

**AN ORDINANCE ADOPTING NUISANCE PROVISIONS FOR THE VILLAGE OF CENTERTOWN, MISSOURI AND PRESCRIBING PROCEDURES RELATING THERETO.**

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF CENTERTOWN, MISSOURI, AS FOLLOWS:

Section 1: Chapter 3 of the Village Code of the Village of Centertown, Missouri, is hereby repealed and shall be amended to include the following:

**3.00. PURPOSE AND SCOPE OF REGULATIONS.** The purpose of this Chapter is to promote the health, safety, and general welfare of the inhabitants of the Village of Centertown. The Board of Trustees of the Village is empowered by **Mo. Rev. Stat. § 80.090 (2005)** to prevent and remove nuisances. The scope of this Chapter provides for the abatement of those unreasonable, unusual or unnatural acts and omissions deemed nuisances by statute or common law, whether intentional or unintentional, concerning a condition substantially interfering with the public health, the public safety, the public peace, the public comfort or the public convenience, as well as those offenses of a similar nature proscribed by statute.

**3.05. DEFINITIONS.** For the purpose of this Ordinance, the following words and terms as used herein are defined to mean the following:

(A) Garbage: Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food. (*See Mo. Rev. Stat. § 64.460 (2006)*)

(B) Litter: Glass, glass bottles, wire, nails, tacks, hedge, cans, garbage, trash, excreta, debris, refuse or rubbish of any kind, nature or description. (*See Mo. Rev. Stat. § 577.070 (2006)*)

(C) Nuisance: An offense against the public order and economy of the Village by unlawfully doing any act or by omitting to perform any duty which the common good, public decency or morals, or the public right to life, health, and use of property requires; and which at the same time annoys, injures, endangers, renders insecure, interferes with, or obstructs the rights or property of the whole community, or neighborhood, or of any considerable number of persons, when it affects the rights enjoyed by citizens as part of the public, even though the extent of the annoyance, injury, or damage may be unequal, or may vary in its effect upon individuals. Consideration is given to places where the public have the legal right to go or congregate, or where they are likely to come within the sphere of its influence. (*City of St. Louis v. Vahari, Inc.*, 39 S.W.3d 531 (Mo.App. E.D. 2001))

(D) Person: any individual, partnership, limited liability company, corporation, association, or institution. (*See Mo. Rev. Stat. §§ 260.200(26) (2000)*)

(E) Private property: Property owned privately and property owned privately which is subject to a public easement, including dedicated street right-of-way.

(F) Public premises: Any area open to or frequented by the general public, whether privately or publicly owned.

(G) Refuse: All putrescible and nonputrescible solid wastes including garbage; rubbish; ashes; street cleanings; dead animals, carcasses, and/or offal therefrom; abandoned automobiles; abandoned or discarded airtight or semi-irtight containers; junk, cut or fallen tree limbs; and solid market and industrial wastes. (*See Mo. Rev. Stat. § 64.460 (2006)*)

(H) Rubbish or Trash: Nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and similar materials. (*See Mo. Rev. Stat. § 64.460 (2006)*)

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

**3.15 INSPECTIONS.** Subject to constitutional limitations, authorized agents of the Village are hereby authorized to enter into or upon any premise where a nuisance is suspected to exist. Administrative search warrants, if necessary, are available to the Village agent pursuant to Chapter 8 of the Village Code for the authorization necessary for such inspection. The Village attorney should be consulted as to whether a warrant is necessary in any particular circumstances.

**3.20 CATEGORY I NUISANCES PROHIBITED.** Nuisances in this Section (“Category I Nuisances”) include those conditions found to exist on private property within the Village which are proscribed and processed under the provisions of **Mo. Rev. Stat. §§ 67.398 and 71.285 (2000)** (as modified by *Home Builders Ass’n of Greater St. Louis v. State*, 75 S.W.3d 267 (Mo. 2002)), which are deemed to pose a threat to the public safety, health, peace, comfort or convenience. Nuisances in this category which pose an *imminent hazard* are subject to the expedited procedures in Section 3.25(B).

