

CITY OF LISMORE ORDINANCE NO. 49

AN ORDINANCE ENACTING PUBLIC NUISANCES; DEFINING AND PROHIBITING NUISANCES; PREVENTING, REDUCING, OR ELIMINATING BLIGHT, BLIGHTING FACTORS, OR THE CAUSE OF BLIGHT WITHIN THE CITY OF LISMORE; AND PROVIDING A PENALTY FOR THE VIOLATION HEREOF.

WHEREAS, The public health, welfare, and safety of the citizens and owners of property in the City of Lismore are affected adversely by the existence of unsightly, unhealthy, or annoying conditions upon property within the City; and

WHEREAS, the prompt and expeditious abatement of such conditions is in the best interests of the citizens, owners of property, and the public at large; and

WHEREAS, the City Council finds that there is a need for alternative methods of enforcing City Code violations pertaining to said conditions where criminal fines and penalties may not be appropriate;

Now, therefore, the City Council of the City of Lismore, Minnesota, does hereby ordain as follows:

Section 1. Public nuisance defined. Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

- (1) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
- (2) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public, or
- (3) Is guilty of any other act or omission declared by law or this ordinance to be a public nuisance and for which no sentence is specifically provided.

Section 2. Public nuisances affecting health. The following are hereby declared to be nuisances affecting health:

- (1) Exposed accumulation of decayed or unwholesome food or vegetable matter;
- (2) All animals running at large;
- (3) All ponds or pools of stagnant water;
- (4) Carcasses of animals not buried or destroyed within 24 hours after death;

- (5) Accumulations of manure, 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 public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- (8) All 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) All public exposure of people having a contagious disease;
- (11) Any offensive trade or business as defined by statute not operating under local license.

Section 3. Public nuisances affecting morals and decency. The following are hereby declared to be nuisances affecting public morals and decency:

- (1) All gambling devices, slot machines, and punch boards;
- (2) Betting, bookmaking, and all apparatus used in such occupations;
- (3) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- (4) All places where intoxicating liquor 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 such a place;
- (5) Any vehicle used for the transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

Section 4. Public nuisances affecting peace and safety. The following are declared to be nuisances affecting public peace and safety:

- (1) All snow and ice not removed from public sidewalks 12 hours after the snow or other precipitation causing the condition has ceased to fall;

- (2) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
- (3) All 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) All unnecessary noises and annoying vibrations;
- (5) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this code or other applicable law;
- (6) Radio aerials or television antennae erected or maintained in a dangerous manner;
- (7) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;
- (8) All hanging signs, awnings, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
- (9) The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- (10) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;
- (11) Any electric fence located within the City;
- (12) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- (13) Waste water cast upon or permitted to flow upon streets or other public properties;
- (14) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, 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 such accumulation;

- (15) Any well, hole, or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- (16) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash of other materials;
- (17) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance;
- (18) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- (19) All other conditions or things which are likely to cause injury to the person or property of anyone.

Section 5. Causes of Blight or Blighting Factors. It is hereby determined that the uses, structures, and activities and causes of blight or blighting factors described herein, if allowed to exist, will tend to result in blighted and undesirable neighborhoods so as to be harmful to the public welfare, health, and safety. The purpose of this part of the ordinance is to protect the character and stability of properties within the City of Lismore and to avoid blight and blighted conditions. On and after the effective date of this ordinance, no person, firm, or corporation of any kind shall maintain or permit to be maintained, any of these causes of blight or blighting factors upon any property in the City of Lismore owned, leased, rented or occupied by such person, firm, or corporation. Causes of blight and blighting factors are as follows:

- (1) In any area, the storage upon any property of junk automobiles. For the purpose of this ordinance, the term "junk automobiles" shall include any motor vehicle, part of a motor vehicle or former motor vehicle, stored in the open, which is not currently licensed for use upon the highways of the State of Minnesota, and is either (a) unusable or inoperable because of a lack of, or defects in component parts; or (b) unusable or inoperable because of damage from collision, deterioration, alteration or other factors; or (c) beyond repair and, therefore, not intended for future use as a motor vehicle; or (d) being retained on the property for possible use of salvageable parts.
- (2) In any area, the parking of a motor vehicle for a period of more than thirty (30) days without said vehicle being moved. This subsection shall not apply to any vehicle which is parked inside a structure.

- (3) In any area the storage or accumulation of junk, trash, rubbish, or refuse of any kind, except refuse stored in such a manner so as not to create a nuisance for a period not to exceed thirty (30) days. The term "junk" shall include parts of machinery or motor vehicles, unused stoves, or other appliances stored in the open; remnants of wood; decayed, weathered or broken construction materials no longer suitable for sale; approved building materials; metal or other cast-off materials of any kind, whether or not the same could be put to any reasonable use. This subsection shall not apply to any materials which consist of the inventory of a business which materials are sold or turned-over in a period not to exceed ninety (90) days.
- (4) In any area the existence of any structure or part of any structure which because of fire, wind, or other natural disaster, or physical deterioration is no longer habitable as a dwelling or useful for other purposes for which it may have been intended.
- (5) In any area the existence of any vacant dwelling, garage, or other outbuilding, unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals.
- (6) In any area wood or wood product which is usually used or intended to be used as firewood unless such is located and maintained in an safe and orderly fashion in neat and secure stacks. The maximum height allowed for woodpiles is seven (7) feet. No wood may be stored within five (5) feet of any public thoroughfare, or any property line. No wood shall be stored in the front yard or a yard which is commonly considered the front yard. Wood which is stored or kept covered in a structure impervious to the elements is exempt from the conditions and requirements set forth in this subsection.

Section 6. Abatement. Written notice of violation; notice of the time, date, place and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this subdivision.

- (1) Notice of violation. Written notice of violation shall be served upon the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

- (2) Notice of council hearing. Written notice of any City Council hearing to determine or abate nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of council hearing, notice of council hearing shall be served by posting it on the premises.
- (3) Notice of City Council order. Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be made as provided in Minn. Stat. 463.17 (Hazardous and Substandard Building Act).
- (4) Notice of motion for summary enforcement. Written notice of any motion for summary enforcement shall be made as provided for in Minn. Stat. 463.17 (Hazardous and Substandard Building Act).

ADMINISTRATIVE PENALTY PROVISION HERE

- (5) Procedure. Whenever the City Council has reason to believe that a public nuisance is being maintained or exists on premises in the city, the city clerk or other person designated by the City Council shall notify, in writing, the owner of record or occupant of the premises of such fact and order that such nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the city clerk or other person designated by the City Council shall report that fact forthwith to the council. Thereafter, the council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the council the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement.

- (6) Emergency procedure; summary enforcement In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in subdivisions 1 and 2 above will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the city clerk or other designee of the council shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety, or welfare. The city clerk or other designee of the council shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in subdivision I above, and may order that such nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.
- (7) Immediate abatement. No other provision 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.

Section 7. Recovery of cost.

- (1) Personal liability. The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the city clerk or other official designated by the council shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city clerk.

- (2) Assessment. If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minn. Stat. 429.101 against each separate lot or parcel to which the charges are attributable. The council may then spread the charges against such 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 10, as the council may determine in each case.

Section 8. Penalty. Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed \$500 or imprisonment for not more than 90 days, or both, plus the costs of prosecution in either case.

Section 9

This ordinance will be in full force and effect after it's passage and publication.

Passed by the City Council of the City of Lismore, Minnesota, this 11th day of November, 1998

Gerald Kottmann, Mayor

Attest: Kate McCann, City Clerk

This ordinance has been publish in it's summary in the Nobles County Review for two consecutive weeks