

NUISANCE ORDINANCE

AN ORDINANCE DEFINING NUISANCES, PROHIBITING THEIR CREATION OR MAINTENANCE AND PROVIDING FOR ABATEMENT AND PENALTIES FOR VIOLATION THEREOF.

THE CITY COUNCIL OF THE CITY OF OAK PARK HEIGHTS, WASHINGTON COUNTY, MINNESOTA, DOES ORDAIN:

1109.01 Public Nuisance Defined.

A public nuisance is a thing, act, or use of property which shall:

- A. Annoy, injure, or endanger the health, safety, comfort or repose of the public;
- B. Offend public decency;
- C. Unlawfully interfere with the use of, or obstruct or tend to obstruct, or render dangerous for passage, a public water, park, square, street, alley, or highway;
- D. Depreciate the value of the property of the inhabitants of the City of Oak Park Heights or of a considerable number thereof; or
- E. In any way render the inhabitants of the City of Oak Park Heights, or a considerable number thereof, insecure in life or in use of property.

1109.02 Definitions.

- A. "City" means the City of Oak Park Heights, Washington County, Minnesota.
- B. "Person" includes any person, firm or corporation, and the singular shall include the plural.
- C. Where references are made herein to particular officers, councils, boards or agencies, such officers, councils, boards or agencies are those of the City of Oak Park Heights.
- D. "City Council" means the City Council of the City of Oak Park Heights, Minnesota.

1109.03

Public Nuisances Affecting Health, Safety, Comfort or Repose.

The following are hereby declared to be public nuisances affecting health, safety, comfort, or repose:

- A. All decayed or unwholesome food offered for sale to the public;
- B. All diseased animals running at large;
- C. Milk which is produced by cows which have not been tested and found free of tuberculosis within the year previous to the offering of such milk for sale to the public;
- D. Carcasses of animals not buried or destroyed within twenty-four (24) hours after death;
- E. Accumulations of manure and rubbish;
- F. Privy vaults and garbage cans which are not fly-tight;
- G. Dumping the contents of any cesspool, privy vault, or garbage can except at places authorized by law or allowing any cesspool or individual sewage disposal system to overflow in any manner;
- H. All noxious weeds, tall grasses, and other rank growths; the word "weeds" shall be construed to mean and include all noxious weeds as defined by the Statutes of the State of Minnesota and all such useless and troublesome plants as are commonly known as weeds to the general public. All grasses growing to a height greater than six (6) inches upon any lot or parcel of land within the platted portions of the City of Oak Park Heights are hereby declared to be a nuisance;
- I. An accumulation of tin cans, bottles, or trash or debris of any nature or description: and the throwing, dumping or disposing of any dead animals, manure, garbage, waste, decaying matter, ground, sand, stones, ashes, rubbish, tin cans, or other material or debris of any kind on private property;
- J. Dense smoke, noxious fumes, gas, and soot or cinders in unreasonable quantities;
- K. Offensive trades and businesses as defined by statute or ordinance not licensed as provided by law;
- L. All public exposure or persons having a contagious disease;

- M. The distribution of sample or medicine or drugs unless such samples are placed in the hands of an adult person by someone properly licensed;
- N. All other acts, omission of acts, occupations, and uses of property which are deemed by the City Council and the City Health Officer to be a menace to the health of the inhabitants of the City or a considerable number thereof;
- O. It shall be a nuisance for any person to cause or permit a domesticated animal to be on any property, public or private, not owned or possessed by such person, unless such person has in his/her immediate possession a device for the removal of excrement to a proper receptacle located upon property owned or possessed by such person;
- P. It shall be a nuisance for any person in control of, causing or permitting any domesticated animal to be on any property, public or private, not owned or possessed by such person, to fail to remove excrement left by such domesticated animal to a proper receptacle located on the property owned or possessed by such person.
- Q. The provisions of Subparagraphs O and P of this Section shall not apply to the ownership or use of seeing eye dogs by blind persons, dogs when used in police activities by the City or County Sheriff's Department, or tracking dogs when used by or with the permission of the City.

1109.04 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 twelve (12) hours after the snow and ice have ceased to be deposited thereon;
 - a. Snow, ice or any other debris may not be placed into or upon City street surface by any party without a Permit issued from the City.
 - b. Snow, ice or other debris generated from private lands may not be plowed or dragged across a City street for purposes of snow storage and/or snow wasting.
 - c. Depositing of snow generated from private lands upon a public right of way that is not immediately adjacent, contiguous and on the same side of the street is also prohibited.
- B. All wires which are strung less than fifteen (15) feet above the surface of any public street or alley;

