

BILL NO. 19

ORDINANCE NO. 19-2000

AN ORDINANCE REPEALING PROVISIONS OF CHAPTER 42 OF THE MONROE CITY CODE, AND ENACTING A NEW CHAPTER 42 OF THE MONROE CITY CODE AND SETTING FORTH A PROCEDURE FOR THE REGULATION AND ABATEMENT OF NUISANCES AND DANGEROUS AND UNSAFE BUILDINGS

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF MONROE CITY, MISSOURI, AS FOLLOWS:

Section One: All of the provisions of Section 42 of the Monroe City Code regulating nuisances, the abatement of nuisances, dangerous and unsafe buildings, weeds and grass, and disabled vehicles and other junk is hereby repealed.

Section Two: The following numerated regulations concerning nuisances shall be upon final passage of this bill, added to the Monroe City Code as Article I of Chapter 78, and shall be numbered into said code as designated herein, to-wit:

ARTICLE I: NUISANCES

Section 42-1: Jurisdiction and enforcement: Jurisdiction for the enforcement of the Sections of this chapter of the Monroe City Code shall be vested in the City Marshall and Police Department under the direct supervision of the City Administrator, and if the office of the City Administrator should be vacant then under the direct supervision of the Mayor.

Section 42-2: Nuisances prohibited within the City: It shall be unlawful for any person to cause, harbor, commit or maintain, or to suffer to be caused, harbored, committed or maintained, any nuisances defined by Statute or common law of this State or as defined by this Chapter or elsewhere in this Code or other Ordinance of the City at any place within the City.

Section 42-3: This Chapter is supplemented by other provisions of this Code relating to nuisances. Various nuisances are defined and prohibited in other chapters of this Code, and it is the intent of the Board of Aldermen enacting this Chapter to make it supplemental to those other Chapters which nuisances are defined and prohibited. The provisions of this Chapter relating to the abatement of nuisances shall be regarded as alternative methods and procedures for the abatement of nuisances in those instances where other methods and procedures for abatement are provided.

Section 42-4: Certain nuisances enumerated; list not inclusive.

The following acts when committed or conditions when existing, within the City are hereby defined and declared to be nuisances.

1. An act done or committed or aided or assisted to be done or committed by any person, or any substance, being or thing kept, maintained, placed or found in or upon any public or private place, which is injurious to public health or safety.
2. All buildings, bridges or other structures of whatever character kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.
3. All trees or other appendages of or to realty kept or maintained in which there are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.
4. All sidewalks, gutters or curbstones permitted to remain in an unsafe condition, or out of repair; sidewalks blocked by motor vehicles or equipment.
5. All houses or buildings used for special storage of powder, dynamite or other explosive substances, except those maintained pursuant to permit issued by a competent authority.
6. Any well or cistern on any property, public or private, shall be a nuisance whenever a chemical analysis shows that the water of such well or cistern is of an impure or unwholesome nature, or whenever the cover of said well or cistern is deemed to be unstable.
7. Any fence built wholly or partly of barbed wire or electric fence on the line of, or adjacent to, any street, sidewalk or other public place, when maintained without the permission of the Board of Aldermen.
8. All pursuits followed or acts done by any person to cause harm, injury, annoyance, inconvenience or damage to or of the public.
9. Any above ground or underground tank or storage compartment which contains hazardous or toxic materials or waste where it is injurious to public health or safety.
10. Every act or thing done or made, permitted, allowed or continued on any property, public or private, by any person to the damage or injury of any of the inhabitants of this City and not specified in this Section, shall be deemed a nuisance.

The nuisances described in this Section shall not be construed as exclusive, and any act of commission or omission in any condition which constitutes a nuisance by Statute or common law of this State is, when committed, omitted, or existing within the City is hereby declared to constitute a nuisance.

Section 42-5: Septic tanks, privies, privy vaults and cess pools; dead animals: All septic tanks, privies, privy vaults and cess pools, constructed, installed or maintained in the City contrary to any provision of State law, this Code or other ordinances are hereby declared to constitute a nuisance. Dead animals shall be promptly disposed of in a sanitary fashion by the owner or person in charge of said animal.

