



## **CITY OF FREEPORT**

125 Main Street E – PO Box 301 – Freeport, MN 56331 – 320-836-2112 – FAX 320-836-2116  
For TTY/TDD Users 1-800-627-3529 or 711 Minnesota Relay Service [www.freeportmn.org](http://www.freeportmn.org)

### **ORDINANCE 2014-006**

#### **AN ORDINANCE REPEALING AND REPLACING SECTION 2010 OF THE FREEPORT CITY CODE RELATING TO PUBLIC NUISANCES**

##### **Section I**

The City Council of the City of Freeport, Minnesota hereby ordains Section 2010 of the City Code is hereby repealed in its entirety and replaced with “Exhibit A” attached hereto and entitled ‘Section 2010 – Public Nuisances.’

##### **Section II**

Effective Date. This Ordinance is effective upon its adoption and publication as prescribed by law.

Adopted by the City of Freeport on the 25<sup>th</sup> day of November, 2014.

### **Exhibit A**

#### **City Code Section 2010 – Public Nuisances**

##### **2010.01 Public Nuisance Affecting Health**

A property owner whom keeps any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

1. exposed accumulation of decayed or unwholesome food or vegetable matter;
2. diseased animals running at large;
3. ponds or pools of stagnant water;
4. carcasses of animals not buried or destroyed within 24 hours after death;
5. accumulations of manure (Agriculture zone exempt), refuse or other debris;
6. privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
7. the pollution of any well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substance;
8. noxious weeds and other rank growths of vegetation upon public or private property;
9. dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
10. public exposure of people having a contagious disease;
11. offensive trade or business as defined by law not operating under local license.

##### **2010.03 Public Nuisances Affecting Public Morals and Decency**

A property owner whom keeps any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

1. gambling devices, slot machines and punch boards, except as otherwise authorized by federal, state or local law;
2. betting, bookmaking, and all apparatus used in those occupations;
3. house kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;
4. places where intoxicating liquors is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place;
5. vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

### **2010.05 Public Nuisances Affecting Use and Safety**

A property owner whom keeps any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

1. Obstructions, including excavations, affecting use of public grounds, sidewalks or waters, except as permitted by ordinance or other applicable law;
2. Snow and ice not removed from public sidewalks within 24 hours after the weather event causing the condition has ceased;
3. Radio aerials or television antennae erected or maintained in a dangerous manner;
4. Any use of property abutting a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;
5. Hanging signs, awnings and other similar structures over streets and sidewalks, so situated as to endanger public safety, or not constructed and maintained as provided by Freeport City ordinance and other applicable laws;
6. Allowing rain water, ice or snow to fall from a structure upon any street or sidewalk, or to flow across any sidewalk;
7. Waste water cast upon or permitted to flow upon streets or other public properties;
8. Barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;
9. Dangerous, unguarded machinery in any public place, or so situated or operated on private property;
10. Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;
11. Obstruction of the free flow of water in a natural waterway or a public street, drain, gutter or ditch;
12. The placing upon any street, sidewalk or other public way any glass, tacks, nails, or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;
13. The depositing of garbage or refuse on a public right-of-way or on adjacent property;
14. All other conditions or things which are likely to cause injury to the person or property of anyone.

### **2010.07 Public Nuisances Affecting Peace and Surrounding Neighborhood**

A property owner whom keeps any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

1. Trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
2. Insect-infested trees;

3. Wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
4. Obnoxious noises in violation of Minn. Rules Ch. 7030, as they may be amended from time to time which are hereby incorporated by reference into this code;
5. Discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat motor vehicle, motorcycle, all-terrain vehicle, snowmobile or any recreational devices except through a muffler or other device that effectively prevents loud or explosive noises there-from and complies with all applicable state laws and regulations;
6. Using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby. Operation of any device referred to above between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation of this section;
7. Participation in a party or gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property;
8. Buildings, fences and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they are unsightly, decrease adjoining landowners and occupants' enjoyment of their property and neighborhood, and adversely affect property values and neighborhood patterns. A building, fence or other structure is a public nuisance if it does not comply with the following requirements:
  - a. No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers;
  - b. Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:
    - i. Any 1 wall or other flat surface; or
    - ii. All door and window moldings, eaves, gutters and similar projections on any 1 side or surface.
  - c. No glass, including windows and exterior light fixtures and doors, may be broken or cracked, and no screens may be torn or separated from moldings;
  - d. Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place;
  - e. Cornices, moldings, lintels, sills, bay or dormer windows and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly;
  - f. Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly and free from obstruction;
  - g. Chimneys, antennae, air vents and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof; and
  - h. Foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

