

ORDINANCE NO. 142

AN ORDINANCE AMENDING ORDINANCE NO. 108, ADOPTED ON NOV. 4, 2001, AND TITLED, "AN ORDINANCE DEFINING AND PROHIBITING PUBLIC NUISANCES AND PROVIDING A PENALTY FOR VIOLATION," AND REPEALING ORDINANCE NO. 122, ADOPTED ON MAY 12, 2004, AND TITLED, "AN ORDINANCE DEFINING AND PROHIBITING UNLICENSED AND NON-ROADWORTHY VEHICLES AS PUBLIC NUISANCES."

THE CITY COUNCIL OF THE CITY OF NICOLLET, MINNESOTA, ORDAINS:

Section 1. Amendment.

Ordinance No. 108 adopted on November 4, 2001 and titled, "An Ordinance Defining and Prohibiting Public Nuisances and Providing a Penalty for Violation," is amended to read:

Section 2. Short Title.

This ordinance shall be known, cited, and referred to as the *Public Nuisance Ordinance* except as referred to herein, where it shall be known as "this ordinance."

Section 3. 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 a 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 numbers 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 4. 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 diseased animals running at large;
3. All ponds of stagnant water;
4. Carcasses of animals not buried or destroyed within 24 hours after death;
5. Accumulation 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 operation under local license.

Section 5. 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, except as otherwise authorized by ordinance;

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 of promiscuous sexual intercourse, or any other immoral or illegal purpose.

Section 6. 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 city ordinance 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 which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;
8. All hanging signs, awning, 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 city ordinance or other applicable law;
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 6 feet above the ground and within 3 feet of a public sidewalk or way;
11. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
12. 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;
13. 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;
14. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
15. 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 an pneumatic tire when passing over such substance;
16. The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
17. Any refuse dumpster placed in a public street or on private residentially-zoned property without obtaining a permit.

18. All other conditions or things which are likely to cause injury to the person or property of anyone.

Section 7. Parking and Storage of Motor Vehicles 10 feet from the curb.

Subd. 1. Definitions. For purposes of this section the following words will have the meaning specified below:

1. **Motor Vehicle.** Any machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery. "Motor vehicle" shall include, but is not limited to, automobiles, trucks, trailers, motor cycles, snowmobiles, boats and tractors.
2. **Recreational Motor Vehicle.** Any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes including, but not limited to, motor homes, temporary dwellings designed to be mounted on trucks, trailers designed for camping uses, and non-propelled trailers designed to transport material. For the purposes of this section, "recreational motor vehicle" does not include boats, motor cycles, or snowmobiles.
3. **Junk Vehicle.** Any motor vehicle that is in an inoperable condition or is partially dismantled, or which is used for the sale of parts or as a source of repair or replacement parts for other vehicles, or which is kept for scrapping, dismantling, or salvage of any kind or which is not properly licensed for operation within the State of Minnesota or by the State of Minnesota, unless special permission has been granted by the Council.
4. **Inoperable Condition.** The state of a motor vehicle having no substantial potential use consistent with its usual function, and shall include a vehicle that has a missing or defective part necessary for the normal operation of the vehicle, is stored on blocks, jacks, or other supports, or has not had a current vehicle license for at least six months.
5. **Stock Car.** Any motor vehicle of standard design and construction which is modified, adapted or altered in any manner to increase its speed or safety, and designed or intended for operation on a speedway, racetrack, or other facility used or designed for high speed contests between two or more vehicles or for timing of speed.

Subd. 2. Declaration of Nuisance. The outside parking and storage on residentially-zoned property of large numbers of vehicles and materials, supplies or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it obstructs views on streets and private property, creates cluttered and otherwise unsightly areas, prevents the full use of residential streets for residential parking, introduces commercial advertising signs into areas where commercial advertising are otherwise prohibited, decreases adjoining landowners and occupants' enjoyment of their property and neighborhood, and otherwise adversely affects property values and neighborhood patterns.

Subd. 3. Unlawful Parking and Storage of Motor Vehicles.