Section 42-6: Premises to be kept clear of stagnant water; proper drainage to be provided: No person owning or in possession of any lot, house, building or enclosure shall allow or suffer to exist in or upon such premises any stagnant water, animal or vegetable matter or other substance liable to become putrid, offensive, annoying or unhealthy. Persons owning or in possession of any real estate shall provide proper and adequate drainage therefore so that no offensive, baneful or disagreeable liquid shall flow or seep onto any street. Any violation of this Section is hereby declared to be a nuisance.

Section 42-7: Grass and weeds; prohibited height: It shall be unlawful for anyone to plant any weeds, grass or plants, other than trees, bushes, flowers and other ornamental plants to grow to a height exceeding ten inches anywhere in the City. Any such plants or weeds exceeding such height are hereby declared to be a nuisance. The provisions of this Section shall not apply to any property located within the City that is being used exclusively for cultivated agricultural purposes. Non-cultivated areas must be kept at a height not to exceed 10 inches.

Section 42-8: Disabled vehicles and other junk; when and where a nuisance: Any damaged or disabled vehicle or part thereof or any junk such as metal, glass, paper, rags, wood, machinery parts, clothing or other waste or discarded material of any nature or substance whatsoever, or scrap or salvage materials located on any property, street or highway which presents a hazard to children, or harbors tall grass, weeds or other vegetation, or creates a fire hazard, or affords a breeding place or nesting place for reptiles, mosquitos, flies, rodents or other vermin; or any disabled or damaged vehicle, part thereof, or junk allowed to remain unmoved on any property, street or highway for a period of 72 hours, is hereby declared to constitute a public nuisance. For purposes of this Section any vehicle not having current state license plates shall be deemed to be a damaged or disabled vehicle and subjected to the provisions of this Section.

Section 42-9: Inspections and investigations: It shall be the duty of the City Marshall and Police Department under the direct supervision of the City Administrator, and if the office of the City Administrator be vacant then under the direct supervision of the Mayor to cause

inspections to be made from time to time of all portions of the City to determine whether any condition exists or activity is being practiced which constitutes a nuisance. Said inspections and investigations may be initiated by the City, or upon information given by any responsible person.

Section 42-10: Right to enter private premises; duty of occupants: Police and health officials shall have the right to enter upon private premises for the purposes specified in Section 42.9, upon compliance with all provisions of Law. Unless it appears probable that advance warning would defeat the purpose of any such entry, occupants of premises to be entered shall be given reasonable notice in advance, and in any case it shall be unlawful for any owner or occupant to prevent such entry which is sought to be made in compliance with the law.

Section 42-11: Notice to abate condition constituting nuisance; appeal: If at any time the City Marshall or a member of the Police Department shall find that a condition which constitutes a nuisance exists within the limits of the City he shall give notice in writing to the owner, occupant or person in charge of the premises upon which the condition exists, it stating the condition which constitutes a nuisance, and directing such addressee to remedy the condition within 10 days, unless the investigator deems the condition to constitute an eminent peril in which event the time given to abate may be decreased at the discretion of the investigator. It shall be unlawful for any such owner, occupant or person in charge to fail to comply with the terms of such notice; provided, however, that any owner, occupant or person in charge may, within 3 business days from the service of such notice appeal to the Nuisance Review Board, in which case the terms of such notice shall be stayed pending action of the Board of Nuisance Review, which shall be final; notice of appeal must be in writing, and must be filed with the City Clerk. Hearings before the Board of Nuisance Review shall be held not more than 10 days after the filing of appeal. Notices to abate nuisances shall inform the owner, occupant or person in charge their rights of appeal, and potential penalties for failing to comply. Notices to abate nuisances may be served by personal service, or by registered mail, return receipt requested.

Section 42-12: Nuisance Review Board: There is hereby created a Nuisance Review Board who shall have jurisdiction to hear all appeals from nuisance abatement notices. The Board shall be 3 in number, and shall be comprised of one member of the Board of Aldermen from each Ward of the City. Said Board shall be appointed by the Mayor.

Section 42-13: Abatement by City upon failure of violator to comply with Notice; complaint against violator; recovery of expense

for abatement within City limits; prosecution not barred:

- a. Upon failure of any person to who notice has been given pursuant to 42.12 to comply with the terms of such Notice or with the terms imposed by the Nuisance Review Board on appeal, as the case may be, the City Marshall shall forthwith make complaint against such person and shall then proceed to remedy the condition which constitutes the nuisance mentioned in such Notice. It shall be the duty of all City departments, offices and agencies to provide such assistance to City Marshall as may be required for the abatement of such nuisance.
- b. If the nuisance abated by the City Marshall existed on any property within the City limits, the expense of abatement may be assessed against the property, and a special tax bill may be issued against such property for the recovery of such expense, if such expense is not otherwise first collected and paid to the City Treasury. Special tax bills must be approved by the Board of Aldermen.
- c. Abatement by the City of any condition which constitutes a nuisance and reimbursement to the City of expenses incurred thereby shall not bar prosecution for maintenance of a nuisance.