9. Abandoned or junk motor vehicles, as they constitute 1) a hazard to the health and welfare of the people of the City in that they can harbor noxious disease, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well-being of children and other citizens; 2) a blight on the landscape of the City and are detrimental to the environment; and 3) a waste of a valuable source of useful metal. The terms used shall have the following meanings given them:
- a. Abandoned Motor Vehicle shall mean a motor vehicle that:
    - i. Lacks vital component parts or is in an inoperable condition so it has no substantial potential for further use consistent with its designed functions; and has remained for a period of more than 48 hours on public property illegally (or more than 4 hours if posted); or
    - ii. Has remained on private property for more than 24 hours (or immediately, if posted) without the consent of the property owner.
  - b. Junk Motor Vehicle shall mean a motor vehicle that:
    - i. Is extensively damaged, with the damage including such things as tires or broken or missing wheels, motor, drive train or transmission, so as to render the vehicle inoperable; or
    - ii. Has not had a valid, current registration plate, or has not been properly licensed for operation within the State of Minnesota for a minimum of thirty (30) consecutive days.
  - c. Exposed shall mean
    - i. Not screened by a city-approved fence and therefore visible from any adjacent property, public right-of way, or sidewalk; or
    - ii. Not stored within a non-residential building (garage, accessory building, etc.).
10. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, discarded or disused lumber or other building materials, wood, brush, yard waste, or other material in a manner conducive to the harboring of rats, mice, snakes or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation. Nothing in this section prohibits:
- i. the storage of machinery, auto bodies, or household appliances within a non-residential building; or
  - ii. the storage in the open of lumber, building materials, or wood that is:
    - 1. kept a minimum of twelve (12) inches above the ground or other surface, and
    - 2. fully screened by a city-approved fence, so as not to be visible from any adjoining properties, public right-of-way, or sidewalk.

### **2010.09 Other Public Nuisances**

Whoever by act or omission declared by law, this ordinance, or any other Freeport ordinance to be a nuisance and for which no sentence is specifically provided is guilty of a misdemeanor.

### **2010.11 Enforcement**

The City Clerk, Building Official, or Law Enforcement Agency shall enforce the provisions relating to nuisances; the official shall have the power to inspect private premises and abate and eliminate nuisances using the following steps:

1. When a nuisance is identified, the property owner shall be provided a Notice of Violation, in writing.

The Notice shall describe the nuisance, specify steps to be taken to abate and eliminate the nuisance, the

time within which the nuisance shall be abated, and that the fact will be reported to city council if Notice is not complied with. Notice shall be served either in-person or by certified or registered mail upon the owner of record for the premises. If the owner of record is unknown, or the owner of record refuses to accept the Notice, the Notice shall be served by posting it on the premises.

2. If the Notice is not complied with within, the fact shall be reported to City Council. The City Council may, after Owner is provided an opportunity to be heard, determine that the condition identified in the Notice is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the City may seek injunctive relief by serving a copy of the City Council Order and a Notice of Motion for Summary Enforcement.
  - a. Except for those cases determined by the City to require summary enforcement, written notice of any City Council Order shall be served as provided in Minnesota Statutes Section 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.
  - b. Written notice of any Motion for Summary Enforcement shall be served as provided in Minnesota Statutes Section 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.
3. The City Council may order that the nuisance be immediately abated or eliminated and failure to comply will result in summary enforcement and abatement, so long as the condition identified in the Order is a nuisance; and the public health, safety, or welfare will be unreasonably endangered by delay in abatement. The owner shall be notified in writing of:
  - a. the nature of the nuisance; and
  - b. the City's intention to seek summary enforcement; and
  - c. the time and place of the City Council meeting to consider summary enforcement.
4. Nothing in this ordinance shall prevent the City, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

### **2010.13 Recovery of Cost**

#### **Subd. 1 – Personal Liability**

The premises owner shall be personally liable for the cost of the abatement, including administrative costs. Soon after the abatement has been completed, the City Clerk shall prepare an invoice and mail it to the owner by certified mail. The amount shall be immediately due and payable to the City of Freeport.

#### **Subd. 2 – Assessment**

On or before September 1 next following abatement of the nuisance, the City Clerk shall list the unpaid charges to be assessed under Minnesota Statutes Section 429.101, against each separate parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten (10), as the City Council may determine in each case.

# Memo

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From: Mason Schirmer, Clerk-Treasurer

To: Freeport City Council

Date: October 17, 2014

Re: Request by Joann Timp

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Joann Timp provides cleaning services to the City by cleaning city hall weekly. Joann said she has been receiving the same rate for more than 4 years and is asking for a \$2 per hour increase.

## Consider

Prior to Jan 1<sup>st</sup>, when the city became exempt from paying sales tax, the city was incurring Joann's rate of \$16 per hour plus \$1.10 for sales tax (6.875%) for a total of \$17.10 per hour. Now, the city is exempt from paying sales tax for such services; thus increasing Joann's rate to \$17.10 per hour would have no increase in cost. A \$2 per hour increase to Joann would only cost the city \$.90 per hour.