1. No person may leave or park a motor home, trailer, or recreational vehicle as defined in this section on or within the limits of any street or right-of-way for a continuous period in excess of six (6) hours without a permit, except where signs are erected designating the place as a campsite or in a mobile home park. Provided, however, that during the six-hour period, the vehicle shall not be occupied as living quarters.
2. Any person intending to park a motor home, trailer, or recreational vehicle, as defined in this section, outside on residentially-zoned property for more than six (6) hours must obtain a permit from the City as laid out in Section 9 of this Ordinance.

3. Junk vehicles, stock cars and inoperable motor vehicles as defined in this section shall not be stored outside on private property or on public streets. All junk vehicles or stock cars must be placed inside a garage or shelter and not visible from the public street.

Section 8. Duties of City Officers.

The City Council or other designated official shall enforce the provisions of this ordinance. Such officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

Section 9. Abatement.

Subd. 1. Notice. Written notice of violation; notice of the time, date, place, and subject of any hearing before the 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 by the officer charged with enforcement on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premise is not occupied, the owner of record is unknown, or the owner 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 premise 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 Minnesota Statutes 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 or in Minnesota Statutes 463.17 (Hazardous and Substandard Building Act).

Subd. 2. Procedure. Whenever a resident suspects a potential public nuisance violation is being maintained or exists within the premises of the city, the resident shall file a complaint with the City Clerk at City Hall. Thereafter, the complaint shall be forwarded to the Nuisance Committee, who will review the complaint, to determine if the condition(s) identified in the complaint is in violation of the nuisance ordinance. If it is determined by the Nuisance Committee that a violation does exist or is being maintained within the premises of the city, the City Clerk or Nuisance Committee shall provide a verbal/written notification to the owner of record or occupant of the premises of the violation and request such nuisance be terminated or abated. Thereafter, if the violation fails to fall into compliance, the City Attorney shall notify in writing the owner of record or occupant of the premises of such fact and order 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. It will be the responsibility of the City staff and the Nuisance Committee, to ensure that nuisance violation is abated within the prescribed time. If the Nuisance Committee does not come to a consensus against the nuisance complaint, the violation will be forwarded to the City Council for further consideration.

Subd. 3. 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 officer charged with enforcement 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 enforcement officer 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 subdivision 1 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.

Subd. 4. Immediate Abatement. Nothing in section 7 of 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 10. Parking and Storage Permit Applications.

Any contractor or other person placing a refuse dumpster or recreational vehicle on a public street or outside on residentially-zoned property for a time period longer than six (6) hours, shall apply for a Parking and Storage permit from the City Clerk, at the Nicollet City Hall, and shall display said permit in clear view on or near the permitted structure. Parking and Storage permits are valid for two (2) weeks; permit holders may reapply for an extension.

Section 11. Recovery of Cost.

Subd. 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.

Subd. 2. Assessment. If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalk, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Clerk shall, on or before the Council's first regular September meeting each year, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under the city's Current Services Ordinance again each separate lot or parcel to which the charges are attributable. The Council may then spread the charges against such property under Minnesota Statutes 429.101 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 12. 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 \$1000 or imprisonment for not more than 90 days, or both, plus the costs of prosecution in either case.

Section 13. Severability.

Every section, provision, sentence, or phrase of this ordinance is separate from every other section provision, sentence, or phrase of this ordinance. If any section, provision, sentence, or phrase is adjudicated to be invalid by a court of competent jurisdiction, preempted by state or federal law, or otherwise held invalid, such judgment shall not invalidate any other section, provision, sentence, or phrase of this ordinance.

Section 14. Repeal.

This Ordinance hereby repeals Ordinance No. 122 adopted May 12, 2004 and titled "An Ordinance Defining and Prohibiting Unlicensed and Non-Roadworthy Vehicles as Public Nuisances."

Section 15. Effective date.

This ordinance shall be in full force and effect from and after its passage and publication of it or a duly approved summary.

Adopted by the City Council of the City of Nicollet this 26th day of MARCH, 2012.

Approved:



Glenn Thompson, Mayor

Attested:



Vanessa Drill, City Clerk