- C. All buildings, walls, and other structures which have been damaged by fire, decay or otherwise as to an extent exceeding one-half (1/2) of their original value or which are so situated so as to endanger the safety of the public;
- D. All explosives, inflammable liquids and other dangerous substances or materials stored or accumulated in any manner or in any amount other than that provided by law or ordinance;
- E. All use of display or fireworks except as provided by law or ordinance;
- F. All of the following activities are hereby declared to be public nuisances:
 1. Any snow removal activities on private property located within 500 feet of any residential district of the city, using plows, dump trucks, payloaders or any mechanized equipment between the hours of 10:00 o'clock p.m. and 6:00 o'clock a.m. This provision shall not apply for any time period in which the City has declared a snow emergency.
 2. Any parking lot sweeping, paving, or seal coating activities occurring between the hours of 10:00 o'clock p.m. and 6:00 o'clock a.m.
 3. All construction activities where the use of power nailers, power saws, earth moving equipment, bulldozers, or any power equipment is being used between the hours of 10:00 o'clock p.m. and 7:00 o'clock a.m.
 4. The owning, keeping, or harboring of any animal which shall, by any noise, unreasonably and/or excessively disturbs the peace and quiet of any person in the vicinity. The phrase "unreasonably and/or excessively disturb the peace and quiet" shall include, but is not limited to, the creation of any noise by an animal which can be heard by any person, including an Animal Control Officer or law enforcement officer, from a location off the dog or cat owner's property where the animal is being kept, and which noise occurs repeatedly over at least a five (5) minute period of time with one (1) minute or less lapse of time between each animal noise during the five (5) minute period. This provision shall not apply to dogs and cats which are regulated under Chapter 601 Section 601.13 A. (5).
 5. The removal of commercial waste and refuse, emptying or removal of dumpsters and drop boxes from any non-residential zoned area within the city between the hours of 10:00 o'clock p.m. and 6:00 o'clock a.m.
 6. No person shall use or operate, or permit the use or operation of any electronic sound system or audio equipment including but not limited to any compact disc player, cassette tape player, a.m. FM radio, citizen band radio, paging system, musical instrument, phonograph, or any other device design for the production or reproduction of sound in a distinctly loud and audible manner as to unreasonably disturb the peace quiet and comfort of a

reasonable person or reasonable persons nearby.

- a. It shall be presumed that a violation of this section has occurred when any electronic sound system or audio equipment is operated in a manner in which it is plainly audible, at a distance of 50 feet or more from its source between the hours of 10:00 p.m. and 6:00 a.m. It shall be presumed that a violation of this section has occurred when any electronic sound or audio equipment is operated in a manner which is plainly audible from its source at a distance of 100 feet or more between the hours of 6:00 a.m. and 10:00 p.m.
 - b. When noise of violating this section is produced by an electronic sound system or audio equipment that is located in or on a vehicle, the driver the vehicle and the person who owns or is in control of the vehicle is guilty of the violation.
 - c. This section shall not apply to sound produced by the following:
 - i. amplifying equipment used in connection with the with activities which are authorized, sponsored or permitted by the city, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity;
 - ii. church bells, chimes, carillons, school bells, or emergency civil the fires warning signals.
 - iii. antitheft devices
 - iv. machines or devises for the production of sound on or in authorized emergency vehicles
- G. All buildings and all alterations to buildings made or erected in violation of fire ordinances and building codes concerning manner and materials and construction;
- H. Obstructions and excavations affecting the ordinary use of the public of streets, alleys, sidewalks or public grounds, except under such conditions as are provided by ordinance, and any other excavation left unprotected or uncovered indefinitely or allowed to exist in such manner as to attract minor children;
- I. Radio aerials strung or erected in any manner except that provided by law or ordinance;
- J. The piling, storing or keeping of old machinery, wrecked, junked, or inoperative vehicles, and other junk or debris;

- K. The 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 public streets or sidewalks;
- L. All hanging signs, awnings, and other similar structures over public streets or sidewalks or so situated as to endanger public safety, not constructed or maintained as provided by law or ordinance, or without proper permit;
- M. The allowing of rain, water, ice, or snow to fall from any building or any public street or sidewalk or to flow across any public sidewalk;
- N. All dangerous, unguarded machinery, equipment, or other property in any public place, or so situated or operated on private property so as to attract minor children;
- O. Throwing, dropping, or releasing printed matter, paper, or any other material or objects over and upon the City from an airplane, balloon or other aircraft or in such a manner as to cause such materials to fall on land in the City;
- P. Placing entrance culverts or doing any act which may alter or affect the drainage of public streets or alleys or the surface or grade of public streets, alleys, or sidewalks without proper permit;
- Q. Making repairs to motor vehicles, or tires in public streets or alleys excepting only emergency repairs when it will not unduly impede or interfere with traffic;
- R. Throwing, placing, depositing, or burning leaves, trash, clippings, weeds, grass, or other materials in the streets, alleys or gutters;
- S. Erecting, painting, or placing of unauthorized traffic signs or advertising signs in streets, or alleys or on sidewalks;
- T. All unnecessary interferences and disturbances of radios or TV sets caused by defective electrical appliances and equipment or improper operation thereof;
- U. Driving motorized scooters, bicycles, motorcycles, or any type of motorized vehicle on any sidewalk, walkway or private property of others, and the driving of said vehicles in a loud, noisy, or unsafe manner or in groups of more than two (2) on any public street, alley, or roadway;
- V. To operate any private parking lot without keeping the same reasonably free from dust;

- W. To operate any artificial lighting devices upon any residential, commercial or industrial premises so as to cause a distraction to passing motorists or to operate said artificial lighting devices upon any residential, commercial or industrial premises without some effective device so as to protect adjacent premises from being adversely affected thereby;
- X. The maintenance of any tree or shrub, the roots of which are causing damage to any public sewer, sidewalk, pavement, or other public property, or setting out or planting any tree or bush in the public street or any portion thereof;
- Y. All other conditions, acts, or things which are liable to cause injury to the person or property of another;
- Z. Any use of the public beach or public areas of Oak Park Heights after the hour of 10:00 p.m.

