

**CITY OF LISMORE**  
**AMENDED ORDINANCE #49**  
**PUBLIC NUISANCE**

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 the 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

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 ponds or pools of stagnant water;
3. Carcasses of animals not buried or destroyed within 24 hours after death;
4. Accumulations of manure, refuse, or other debris;
5. 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;
6. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
7. All noxious weeds and other rank growths of vegetation upon public or private property
8. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities.
9. All public exposure of people having a contagious disease;

10. Any offensive trade or business as defined by statute not operating under local license;
11. Unnecessary and annoying vibrations.

**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 occupation;
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 maintain such a place;
5. Any vehicle for the unlawful transportation of intoxicating liquor, or for the 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 surfaces of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
4. The 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 complies with all applicable state laws and regulations;
5. The 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 pm and 7:00 am 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 the violation of this section;
6. No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.
7. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under conditions as are permitted by this code or other applicable law;
8. Radio aerials or television antennae erected or maintained in a dangerous manner;

9. Any use of the 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;
10. 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 this ordinance;
11. 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;
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 free flow of water in a natural waterway or a public street drain, gutter or ditch with trash of other materials;
15. Recreational fire pits are not allowed in the front of the property or a yard which is commonly considered the front yard;
16. Old appliances and broken furniture will not be allowed as ornamental or decorative landscaping;
17. Fenced areas for pets is not allowed in the front of the house or a yard which is commonly considered the front yard;
18. 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;
19. The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
20. 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 the blight or blighting factors described 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 an 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 dwelling or use 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 other protected to prevent entrance thereto by vandals.
6. In any area wood or wood products which is usually used or intended to be used as firewood unless such is located and maintained in a 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 7. Nuisance Parking and Storage.

- A. Declaration of nuisance. The outside parking and storage on residentially-zoned property of large numbers of vehicles and vehicles, materials, supplies or equipment not customarily used for residential purposes in violation the requirements set forth below is declared to be a public nuisance because it (a) obstructs views on streets and private property, (b) creates cluttered and otherwise unsightly areas, (c) prevents the full use of residential streets for residential parking, (d) introduces commercial advertising signs into areas where commercial adverting signs are otherwise prohibited, (e) decreases adjoining landowners’ and occupants’ enjoyment of their property and neighborhood, and (f) otherwise adversely affects property values and neighborhood patterns.
- B. Non- permitted parking and storage.
  1. A Person must not place, store, or allow the placement or storage of ice fish houses, skateboard ramps, playhouses or other similar non-permanent structures outside continuously for longer than 24 hours in the front-yard area of residential property unless more than 100 feet back from the front property line.
  2. A person must not place, store or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in connection with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.
  3. A person must not cause, undertake, permit or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements:
    - a. No more than four vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of property. This maximum number does not include vehicles of occasional guests who do not reside on the property.
    - b. Vehicles that are parked or stored outside in the front-yard area must be on a paved or graveled parking surface or driveway area.

- c. Vehicles, watercraft and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property.

**Section 8. Inoperable Motor Vehicles.**

- A. Declaration of a nuisance. Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that such vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin and present physical danger to the safety and well-being of children and citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.
- B. It shall be a violation this code to keep, park, store or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling or salvage of any kind, or which is not properly licensed for operation with the state, pursuant to M.S. 168.13 as it may be amended from time to time.
- C. This section does not apply to motor vehicles enclosed in a building.

**Section 9. Building Maintenance and Appearance.**

Declaration of nuisance: 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 (a) are unsightly, (b) decrease adjoining landowners and occupants' enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhood patterns.

Standards: A building, fence or other structure is a public nuisance if it does not comply with the following requirements:

1. No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers;
2. 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;
  - Any one wall or other flat surface; or
  - All door and window moldings, eaves, gutters, and similar projections on any one side or surface;
  - No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings;
  - Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place;
  - 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;

- Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.
- 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;
- Foundations must be structurally sound and in good repair

Section 10. 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 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 glistered 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 serviced 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 nctice 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

5. Procedure. Whenever the City Council has reason to believe that a public nuisance is being maintained or exists on the premises in the city, the city clerk or other person designated by the City Council shall notify in writing, 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 with 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 hear, determine that the condition identified in the notice of violation is a nuisance and further order that the nuisance is not abated with 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 subdivision 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 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 that delay in abatement of 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 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.

7. Immediate Abatement. No other provision in the 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 11. 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 determine, 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 or unsound or insect-infected trees, the clerk shall, on or before September 1 next following abatement of the nuisance, list the toal unpaid charges along with all other such charges as well as other charges for current services to be assess 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 deterime 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 \$1,000 or imprisonment for not more than 90 days, or both, plus the costs of prosecution in either case.

#### **SECTION 16: VALIDITY:**

Subd. 1. This Ordinance shall be in full force and take effect from and after its passage and publication as provided by law.

Subd. 2. All other Ordinances and parts of other Ordinances inconsistent or in conflict with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

**Passed by the City Council of the City of Lismore, Minnesota, this 11<sup>th</sup> day of April, 2017**

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Mayor Jill Diekmann

Attest:

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Kate McCann – City Clerk