(A) Category I 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 are declared to be and constitute a nuisance; however, this enumeration shall not be deemed conclusive, limiting or restrictive:

1. Weed cuttings;
2. Dead, cut, fallen or otherwise hazardous trees, limbs and shrubs;
3. Overgrown vegetation and noxious weeds seven (7) inches or more in height;
4. Any trees, shrubbery, bushes or vegetation on private or public premises, including easements, which are not trimmed to prevent obstruction of the view and

movements of vehicles and pedestrians, i.e., to provide:

- a. 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;
- b. 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;
- c. A clear line of sight for at least seventy-five (75) feet on the approach side for all traffic signals or traffic control postings;
- d. 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, by trimming any trees, shrubbery, bushes or vegetation to a height of not more than twenty- four (24) inches within that triangle;
- e. Clear visibility and easy accessibility, operation and use of a fire hydrant or other utility or structure.

5. Any weeds or grasses that may cause, through direct contact with skin, an irritation or lesion;
6. Any area not covered by lawn or vegetation and not treated to prevent dust or the blowing and scattering of dust particles into the air;
7. Any altered surface of the ground which would be liable to deposit mud or harmful silt onto public property, or cause erosion or damage to public property;
8. Dirt, mud, filth, stones, or other materials permitted to remain on and obstruct any sidewalk, walkway, alley or right-of-way;
9. Rubbish / trash;
10. Lumber not piled or stacked twelve (12) inches off the ground;
11. Rocks or bricks;
12. Tin;
13. Steel;
14. Parts of derelict cars or trucks;

15. Broken furniture;
16. Any flammable material which may endanger public safety;
17. Any litter allowed to remain longer than one (1) week in or on any occupied public premises, or upon any open or vacant private lot within the Village;
18. Any stable, animal pen, poultry yard or coup permitted to be in such condition as to become offensive, foul or hazardous;
19. Any accumulation of water found in an improperly drained pool, pond, or collector that has not been dispersed within five (5) days, thereby becoming stagnant;
20. Any cellar, vault, private drain, pool, privy, sewer, cistern or sinkhole upon any premises permitted to become foul, offensive or hazardous;
21. Any placing or allowing to be placed in any watercourse or stream 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;
22. Any willful change of the natural or legally-established channel of any watercourse without the lawful authority to do so;
23. The erection or causing to be erected, maintenance or caused to be maintained upon, across, along or adjoining any street of the Village any fence, wall or other obstruction, any part of which is built or composed of barbed wire; and any stretching or placing 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; and
24. Any material or condition which is unhealthy or unsafe and declared to be a public nuisance.

(B) Category I Nuisance Abatement Procedure:

1. Whenever any condition enumerated in Section 3.20(A) of this ordinance, is allowed to exist, accumulate or grow on any part of any lot or ground within the Village, the owner of the ground, or in case of joint tenancy, tenancy by the entireties or tenancy in common, each owner thereof, shall be liable.
2. The official designated by the Village Board of Trustees shall hold a hearing after **ten** (10) days' notice thereof, either personally or by United States mail to the owner or owners, or the owner's agents, or by posting such notice on the premises. The hearing shall be tape recorded and the decision shall be accompanied by findings of

fact and conclusions of law.

3. Thereupon, the designated Village official may declare the condition to be a nuisance and order the same to be abated within **seven (7)** days; and in case the condition is not removed or abated within the **seven (7)** days, the designated Village official shall have the nuisance removed or abated immediately. By failing to remove or abate the nuisance as ordered the owner relinquishes and waives any property rights to the items removed by the Village in removing or abating the nuisance.

4. The costs to the Village for such removal or abatement shall be certified to the Village clerk, who shall cause a special tax bill therefor against the property to be prepared and to be collected by the collector, with other taxes assessed against the property; and the tax bill from the date of its issuance shall be a 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 or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto.

5. Each special tax bill shall be issued by the Village clerk and delivered to the collector on or before the first day of June of each year. Such tax bills if not paid when due shall bear interest at the rate of eight percent per annum.

(**Mo. Rev. Stat. §§ 67.398 and 71.285 (2000)** (as modified by *Home Builders Ass'n of Greater St. Louis v. State*, 75 S.W.3d 267 (Mo. 2002))

**3.25 CATEGORY II NUISANCES PROHIBITED.** Nuisances in this Section (“Category II Nuisances”) include those conditions found to exist within the Village limits which are proscribed by the provisions of **Mo. Rev. Stat. § 67.398.1 (2000)** and various other Missouri statutes, and which are deemed *per se* to pose a more *imminent hazard* to the public safety, health, peace, comfort or convenience. Nuisances in this category are therefore subject to expedited process as herein provided.

