

ORDINANCE 117, 3d

Introduced by Councilor Rasmussen

AN ORDINANCE AMENDING CHAPTER 38 – ARTICLE VII
PUBLIC NUISANCES

THE CITY OF ALBERT LEA ORDAINS:

That the Code of Ordinances, City of Albert Lea, Minnesota, is hereby amended by adding a section to be number, Sec. 38-201 to Sec. 38-211 which section reads as follows:

ARTICLE VII – PUBLIC NUISANCES

Sec. 38-201. 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.

Sec. 38-202. Definitions.

The following definitions shall apply to this chapter:

Appropriate Action Shall mean 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 there of.

Enforcement Officer Police Department, Fire and Inspection Department, City Engineer, Superintendents or any other City employee designated by the City Manager to enforce the provisions of the City Code.

Hazardous Waste Any waste material so defined by Minnesota Statutes 116.06, subdivision 11 or described or listed as hazardous waste in Minnesota Rules.

Last Known Address The address shown on the records of Freeborn County Property Information and Taxpayer Services or a more recent address known to the enforcement 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.

Mail Service by mail shall mean 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 Those shown to be owner or owners on the records of Freeborn County Property Information and Taxpayer Services.

Personal Service 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 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, furniture and solid industrial and market wastes.

Responsible Party 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 enforcement officer as having an ownership interest; or other person, firm or corporation exercising apparent control over a property.

Sec. 38-203. Description of Public Nuisances.

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 or 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 or which is a violation of the City Code Chapter 30 Fire Prevention and Protection.

- (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 24 hours after the snow or other precipitation has ceased to fall in violation of City Code Sec. 50-2 and Sec. 50-3 of the City Code.
- (k) All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection or in violation of City Code Sec. 74-18.
- (l) All trees, hedges, noxious weeds and other rank growths of vegetation upon public or private property in violation of City Code Sec. 70-1.
- (m) All signs, portable signs and billboards on public or private property in violation of City Code Sec. 74-1002.
- (n) All loud noises prohibited by City Code.
- (o) Roll-off style trash dumpsters left on properties for longer than 30 days that are not associated with an active construction project or otherwise permitted by the City Code.
- (p) Motor vehicles not parked on hard surfaced parking area as required by City Code Sec. 74-1050.
- (q) Occupations or commercial activity operated, maintained or permitted in violation of City Code.
- (r) Loitering. Any person found loitering or strolling in, about or upon any street, alley or other public way or public place, or at any public gathering or assembly, or in or around any store, shop, or business or commercial establishment, or on any private property or place without lawful business

and conducting him or herself in a lewd, wanton or lascivious manner in speech and behavior.

- (s) 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.
- (t) Activities affecting morals and decency, all unlicensed gambling devices, slot machines, and punchboards, betting, bookmaking, and all apparatus used in such occupations, all houses kept for the purpose of prostitution or unlicensed gambling houses.
- (u) Radio, television or other communications antennae erected or maintained in a dangerous manner.
- (v) Any use of property abutting on a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk.
- (w) Wastewater cast upon or permitted to flow upon streets or other public properties. This provision does not prohibit water incidental to non-commercial car washing or storm water from sump pumps.
- (x) Accumulations in the open of discarded or disused machinery, household appliances, automobiles or auto parts, or other material.
- (y) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substances which may injure any person, animal or damage property.
- (z) The depositing of any garbage or refuse on a public right-of-way or on adjacent private property.
- (aa) Statutory and Common Law Nuisances. Any thing or condition on property, which is known to the common law of the land, the Statutes of Minnesota or the Albert Lea City Code as a nuisance. The following ordinances and statues are applicable to this section:
 - (1) Minn. Stat. § 609.321 through § 609.325 prohibiting prostitution.
 - (2) Minn. Stat. § 609.72 and City Code Section 38-96 prohibiting disorderly conduct.
 - (3) Minn. Stat. § 609.33 prohibiting disorderly houses and Sec. 38-96 of City Code
 - (4) Minn. Stat. § 617.23 through § 617.299 prohibiting obscenity.
 - (5) Minn. Stat. § 609.75 through § 609.763 prohibiting gambling.
 - (6) Minn. Stat. § 152.01 through § 152.025 and § 152.027, subdivisions 1 and 2 which prohibit the unlawful sale or possession of controlled substances.
 - (7) Minn. Stat. Ch. 340A prohibiting the unlawful sale, use or possession of alcoholic beverages.
 - (8) Minn. Stat. § 609.66 through § 609.67 and § 624.712 through § 624.7181 and City Code Section 38-61 which prohibit the unlawful possession, transportation, sale, or use of weapon.
 - (9) Minn. Stat. § 609.221 through § 609.224 which prohibit assaults, except that domestic assaults, as the same are defined by state law, are not included herein.
 - (10) Minn. Stat. § 609.50 which prohibits interference with a peace officer.

