

**ORDINANCE NO. ~~2021-01~~**  
**CITY OF CLARKS GROVE**  
**COUNTY OF FREEBORN**  
**STATE OF MINNESOTA**

**AN ORDINANCE PROHIBITING PUBLIC NUISANCES**

WHEREAS the City of Clarks Grove finds it necessary to pass an ordinance prohibiting certain nuisances and circumstances and establishing processes to remediate them and mitigate their adverse effects to ensure that the City can protect the public health, safety, and welfare and to promote the stabilization and maintenance of the community.

NOW THEREFORE, the City Council of the City of Clarks Grove, Minnesota, ordains:

That the Code of Ordinances, City of Clarks Grove, Minnesota, is hereby amended by adding Chapter 1, Section 1.1 through Section 1.11, which Chapter reads as follows:

**CHAPTER I - PUBLIC NUISANCES**

**Section 1.1 – Purpose.**

The purpose of this Article is to protect the public health, safety, and welfare and to promote the stabilization and maintenance of the community by enactment of provisions which:

- (a) Define public nuisance and nuisance conditions.
- (b) Determine the responsibilities of owners and operators of dwellings and property for correction of nuisance conditions.
- (c) Provide remedies to eliminate public nuisances.
- (d) Provide for administration, enforcement, and penalties.

**Section 1.2 – Definitions.**

The following definitions shall apply to this chapter:

*Abandoned vehicle:* An “abandoned vehicle” is:

- (a) A motor vehicle, as defined in Minnesota Statutes, section 169.011, that:
  - (1) Lacks vital component parts or is in an inoperable condition such that it has no substantial potential for further use consistent with its usual functions, unless it is kept in a fully enclosed garage or storage building; or
  - (2) Has remained illegally, including but not limited to failing to display current registration:
    - i. For a period of more than forty-eight (48) hours on any property owned or controlled by a unit of government, or more than four (4) hours on that property when it is properly posted; or
    - ii. On private property for a period of time, as determined under Minnesota Statutes, section 168B.04, subd. 2, without the consent of the person in control of the property.
- (b) A classic car or pioneer car, as defined in Minnesota Statutes, section 168.10, is

not considered an abandoned vehicle.

- (c) Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with Minnesota Statutes, section 161.242, or that are licensed and maintained in accordance with local laws and zoning regulations, are not considered abandoned vehicles.
- (d) A vehicle being held for storage by agreement or being held under authority of law enforcement or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the law enforcement hold, writ, or court order is in effect.

*Appropriate Action:* “Appropriate Action” means that action which a reasonable property owner would take based upon the facts and circumstances of each case to prevent a reoccurrence of the nuisance violation use thereof.

*Compliance Officer:* “Compliance Officer” means any person designated by the City Council to enforce the provisions of the City’s ordinances.

*Hazardous Waste:* “Hazardous Waste” means any waste material so defined by Minnesota Statutes, section 116.06, subdivision 11 or described or listed as hazardous waste in Minnesota Rules.

*Junk Vehicle.* The term "Junk Vehicle" means a vehicle that:

- (a) Is extensively damaged, with the damage including such things as broken or missing wheels, motor, drive train, or transmission;
- (b) Is apparently inoperable; or
- (c) Does not have a valid, current registration license plates or tags.

*Last Known Address:* “Last Known Address” means the address shown on the records of Freeborn County Property Information and Taxpayer Services or a more recent address known to the Compliance Officer. In the case of parties not listed in these records, the last known address shall be that address obtained by the officer after a reasonable search.

*Service by Mail:* “Service by mail” means by depositing the item with the United States Postal Service addressed to the intended recipient at his or her last known address First-Class postage prepaid thereon.

*Owner:* “Owner” means those shown to be owner or owners on the records of Freeborn County Auditor Treasurer’s Office or Freeborn County Recorder’s Office.

*Personal Service:* “Personal Service” means service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient’s residence or place of business with a person of suitable age and discretion.

*Refuse:* “Refuse” means putrescible and nonputrescible and combustible and noncombustible waste, including paper, garbage, material resulting from the handling, processing storage, preparation, serving and consumption of food vegetable or animal matter, offal, rubbish, plant wastes such as tree trimmings or grass cuttings, ashes incinerator residue, street cleanings, construction debris, detached vehicle parts, indoor furniture, household appliances, and solid industrial and market wastes.

*Responsible Party:* “Responsible Party” means any one or more of the following: Agent;

assignee or collector of rents; holder of a contract for deed; a mortgagee or vendee in possession receiver of executor or trustee; tenant; lessee; Those known to the Compliance Officer as having an ownership interest; or other person, firm or corporation exercising apparent control over a property.