(A) Category II Nuisances Enumerated: Any person or persons found 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 have committed a violation of this ordinance prohibiting such nuisance. This enumeration shall not be deemed conclusive, limiting or restrictive:

1. 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 (**Mo. Rev. Stat. § 67.398.1**);

2. Any carcass of a dead animal which the owner or keeper thereof permits to remain within the limits of the Village for more than twenty four (24) hours after knowledge of such death, unless properly disposed of according to the provisions of **Mo. Rev. Stat. § 269.020 (2006)** (**Mo. Rev. Stat. § 269.020**);

3. Any obstruction including snow, ice, or inherently dangerous materials (broken glass, sharp objects, etc.) permitted to remain on and obstruct any sidewalk, walkway, alley or right-of-way (**Mo. Rev. Stat. § 67.398.1**);
4. Leghold traps placed outdoors on any public premises or private property for the capture of animals (**Mo. Rev. Stat. § 67.398.1**);
5. Any substance of any kind which emits an offensive, noxious, putrid or unhealthy odor in the Village (**Mo. Rev. Stat. § 67.398.1**);
6. Any accumulation of mud, dirt, sticky substances, litter or other foreign matter which is deposited from the wheels or undercarriage 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 (**Mo. Rev. Stat. § 67.398.1**);
7. 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 Village (**Mo. Rev. Stat. §§ 67.398.1 and 577.070 (2006)**);
8. Any dead animal, carcass or part thereof, the offal or any other filth which has been deposited into any well, spring, brook, branch, creek, pond or lake (**Mo. Rev. Stat. § 577.076.1 (2006)**);
9. Any dead animal, carcass or part thereof which has been removed or caused to be removed and placed in or near any public road or highway, or upon premises not his own, or in any stream or watercourse within the Village limits to the annoyance of the public (**Mo. Rev. Stat. § 577.076.2 (2006)**);
10. Any dead animal carcass, or any part thereof, or any offal or other filth placed into any well, cistern, spring, drinking fountain, reservoir, water tank or tower, trough or basin used for drinking purposes, or into any brook or branch within the Village 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 (**Mo. Rev. Stat. §§ 577.076 and 577.150 (2006)**);
11. All unnecessary or unauthorized noises and annoying vibrations, including animal noises; noise produced by use of sound amplifying equipment, whether for the purpose of advertising any goods, wares or merchandise or for the purpose of announcing any public meeting, for playing music or for any other purpose whatsoever, when the sound produced thereby would constitute a nuisance (**Mo. Rev. Stat. § 67.398.1**);
12. Abandonment or discontinued use of any well or cistern located on any 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 (**Mo. Rev. Stat. § 67.398.1**);

13. Unauthorized possession of anhydrous ammonia within the Village limits (**Mo. Rev. Stat. §§ 67.398.1 and 577.075 (2006)**);

14. Abandonment of a motor vehicle or trailer on the public right-of-way or on the banks of any stream, or on any publicly-owned land or water within the Village limits (**Mo. Rev. Stat. § 577.080 (2006)**); and

15. Abandonment of any airtight or semi-irtight containers by discarding or knowingly permitting to remain on premises under a person's control, in a place accessible to children, any abandoned or discarded icebox, refrigerator, or other airtight or semi-irtight container which has a capacity of one and one-half cubic feet or more and an opening of fifty square inches or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein (**Mo. Rev. Stat. § 577.100 (2006)**).

(B) Category II Nuisance Abatement Procedure: A designated agent of the Village is hereby authorized to immediately abate any Category II Nuisance and any Category I Nuisance constituting an imminent hazard under the supervision of the Village attorney and upon such procedures as he or she shall direct.

**3.30 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).

**Section 2:** This ordinance shall be in full force and effect upon final passage and approval.

FIRST READING HELD: June 13<sup>th</sup>, 2006.

SECOND READING HELD AND FINAL PASSAGE ON THIS 13<sup>th</sup> DAY OF  
June, 2006 BY THE FOLLOWING VOTE:

	<u>Aye</u>	<u>Nay</u>
John Doyle	<u>Absent</u>	_____
Kenneth Farris	<u>X</u>	_____
Doug Heineman	<u>X</u>	_____
Curtis B. Holzer	<u>X</u>	_____
William McClure	<u>X</u>	_____

Doug Heineman  
Chairman, Board to Trustees

Attest:

Doug Heineman  
Village Clerk