- (11) Minn. Stat. § 609.705 which prohibits unlawful assembly.
- (12) Minn. Stat. § 609.71 which prohibits riot.
- (13) Minn. Stat. § 609.713 which prohibits terroristic threats.
- (14) Minn. Stat. § 609.715 which prohibits presence of unlawful assembly.
- (15) Minn. Stat. § 609.226 and Minn. Stat. § 347.50 through § 347.56, dangerous dogs.
- (16) Table 1003.2.2.2 of the International Fire Code elsewhere adopted in City Code Chapter 30, providing occupancy loads and prohibiting overcrowding.
- (17) Minn. Stat. § 609.74 through § 609.745 prohibiting public nuisances and City Code Chapter 38.
- (18) Minn. Stat. § 609.78 which prohibits interfering with “911” telephone calls.
- (19) Minn. Stat. § 299F.362 prohibiting the willful disabling of a smoke detector.

Sec. 38-204. Duties of Enforcement Officers.

Enforcement officer or other designed official shall enforce the provisions of the State Statutes and City Codes relating to nuisances affecting public safety. Enforcement 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.

Sec. 38-205 Permitting Public Nuisance.

It is unlawful for any person to:

- (a) 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) Maintaining or permitting a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of the public;
- (c) Interfering with, obstructing or rendering dangerous for passage, any street, public right-of way, or waters used by the public;
- (d) Maintains or permits a condition in violation of City Code Chapter 38, Offenses and Miscellaneous Provisions;
- (e) Maintains or permits a condition in violation of City Code Chapter 34, Housing.
- (f) Any other act or omission declared by law to be public nuisance.

Sec. 38-206. Disclosure of Responsible Party.

Upon the request of the enforcement officer, 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.

Sec. 38-207. Order to Cease.

In the event an enforcement officer observes a person creating or allowing a nuisance, the enforcement officer may order that person to cease and desist. The enforcement officer may order that person to take the appropriate action to eliminate the nuisance within a specified period of time.

Sec. 38-208. Authorization to Enter.

The enforcement officer shall be authorized to enter any property or structure in the city for the purpose of enforcing and assuring compliance with the provisions of this chapter. An owner or responsible party shall, upon the request of the enforcement officer, provide access to all interior portions of the building in order to permit the officer to make a complete inspection.

Failure to allow the enforcement officer full access to the property and structure is a violation of this ordinance for which the person or persons refusing access may be cited.

Sec. 38-209. 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, through the U.S. Postal Service;
- (c) By mail, unless it is written order which gives three days or less for the completion of any act it requires.
- (d) 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.
- (e) 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.

Sec. 38-210. 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 enforcement officer shall serve a written order upon the owner. The written order shall also be served upon any responsible party known to the officer and may be served upon any party known to have caused the nuisance.
- (b) Right to Appeal. A statement that the order may be appealed and a hearing before the City Manager or designee may be obtained by filing a written request with the Police Department before the abatement deadline designated in the order or seven (7) calendar days after the date of the order, whichever comes first;
- (c) Abatement. If the remedial action is not taken nor an appeal filed within the time specified, the city may abate the nuisance. The city will abate the nuisance and charge all costs incurred therein against the owner of the property and 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) Special Assessment. A statement that, if remedial action is not taken nor a request for a hearing filed with the City Clerk within the time specified, the city will

abate the nuisance and charge all costs incurred therein against the owner of the property and 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.

- (e) Emergency Abatement Procedure. When the enforcement 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.

Sec. 38-211. General Criminal Prosecution Penalties.

- (a) An enforcement 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 that 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.

That the motion for the adoption of the foregoing resolution was duly seconded by Councilor Olson, and upon a vote being taken thereon, the following voted in favor thereof: Councilors Rasmussen, Baker, Marin, Olson, Severtson, Brooks and Mayor Erdman.

And the following voted against the same: None.

Introduced, read the first time March 24, 2008.

Read the second time and passed April 14, 2008.

Mayor Randall Erdman

Filed and attested April 15, 2008.

Secretary of the Council