Section 42-14: Damaged and disabled vehicles, storage, and right to reclaim: Whenever under the provisions of this Chapter the City shall take possession of the damaged or disabled vehicle which has been declared to be a nuisance, and where the owner thereof has failed to abate said nuisance, the City shall charge a storage fee of \$10.00 per day. The owners of said vehicle may reclaim said vehicle at any time within 30 days of the City taking possession of same, provided that the owner must pay all expenses of the City incurred in abating the nuisance, plus the storage fee. If the vehicle is not reclaimed by the owner within 30 days, then the City shall have a warehouseman's lien and pursuant to the provisions of Section 400.7.209 Revised Statutes of Missouri, may dispose of said damaged or disabled vehicle.

Section 42-15: Failure to abate misdemeanors; each day a separate offense; penalties: Any person who shall fail to abate a nuisance within the time specified in the notice to abate if no appeal be filed, and within the time specified by the Nuisance Review Board if an appeal is filed, shall be guilty of a misdemeanor. Each days failure to abate shall constitute a separate offense. Any person found guilty of failing to abate a nuisance shall be punished in accordance with the provisions of Section 1-12 of the Monroe City Code.

(42-16 to 42-49 Reserved)

Section Three: The following numerated regulations concerning dangerous and

unsafe buildings shall upon final passage of this bill shall be added to the Monroe City Code as Article II of Chapter 42, and shall be numbered into said code as designated herein, to-wit:

ARTICLE II: DANGEROUS AND UNSAFE BUILDINGS AND EQUIPMENT

Section 42-50: BOCA National Building Codes; construction; inconsistencies: This ordinance shall be construed in conjunction with Chapter 1 of the BOCA National Building Code heretofore adopted by the City. To the extent that provisions of this Chapter conflict with Chapter 1 of the BOCA National Building Code, the provisions of this Chapter shall prevail.

Section 42-51: Jurisdiction and enforcement: The City Building Commissioner shall be the Code official, who shall work under the direct supervision of the City Administrator, and if the office of the City Administrator be vacant then under the direct supervision of the Mayor, and he or she shall be responsible for enforcing provisions of this Section. The Code official shall from time to time direct the City Building Inspector to inspect any building which he believes to be in violation of the provisions of this Section, and he shall also direct the City Building Inspector to investigate any building believed to be in violation of this Section based upon information given by any responsible person.

Section 42-52: Conditions: All structures or existing equipment which are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. All unsafe structures shall be taken down and removed or made safe, as the Code official deems necessary and as provided for in this Section. A vacant structure that is not secured against entry or does not comply with the Building Code shall be deemed unsafe.

Section 42-53: Record: The Code official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

Section 42-54: Notice: If an unsafe condition is found, the Code official shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the code official acceptance or rejection of the terms of the order. Such notice shall

also inform the recipient of their rights of appeal and of the potential penalties for failure to comply.

Section 42-55: Method of service: Such notice shall be deemed properly served if a copy thereof is (a) delivered to the owner personally; or (b) sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

Section 42-56: Restoration: The structure or equipment determined to be unsafe by the code official is permitted to be restored to a safe condition. To the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with the requirements of Section 107. 1.1 and Chapter 34 of the BOCA National Building Code.

Section 42-57: Disregard of notice: Upon refusal or neglect of the person served with an unsafe notice to comply with the requirements of the order to abate the unsafe condition, the legal counsel of the City shall be advised of all the facts in order to pursue recourse provided by law, either civil or criminal. If after all legal recourse has been exhausted the unsafe condition has not remedied, the Code official may instruct the City to go upon the premises and correct the unsafe condition in accordance with the order of the Code official or Board of Appeals as the case may be, and the costs of said remedial action may be assessed against the property as a special tax bill with the approval of the Board of Aldermen.

