

## ORDINANCE NO.50

### AN ORDINANCE REPEALING ORDINANCE NO. 19 NUISANCES. AN ORDINANCE DEFINING NUISANCES AND PROHIBITING THEIR CREATION AND MAINTENANCE

The Council of the City of Nevis, Minnesota, ordains:

#### GENERAL PROVISIONS:

#### Section 1 Assessable Current Services

- 1) Definition. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.
- 2) Snow, ice, dirt and rubbish.
  - a. *Duty of owners and occupants.* The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than 24 hours after its deposit thereon. Failure to comply with this section shall constitute a violation.
  - b. *Removal by city.* The City Administrator or other person designated by the City Council may cause the removal from all public sidewalks of all snow, ice, dirt and rubbish as soon as possible beginning 24 hours after any matter has been deposited thereon or after the snow has ceased to fall. The City Administrator or other designated person shall keep a record showing the cost of the removal adjacent to each separate lot and parcel.
- 3) Weed elimination.
  - a. *Weeds as a nuisance.* Any weeds, whether noxious, as defined by law, or not, growing upon any lot or parcel of land outside the traveled portion of any street in the city to a greater height than 7 inches or which have gone or are about to go to seed are a nuisance. The owner and the occupant shall abate or prevent the nuisance on the property and on land outside the traveled portion of the street or alley abutting on the property.
  - b. *Notice.* On or before June 1 of each year and at other times as ordered by resolution of the City Council, the City Administrator shall publish once in the official newspaper a notice directing owners and occupants of property within the city to destroy all weeds declared by division (3)(a) of this section to be a nuisance and stating that if not so destroyed within ten days after publication of the notice, the weeds will be destroyed by city employees at the expense of the owner and that if not paid, the charge for the work will be made a special assessment against the property concerned.
  - c. *Removal by city.* If the owner or occupant of any property in the city fails to comply with the notice within ten days after its publication, city employees may cut and remove the weeds. The City Administrator shall keep a record showing the cost of the work attributable to each separate lot and parcel.
- 4) Public health and safety hazards. When the city removes or eliminates public health or safety hazards from private property under city ordinance, the department responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and annually deliver the information to the City Administrator.
- 5) Installation and repair of water service lines. Whenever the city installs or repairs water service lines serving private property, the City Administrator shall keep a record of the total cost of the installation or repair against the property.
- 6) Personal liability. The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of the service. As soon as the service has been completed and the cost determined, the City Administrator, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the City Administrator.
- 7) Damage to public property. Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a

result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment, object or contrivance, but is so operating, driving or moving the same with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. § 514.67, as it may be amended from time to time.

- 8) Assessment. On or before September 1 of each year, the City Administrator shall list the total unpaid charges for each type of current service and charges under this section against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges against property benefitted as a special assessment under M.S. § 429.101, as it may be amended from time to time, 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, as the City Council may determine in each case.
- 9) Deteriorated/Unsafe Structures. Any building or structure which is structurally unsafe because of fire, wind, or other natural disaster, or does not provide adequate egress, is dangerous to human life, or constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, or abandonment.
- 10) High Grass. Any grass or weeds allowed to attain a height in excess of 7 inches except vegetation on lakeshores, stream banks, wetlands, or other areas where the ground is encouraged for environmental or erosion control purposes.
- 11) Junk or Rubbish. Any material or substance stored in the open or not enclosed in a building which does not serve, nor is it intended to serve any useful purpose for which it was originally intended, including but not limited to, refuse, empty cans, bottles, debris, used furniture, appliances, machinery parts, motor vehicle parts, vehicle tires, wood remnants, dead trees, shrubs or other vegetation, decayed, weathered or broken construction material no longer usable including metal or other cast off materials.

## **Section 2 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;
- 2) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public;
- 3) Is guilty of any other act or omissions declared by law or this Ordinance to be a public nuisance and for which no sentence is specifically provided.

## **Section 3 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 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; and
- 11) Any offensive trade or business, as defined by statute, not operating under local license.

- 12) Any high grass.

#### **Section 4 Affecting Morals 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 federal, state or local law;
- 2) Betting, bookmaking and all apparatus used in the 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 unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

#### **Section 5 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; this does not apply to the following:
  - a. Amplifying equipment used in connection with activities which are authorized, sponsored, or permitted by the City of Nevis, so long as the activity is conducted pursuant to the conditions set forth by the City.
  - b. Church bells, chimes, or carillons;
  - c. School bells;
  - d. Anti-theft devices; or
  - e. Machines or devices for the production of sound on or in authorized emergency vehicles.
- 5) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under the conditions as are permitted by this 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 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; except where permission is given from the City Council of the City of Nevis;
- 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) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- 11) 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 those accumulations.
- 12) Any well, hole or similar excavation which is left uncovered or in other condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- 13) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials;

- 14) 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 the substance;
- 15) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- 16) All other conditions or things which are likely to cause injury to the person or property of anyone.
- 17) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary combustion engine, motor boat, motor vehicle, motorcycle, all-terrain vehicle, snowmobile or any other device that effectively presents loud or explosive noises therefrom and complies with all applicable state laws and regulations.
- 18) All buildings, walls and other structures which have deteriorated or become unsafe as defined in this section; or have been damaged by fire, decay or otherwise to an extent exceeding ½ their original value and which are so situated as to endanger the safety of the public.
- 19) Any dog who habitually barks, disturbing the peace of a number of people.
- 20) All other conditions or things which are liable to cause injury to the person or property of anyone.

### **Section 6 Duties of City Officers**

The City Engineer, Street Superintendent, City Administrator or other designated official shall enforce the provisions of this ordinance relating to nuisances affecting public safety. The Hubbard County Sheriff's Department shall enforce provisions relating to other nuisances and shall assist the other designated officials in the enforcement of provisions relating to nuisances affecting public safety. The officials (city engineer, street superintendent, city administrator, police officers) shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

### **Section 7 Abatement**

- 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 section.
  - a. *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 of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.
  - b. *Notice of City Council hearing.* Written notice of any City Council hearing to determine or abate a 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 the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.
  - c. *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 M.S. § 463.17, as it may be amended from time to time, the Hazardous and Substandard Building Act.
  - d. *Notice of motion for summary enforcement.* Written notice of any motion for summary enforcement shall be made as provided for in M.S. § 463.17, as it may be amended from time to time, the Hazardous and Substandard Building Act.
- 2) **Procedure.** Whenever the city official charged with enforcement determines that a public nuisance is being maintained or exists on premises in the city, that person shall notify in writing the owner of record or occupant of the premises of the fact and order that the 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 enforcing officer shall report that fact forthwith to the City Council. Thereafter, the City 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 City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement.

- 3) Emergency procedure; summary enforcement.
- a. In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) of this section 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 City Council meeting to consider the question of summary enforcement.
  - b. 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 division (A) of this section, and may order that the 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.
- 4) Immediate abatement. Nothing in this section 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 8 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/Treasurer/Administrator or other official designated by the City 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/Treasurer/ Administrator.
- 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 City Clerk/Treasurer/ Administrator shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. § 429.101, as it may be amended from time to time, against each separate lot or 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, as the City Council may determine in each case.

**Section 9 EFFECTIVE DATE.** This ordinance shall be in full force and effect upon its adoption and publication according to the law.

Yes:

No:

Passed and adopted by the City Council of the City of Nevis this 13th day of November 2018.

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Mayor Jarod Senger

Attest:

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Dawn M. Veit – City Admin/Clerk/Treasurer