

**CITY OF HACKENSACK**

**ORDINANCE # 78**

**AN ORDINANCE DEFINING AND PROHIBITING NUSIANCES AND PROVIDING A PENALTY FOR VIOLATIONS**

The city council of the City of Hackensack ordains:

**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 maintain a public nuisance, which is a misdemeanor:

A) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or response of any considerable number of members of the public; or

B) Interferes with, obstructs, or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or

C) 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:

A) Exposed accumulation of decayed or unwholesome food or vegetable matter;

B) All diseased animals running at large;

C) All ponds or pools of stagnant water;

D) Carcasses of animals not buried or destroyed within 24 hours after death;

E) Accumulation of manure, refuse or other debris;

F) 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;

G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.

- H) All noxious weeds and other rank growths of vegetation upon public or private property;
- I) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- J) All public exposure of people having a contagious disease; and
- K) Any offense trade or business as defined by statute not operating under local license.

### **Section 3. Public Nuisance Affecting Morals and Decency.**

The following are hereby declared to be nuisances affecting public morals and decency:

- A) All gambling devices, slot machines and punch boards, except as otherwise authorized by federal, state or local law;
- B) Betting, bookmaking and all apparatus used in those occupations;
- C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;
- D) 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 that place; and
- E) Any vehicle used for the unlawful 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:

- A) All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;
- B) All trees, hedges, billboards or other obstruction which prevent people from having a clear view of all traffic approaching an intersection;
- C) 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;

D) All obnoxious noises in violation of Minnesota Rules chapter 7030, as they may be amended from time to time, which are hereby incorporated by reference into this ordinance;

E) 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 recreation device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;

F) 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 p.m. and 7:00 a.m. 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 violation of this section;

G) The participation in a party or gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property;

H) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under conditions as are permitted by this ordinance or other applicable law;

I) Radio aerials or television antennae erected or maintained in a dangerous manner;

J) 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;

K) All hanging signs, awnings and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;

L) 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;

M) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;

N) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

O) Waste water cast upon or permitted to flow upon streets or other public properties;

P) Accumulation 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 accumulation;

Q) Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;

R) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials;

S) 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;

T) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

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

## **Section 5. Duties of City Officers.**

The Police Department or Sheriff, if the city has at the time no Police Department, shall enforce the provisions relating to nuisances. Any peace officer shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

## **Section 6. Abatement.**

A) *Notice.* Written notice of violations; 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 section.

1) *Notice of violation.* Written notice of violation shall be served by a peace officer or designated city employee on 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 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 premises 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.

3) *Notice of City Council Order.* The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding 30 days, within which the nuisance is to be abated. If the notice is not complied with within the time specified, the enforcing officer 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, provide for abating the nuisance by the city. The notice shall be served in the same manner as notice by the enforcing officer is served and shall be given at least ten days before the date stated in the notice when the council will consider the matter. If notice is given by posting, at least 30 days shall lapse between the day of posting and the hearing.

B) *Procedure.* Whenever a peace officer determines that a public nuisance is being maintained or exists on the premises in the city, the officer shall notify in writing the owner of record or occupant of the premises of that 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 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.

C) *Emergency Procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in division 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 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 officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and 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. 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 or 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.

D) *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 7. Recovery of Cost.**

A) *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 or other official 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.

B) *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 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 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 8. Penalty.**

Any person convicted of violating any provisions of this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed \$500.00 or imprisonment for not more than 90 days, or both, plus the costs of prosecution in either case.

#### **Section 9. Repeal.**

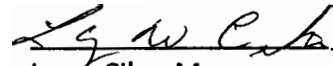
All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, along with Ordinance No. 4.

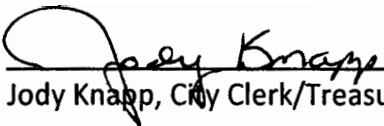
#### **Section 10. Publication.**

This ordinance shall be in full force and effect from and after its passage and publication, as provided by law.

**Section 11. Date of Passage.**

Passed and adopted by the Council of the City of Hackensack, Cass County, Minnesota,  
on this 2nd day of April 2012.

  
\_\_\_\_\_  
Larry Ciha, Mayor

Attest:   
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Jody Knapp, City Clerk/Treasurer

Date of Publication – April 11, 2012