Section 42-58: Imminent danger: When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure or any part thereof which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the building or structure, the Code official is hereby authorized and empowered to order and require the occupants to vacate the same forthwith. The Code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and its Occupancy has been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of making the required repairs or of demolishing the same.

Section 42-59: Temporary safeguards: When, in the opinion of the Code official, there is imminent danger due to an unsafe condition,

the Code official shall cause the necessary work to be done to render such structure temporarily safe, whether or not the legal procedure herein described has been instituted.

Section 42-60: Closing streets: When necessary for the public safety, the Code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being used.

Section 42-61: Emergency repairs: For the purposes of this section, the Code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

Section 42-62: Costs of emergency repairs: Costs incurred in the performance of emergency work shall be paid from the treasury of the City on approval of the Code official. The cost of emergency work may be assessed as a special tax bill against the premises where the unsafe structure is or was located with the approval of the Board of Aldermen.

Section 42-63: Unsafe equipment: Equipment deemed unsafe by the Code official shall not be operated after the date stated in the notice unless the required repairs or changes have been made and the equipment has been approved, or unless an extension of time has been secured from the code official in writing.

Section 42-64: Authority to seal equipment: In the case of an emergency, the Code official shall have the authority to seal out of service immediately any unsafe device or equipment regulated by this code.

Section 42-65: Unlawful to remove seal: Any device or equipment sealed out of service by the Code official shall be plainly identified in an approved manner. The identification shall not be tampered with, defaced or removed except by the Code official and shall indicate the reason for such sealing.

Section 42-66: Application for appeal: Any person shall have the right to appeal a decision of the Code official to the Board of Appeals. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully, apply, or an equivalent form of construction is to be used. Appeals must be in writing and filed with the City Clerk within 3 business days of receipt of the notice.

Section 42-67: Membership of Board: The Board of Appeals shall consist of three members appointed by the Mayor as follows: One

member of the Board of Aldermen from each Ward of the City. Members of the Board shall serve two year terms.

Section 42-68: Alternate Members: The Mayor shall appoint two alternate members from the Board of Aldermen who shall be called by the Board Chairman to hear appeals during the absence or disqualification of a member.

Section 42-69: The City Clerk shall serve as Secretary to the Board: The Secretary shall file a detailed record of all proceedings in the office of the Mayor.

Section 42-70: Notice of meeting: The board shall meet upon notice from the chairman, within ten days of the filing of an appeal, or at stated periodic meetings.

Section 42-71: Open hearing: All hearings before the board shall be open to the public. The appellant, the appellant's representative, the Code official and any person whose interests are affected shall be given an opportunity to be heard.

Section 42-72: Procedure: The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence but shall mandate that only relevant information be received.

Section 42-73: Postponed hearing: When three members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

Section 42-74: Board decision: The board may modify or reverse the decision of the Code official by a concurring vote of three members.

Section 42-75: Resolution: The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the Code official.

Section 42-76: Administration: The code official shall take immediate action in accordance with the decision of the board.

Section 42-77: Court review: Any person, whether or not a previous party to the appeal, shall have the right to apply to the Circuit Court or the County wherein the property is located for a writ of certiorari to correct errors of law. Application for review shall be made within 10 days following the filing of the decision in the office of the Mayor.

Section 42-78: Failure to Abate Misdemeanors; Each day a separate offense; penalties: Any person who shall fail to repair or demolish an unsafe building or equipment within the time specified in the notice to abate if no appeal be filed, and with the time specified by the Board of Appeal if an appeal is filed shall be guilty of a misdemeanor. Each days failure to abate shall constitute a separate offense. Any person found guilty of violating any provisions of this Chapter be punished in accordance with the provisions of Section 1-12 of the Monroe City Code.

Section Four: This Ordinance shall be in full force and effect from and after the date of it's passage and approval and the City Clerk is directed to add this Ordinance to the Monroe City Code as Article I of Chapter 78 and Article II of Chapter 42 thereof.

Passed and finally approved by the Board of Aldermen of the City of Monroe City, Missouri, on this 21st day of September, 2000.

Betty L. Barnes
MAYOR

ATTEST:

Cindy Bowman
CITY CLERK

Approved by the Mayor on this 26th day of September, 2000.

Betty L. Barnes
MAYOR

ATTEST:

Cindy Bowman
CITY CLERK

FIRST READING: 9/21/00 SECOND READING: 9/21/00 THIRD READING: 9/21/00