## Question

Does the city want to increase Joann's rate of pay?

My office computer, without warning, turns-off. Dave Waletzko suggests it is likely a hardware failure and recommends purchasing a new machine. Below is his estimate and the following page is an estimate from a vendor in Melrose. The City has a good history of working with Waletzko and for that reason I recommend authorizing the purchase of a new machine from Waletzko.

**From:** David Waletzko <davidw@mnctc.com>  
**Sent:** Saturday, September 06, 2014 8:38 AM  
**To:** Mason Schirmer  
**Cc:** Joan Scherping  
**Subject:** New System Quote

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Nobilis Windows 7 64-Bit  
Intel i5-4460 3.2GHz 4 core  
8GB RAM Memory  
(2) Mirrored 1 TB Hard Disk Drives  
3 Year Parts Warranty                   \$1,241.00

If you want to go Cheep lesser processor no mirrored Drives   \$869.00

If you want to go dirt cheap, i3 processor 4GB 500 hard Disk   \$644.00

?’s give me a call

\*does not include labor hours for switchover estimated at 2 @ \$109.00/hr.

David Waletzko



305 East Main Street - Melrose, MN 56352 - 320-256-2627

# Estimate

DATE	ESTIMATE
9/8/2014	352

City of Freeport  
 PO Box 301  
 Freeport, MN 56331

			PROJECT
DESCRIPTION	QTY	COST	Total
Computer: Microsel Optima GS3000HW Intel Core i5-4670 8GB DDR3 RAM 2x1TB Hard Drive RAID1, DVDRW Drive Integrated Video, Sound, Wired Ethernet Microsoft Windows 7 Professional Edition 64bit SP1 1 Year Limited Parts & Labor Warranty	1	974.95	974.95
Warranty: Upgrade to 3 Year Warranty	1	79.95	79.95
Service: Installation	3	75.00	225.00
Minnesota Sales Tax		6.875%	0.00

Prices and availability subject to change without notice. Please make check payable to CMCS. A finance charge of 1½% (18% APR) will be added to all past due accounts (\$5.00 minimum). A \$30.00 fee will be assessed for dishonored payments.

# Memo

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From: Mason Schirmer, Clerk-Treasurer

To: Freeport City Council

Date: October 23, 2014

Re: 204 1<sup>st</sup> Ave N

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On October 7<sup>th</sup>, a notice (included along with this memo) was sent by certified mail to the owner of 204 1<sup>st</sup> Ave N (Sheldon Peterson). On October 15<sup>th</sup>, Peterson called to 1) express his desire to bring the property back into compliance with city codes; as well as 2) his concern regarding his ability to meet the deadline. Peterson said he spends the majority of his time away from Freeport and that he may have difficulty meeting the deadline. I asked Peterson to send an email stating his willingness to cooperate as well as asking for a deadline extension.

On Oct 23, Peterson called and said he's been out of state and unable to email. Peterson said he intends to have an email to me before the city council meeting.

## **Shall the city**

- 1. commence enforcement with issuance of a citation**
- OR**
- 2. extend the deadline?**



COPY

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October 7, 2014

USPS TRACKING # **9114 9011 2308 6825 1505 69**  
& CUSTOMER RECEIPT For Tracking or Inquiries go to [USPS.com](http://USPS.com)  
or call 1-800-222-1811.

Sheldon Peterson  
PO Box 66  
Freeport, MN 56331

Re: 204 1<sup>st</sup> Ave N

Dear Mr. Peterson,

Your property, located at 204 1<sup>st</sup> Ave N, maintains conditions which violate multiple city code sections. The following is a standard letter describing how your property is in violation of city codes. Copies of referenced city codes are enclosed along with this letter.

### Notice of Violation

Your property is in violation of city code section 2010.07 (re: nuisances) #2, #16, #21 & #22. To abate nuisances:

1. Eliminate the rank growth of grasses along 1<sup>st</sup> Ave N;
2. Eliminate or store the wood leaning against the Northside of the easterly garage/shed;
3. Eliminate or store the pile of shingles along the Northside of the garage adjacent to the house;
4. Trim shrubs so as not to overhang the sidewalk along 2<sup>nd</sup> Street N; and
5. Trim or maintain shrubs so as not to prevent people from having a clear view of all traffic approaching the intersection of 1<sup>st</sup> Ave N and 2<sup>nd</sup> St N (for a description of how to maintain the shrubs, see enclosed city code 500.45 Subd.1 Part5 ItemF)

The deadline to terminate and abate nuisances is **October 27, 2014**. If this notice is not complied with, the matter shall be reported to city council. If city council finds your property maintains a public nuisance, you will be issued a misdemeanor as well as a \$95 fee from the city; furthermore, each day the public nuisance is permitted constitutes a separate offense.