### **Section 1.3 – Description of Public Nuisances.**

Public nuisances shall include but not be limited to those set forth in this section:

- (a) **Dangerous Structure.** A structure which is potentially hazardous to persons or property including, but not limited to:
  - (1) A structure, which is in danger of partial or complete collapse.
  - (2) A structure with any exterior parts, which are broken, loose, or in danger of falling.
  - (3) A structure with any parts such as floors, porches, railings, stairs, ramps, balconies or roofs which are accessible and which are either collapsed, in danger of collapsing or unable to support the weight of normally imposed loads.
  - (4) Unsecured unoccupied buildings. Unoccupied buildings or unoccupied portions of buildings, which are unsecured. Owners may be required to replace coverings over broken or missing windows or doors with the appropriately sized windows or doors.
- (b) **Nuisance building:** A vacant building or portion of a vacant building, which has multiple housing code or building code violations or has been ordered vacated by the City or which has a documented and confirmed history as a blighting influence on the community.
- (c) Any substance, matter, emission, or thing which creates a dangerous or unhealthy condition, or which threatens the public peace, health, safety or sanitary condition of the City or which is offensive or has a blighting influence on the community and which is found upon, being discharged or flowing from any street, alley, highway, railroad right-of-way, vehicle, railroad car, water, excavation, building, erection, lot, grounds or other property located within the city.
- (d) **Fire Hazards.** Any thing or condition on the property which creates a fire hazard.
- (e) **Furniture.** Any piece of furniture which is manufactured and intended to be used exclusively indoors but is kept outdoors is a nuisance as defined herein.
- (f) **Hazards.** Any thing or conditions on the property that may contribute to injury of any person present on the property. Hazards, which shall include but not be limited to, open holes, open foundations, open wells, dangerous trees or limbs or abandoned appliances, 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, 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 city code and ordinance, obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials.

- (g) Health Hazards. Any thing or condition on the property that creates a health hazard, or which is a violation of any health or sanitation law. Exposed accumulation of decayed food, vegetable matter, mold, mildew, rot or infestations; All diseased animals running at large, all ponds or pools of stagnant water, carcasses of animals; Accumulations of manure, refuse, or other debris 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; The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances; Dense smoke, noxious fumes, ash and soot, or cinders, in unreasonable quantities.
- (h) Insects, rodents, or pest harborage. Conditions which are conducive to the presence, harborage or breeding of insects, rodents, or other pests.
- (i) Obstructions over public sidewalks. Shrubs, bushes, trees, vines, or other uncontrolled vegetation which has grown over the public sidewalk, and which obstructs, interferes, or renders dangerous for passage any public sidewalks.
- (j) All snow and ice not removed from public sidewalks forty-eight (48) hours after the snow or other precipitation has ceased to fall.
- (k) Roll-off style trash dumpsters left on properties for longer than thirty (30) days that are not associated with an active construction project.
- (l) Motor vehicles not parked on hard surfaced parking area.
- (m) Junk vehicles and abandoned vehicles. A junk vehicle or an abandoned vehicle that is not parked or stored within a fully enclosed garage or storage building.
- (n) Unlawful Occupancy. Any person wandering abroad and occupying, lodging, or sleeping in any vacant or unoccupied barn, garage, shed, shop or other building or structure, or in any automobile, truck, railroad car or other vehicle, without owning the same or without permission of the owner or person entitled to the possession of the same, or sleeping in any vacant lot and not giving satisfactory account of himself.
- (o) Radio, television, or other communications antennae erected or maintained in a dangerous manner.
- (p) Accumulations in the open of refuse, discarded or disused machinery, household appliances, automobiles or auto parts, or other material.
- (q) The placing or throwing on any street, sidewalk, or other public property of any refuse, glass, tacks, nails, bottles, or other substances which may injure any person, animal, or damage property.
- (r) The depositing of any refuse or garbage on a public right-of-way or on adjacent private property.
- (s) Statutory and Common Law Nuisances. Any thing or condition on property, which is known to the common law of the land or Minnesota Statutes as a nuisance, including but not limited to the following statutes:
  - (1) Minnesota Statutes sections 609.226 and 347.50 through 47.56, pertaining to dangerous and potentially dangerous dogs; and

- (2) Minnesota Statutes sections 609.74 through 609.745, prohibiting public nuisances.

