toward payment of special tax bill or assessment. If there is any excess, it shall be paid by the city to the insured or as the terms of the policy, including any endorsements thereto, provide.

(2) The city shall release the proceeds and any interest which has accrued on such proceeds received under subsection (1) of this section to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after receipt of such insurance moneys, unless the city has instituted legal proceedings under the provisions of sections 28-8.6 and 28-8.7. If the city has proceeded under the provisions of sections 28-8.6 and 28-8.7, all moneys in excess of that necessary to comply with the provisions of sections 28-8.6 and 28-8.7 for the removal of the building or structure, less salvage value, shall be paid to the insured.

(3) The city may certify that, in lieu of payment of all or part of the covered claim payment under this section, it has obtained satisfactory proof that the insured has or will remove debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the city shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without deduction. It shall be the obligation of the insured or other person

making claim to provide the insurance company with the written certificate provided for in this subsection.

(4) No provision of this section shall be construed to make the city a party to any insurance contract.

28-8.14 Penalties

Any person violating any provision of this article is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00). Each day that a person fails to comply with an order of the building inspector or Board of Aldermen may be deemed a separate offense.

(amended by Ordinance No. 1008, December 2, 2014)