1109.05 Enforcement.

It shall be the duty of the City Council by and through the Oak Park Heights Police Department to enforce the provisions of this Ordinance and the City Council may by resolution delegate to such other officers or agencies power to enforce particular provisions of this Ordinance, including the power to inspect private premises and the officers charged with enforcement of this Ordinance shall take all reasonable precautions to prevent the commission and maintenance of public nuisances.

1109.06 Powers of Officers.

- A. Whenever in the judgment of the officer charged with enforcement, it is determined upon investigation that a public nuisance is being maintained or exists within the City, such officer shall notify in writing the person committing or maintaining such nuisance and require him to terminate and abate said nuisance and to remove such conditions or remedy such defects. Said written notice shall be served upon the person committing or maintaining said nuisance in person or by registered mail. If the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice on the premises. Said notice shall require the owner or occupant of such premises, or both, to take reasonable steps within a reasonable time to abate and remove said nuisance, said steps and time to be designated in said notice, but the maximum time for the removal of said nuisance after service of said notice shall not in any event exceed thirty (30) days. Service of notice may be proved by filing an affidavit of service with the City Clerk setting forth the manner and time thereof.

- B. When an order so given is not complied with, such non-compliance shall be reported forthwith to the City Council for such action as may be necessary and deemed advisable in the name of the City to abate and enjoin the further continuation of said nuisance.

1109.07

Abatement of Nuisance/Recovery of Costs.

- A. *Abatement by Enforcing Official/Recovery of Costs.* If, at the end of the time period allowed for correction of a nuisance violation, the violation still exists, the enforcing official may cause the following enumerated violations to be corrected by private or public means and pursuant to the provisions of Minnesota Statutes, Section 429.101, as amended, the City may collect any and all unpaid special charges derived from the costs of the abatement work plus administrative fees as a special assessment. The conversion of unpaid special charges into special assessments is allowed for the following nuisance abatements:
- (1) Snow, ice, or rubbish removal from sidewalks;
 - (2) Weed elimination from or streets or private property;
 - (3) Removal or elimination of public health or safety hazards from private property, excluding any structure included under the provisions of Minnesota Statutes, Sections 463.15 through 463.26, as amended;
 - (4) Installation or repair of water service lines;
 - (5) Trimming and care of trees;
 - (6) Treatment and removal of insect infested or diseased trees on private property, and the repair of sidewalks and alleys;
 - (7) Operation and maintenance of a fire protection system;
 - (8) Nonpayment of charges for inspections relating to a municipal housing maintenance code violation; or
 - (9) Recover of delinquent vacant building registration fees under any program designed or enacted by the City to identify and register vacant buildings.
- B. *Emergency Abatement by Enforcing Official.* The enforcing official may cause any nuisance that is a present or immediate danger to public health or safety to be corrected by public or private means without notice to the owner and, for the nuisances enumerated in subparagraph (A), the city may collect any and all unpaid special charges derived from the cost of the nuisance abatement work plus administrative fees as a special assessment.
- C. *Civil Action.* The owner of the premises on which a nuisance has been abated by the city shall be personally liable for the costs incurred by the city to abate the nuisance, including administrative costs. As soon as the nuisance abatement work has been completed and the costs determined, the city clerk or other official designated by the city council shall prepare a bill for the costs

due and mail it to the owner. Such amount shall be immediately due and payable at the office of the city clerk. If the bill remains unpaid, the city clerk may commence a civil action to collect said bill, or undertake the process described in subparagraph (A). If undertaken as a special assessment process, the bill provided to the owner may take the form of mailed notice of the special assessment under Minnesota Statutes, Chapter 429, as amended.

1109.08 Penalties.

Any person who shall cause or create a nuisance or permit any nuisance to be created or placed upon, or to remain upon any premises owned or occupied by him, and any person who shall fail to comply with any order made under the provisions of this Ordinance, upon conviction thereof shall be guilty of a misdemeanor and shall be punished by a fine of not more than Seven Hundred Dollars (\$700.00) or by imprisonment in the County Jail for not more than ninety (90) days, or both.

1109.09 Separability.

Every section, provision, or part of this Ordinance is declared separable from every other section, provision or part; and if any section, provision or part thereof shall be held invalid, it shall not affect any other section, provision or part.

1109.10 Conflicting Ordinance Repealed.

All ordinances and parts of ordinances that conflict herewith are hereby repealed.

Amended: Section 1109.07. Passed by the City Council 2/26/2013
Amended: Section 1109.04. Passed by the City Council 12/9/2014
Amended: Section 1109.04A. Passed by the City Council 1/12/2016