#### **Section 1.4 – Duties of Compliance Officers.**

Compliance Officer or other designated official shall enforce the provisions of the State Statutes and City Codes relating to nuisances affecting public safety. Compliance Officers shall have the power to inspect private premises as allowed by law and may obtain search warrants as necessary and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

#### **Section 1.5 – Permitting Public Nuisance.**

It is unlawful for any person, including but not limited to property owners, landlords, tenants:

- (a) To maintain a public nuisance by his act or failure to act to perform a legal duty to knowingly let another person maintain a public nuisance on real or personal property under his control.
- (b) To maintain or permit a public nuisance or other condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of the public;
- (c) To interfere with, obstructing or rendering dangerous for passage, any street, public right-of way, or waters used by the public;
- (d) To maintain or permit a condition in violation of this Chapter; or
- (e) To commit any other act or omission declared by law to be public nuisance.

#### **Section 1.6 – Disclosure of Responsible Party.**

Upon the request of the Compliance Officer or other designated official, a responsible party or owner shall disclose the name of any other responsible party or owner known to them. This shall include, but not be limited to, the person for whom they are acting, from whom they are leasing the property, with whom they share joint ownership, or with whom they have any contact pertaining to the property.

#### **Section 1.7 – Order to Cease.**

In the event a Compliance Officer or other designated official observes a person creating or allowing a nuisance, the Compliance Officer or other designated official may order that person to cease and desist. The Compliance Officer or other designated official may order that person to take the appropriate action to eliminate the nuisance within a specified time period.

### **Section 1.8 – Authorization to Enter.**

The Compliance Officer or other designated official shall be authorized to enter onto any property in the city for the purpose of enforcing and assuring compliance with the provisions of this chapter. Failure to allow the Compliance Officer full access to the property is a violation of this ordinance for which the person or persons refusing access may be cited.

### **Section 1.9 – Service of Order or Notice.**

When service of an order to cease is required, any one or more of the following methods of service shall be adequate:

- (a) By personal service;
- (b) By Certified Mail or First-Class Mail through the U.S. Postal Service, unless it is written order which gives three days or less for the completion of any act it requires.
- (c) If the appropriate party or address cannot be determined after reasonable effort, by posting a copy of the order in a conspicuous place on the property.
- (d) If mailed order or notice is returned by the U. S. Postal Service, a good faith effort shall be made to determine the correct address, unless the order or notice orders abatement and that abatement has been completed.

### **Section 1.10 – Abatement Procedures.**


Unless the nuisance is as described in Emergency Abatement Procedures, the city may abate the nuisance by the procedure described below:

- (a) Order. The Compliance Officer or other designated official shall serve a written order upon the owner. The written order shall also be served upon any responsible party known to the city and may be served upon any party known to have caused the nuisance. The order shall contain information how to file an appeal.
- (b) Right to Appeal. The order may be appealed, and a hearing held before the City Council, the City Clerk, or a third-party appointed by the City Council. A hearing may be obtained by filing a written request with the City Clerk before the abatement deadline designated in the order or seven (7) calendar days after the date of the order, whichever comes first. The City Council shall decide in front of whom the hearing is held.
- (c) Abatement and Special Assessment. If the remedial action is not taken, nor an appeal filed within the time specified, the city may abate the nuisance. The city may abate the nuisance and charge all costs incurred therein against the owner of the property. If the cost is unpaid by the owner or responsible party, the costs will be charged against the property as a special assessment to be collected in the same manner as property taxes.
- (d) Emergency Abatement Procedure. When the Compliance Officer determines that the nuisance exists on the property which constitutes an immediate danger or hazard, which if not immediately abated will endanger the health and safety of the public and there does not exist sufficient time to follow the procedures of abatement, the city may abate the nuisance immediately.

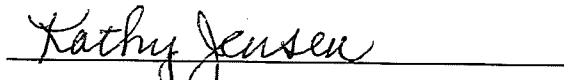
**Section 1.11 – General Criminal Prosecution Penalties.**

- (a) A Compliance Officer may issue a citation to any person who violates one or more provisions of this Chapter. Criminal prosecution is in addition to and independent of the civil remedies provided in this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed \$1,000.00 or imprisonment for not more than 90 days, or both, plus the costs of prosecution in either case.
- (b) Any person who violates any provision of this Chapter or fails to comply with a lawful written order issued pursuant to abatement or emergency abatement or a lawful verbal order issued pursuant to order to cease, shall be guilty of a misdemeanor. Each day during which noncompliance or violation continues shall constitute separate misdemeanor offenses.

PASSED BY THE CITY COUNCIL OF THE CITY OF CLARKS GROVE, MINNESOTA,  
THIS 13 DAY OF December, 2021.

  
Bruce A. Hansen,

Mayor of the City of Clarks Grove, Minnesota

  
ATTEST: Kathy Jensen,

City Clerk of the City of Clarks Grove, Minnesota

DATE POSTED: December 7, 2021

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