### Notice of Violation

Your property is in violation of city code section 605 (re: noxious weeds). To abate nuisances, remove or otherwise eradicate:

1. Thistle (growing along 1<sup>st</sup> Ave N); and
2. Common Buckthorn (tree/shrub adjacent near intersection of alley and 1<sup>st</sup> Ave N)

If weeds are not removed or otherwise eradicated by **October 27, 2014**, they will be removed by the city and the cost of such removal assessed against the property.

(continued on next page)

### Notice to Remove Litter

Your property is in violation of city code section 600 (re: litter). To abate litter, remove or store:

1. Garbage located near at the northeast corner of the property
  - a. Consists of black plastic bags, tires, garage door opener, unused/old grill
2. Unlicensed motor vehicles
  - a. Chevrolet Cavalier car with tabs expired June 2014
  - b. Volkswagen car with tabs expired July 2014
  - c. Motorcycle with tabs expired February 2006
  - d. Motor Scooter with tabs expired February 2013

The litter must be removed or stored by **October 27, 2014**. If the litter is not so removed or stored, it will be removed by the city and the cost of such removal assessed against the property.

Notify me as soon as you have eliminated the city code violations stated above, so that I may confirm and issue you a notice of compliance. Feel free to contact me to discuss any questions you may have.

Sincerely,



Mason Schirmer, Clerk-Treasurer

*Enclosures: City Code 2010 (re: Public Nuisances), City Code 500.45 (re: Fencing), City Code 605 (re: Noxious Weeds) and City Code 600 (re: Litter)*

## Mason Schirmer

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**From:** sheldon peterson <concreteblu@gmail.com>  
**Sent:** Thursday, October 23, 2014 11:30 PM  
**To:** Mason Schirmer  
**Subject:** Re: 204 1st Ave N

In response to the public violation complaint , I've have read and understand the complaints on record , due to out of state work i am currently doing i am asking for an extention to the date that these violation are to be completed . These items will be completed be nov 27 .

# Memo

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From: Mason Schirmer, Clerk-Treasurer

To: Freeport City Council

Date: October 22, 2014

Re: 129 7<sup>th</sup> St SW

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On Sept 26<sup>th</sup>, a notice (included along with this memo) was sent by certified mail to the owner of 129 7<sup>th</sup> St SW (Michael Linn). Within a week, the property tenant (Brian Kasten of Fastlane Auto) told me he understood the notice and said he wants to be in compliance with city code. Progress has been made; however, as of the date of this memo the property remains out of compliance with city code.

During the month, the property owner (Linn) has been following-up with progress and expressed concern to Kasten and myself that the property will not be in compliance by the deadline.

**Shall the city commence enforcement with issuance of a citation?**

Furthermore, I recommend council member Atkinson abstain from discussion and voting due to a potential conflict of interest.



COPY

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September 26, 2014

Flyinghaus Properties LLC  
Attn: Michael Linn  
PO Box 103  
Saint Michael, MN 55376

Re: 129 7<sup>th</sup> St SW, Freeport, MN

Dear Mr. Linn,

### Notice of Violation

Your property maintains public nuisances thereby violating city code 2010.07 Paragraph 16 (enclosed). Steps to be taken to terminate and abate nuisances include:

1. Remove accumulations in the open of:
  - a. Discarded or Disused Machinery (inoperable lawn tractors)
  - b. Automobile Bodies (inoperable or unlicensed vehicles, ATVs, snowmobiles, jet-skis, etc.)
  - c. Other Building Materials (white insulation-type material along the east side of building)
  - d. Other Material (various debris along south side of building, bags of trash at north-west corner of building, pile of tires south of building, accumulation of tires along the east side of the building)
    - i. Tires stored outside the building for future use shall be kept in an orderly manner a minimum of 12 inches above the ground and fully-screened so as not to be visible from any adjoining properties, public street or right-of-way.
2. Eliminate rank growth of vegetation among the items so accumulated

Maintaining a public nuisance is a misdemeanor and, in addition to a citation, the city levies a fee of \$95; furthermore, each day a violation exists constitutes a separate offense. You are hereby ordered to terminate and abate nuisances by **October 21, 2014**.

### Notice to Remove Litter

Your property maintains litter thereby violating city code 600 (enclosed). The litter to be removed or stored includes vehicles that are inoperable, unlicensed, partially dismantled, or abandoned. You are hereby ordered to remove or store the litter by **October 21, 2014**.

Sincerely,

Mason Schirmer, Clerk-Treasurer  
Enclosures (City Code 600, City Code 2010)

Certified Mail #

7006 2150 0002 4452 9092