

ORDINANCE NO. 2011-01 (87.1)
AN ORDINANCE REGULATING PUBLIC NUISANCES WITHIN THE CITY OF
GOODVIEW, MINNESOTA

THE CITY COUNCIL OF THE CITY OF GOODVIEW, MINNESOTA HEREBY ORDAINS:

SECTION ONE. PUBLIC NUISANCE PROHIBITION.

A person must not act, or fail to act, in a manner that is or causes a public nuisance. For purpose of this ordinance, a person that does any of the following is guilty of maintaining a public nuisance:

(A) 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

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

(C) Does any other act or omission declared by law or this ordinance to be a public nuisance.

SECTION TWO. PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

(A) The 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, exception of water holding areas required for stormwater drainage;

(D) Carcasses of animals not buried or destroyed within twenty-four (24) hours after death;

(E) Accumulation of manure, refuse, toxic & hazardous waste, or other debris, exposed for over seven (7) consecutive days;

(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) A building or its appurtenances, a road, a driveway, a parking area, or any open area used without the application of all reasonable measures to prevent particulate matter from becoming airborne. Particulate matter includes dust, dense smoke, noxious fumes, gas, soot, cinders, or any material, substance, or vapor irritating or noxious to human life; and

(I) Any offensive trade or business as defined by statute not operating under local license.

SECTION THREE. PUBLIC NUISANCES 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 otherwise authorized and permitted by federal, state, or local law;

(B) Betting, bookmaking, and all apparatus used in those occupations;

(C) All buildings or places kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;

(D) All places where intoxicating or 3.2 malt 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 or 3.2 malt liquor, or where intoxicating or 3.2 malt 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 promiscuous sexual intercourse, or any other immoral or illegal purpose. For the purposes of this ordinance, a vehicle shall be defined as every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

SECTION FOUR. PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following are declared to be nuisances affecting public peace and safety:

(A) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

(B) All wires, limbs of trees, or other objects that are so close to the surface of a public sidewalk, alley, or street as to constitute a danger to pedestrians or vehicles;

(C) All unnecessary and annoying vibrations;

(D) 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;

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

(F) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk that causes large crowds of people to gather, which obstructs traffic and the free use of the street or sidewalk;

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

(H) The allowing of rainwater, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;

(I) Any barbed wire fence located less than six (6) feet above the ground and within three (3) feet of a public sidewalk or way;

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

- (K) Wastewater cast upon or permitted to flow upon streets or other public properties;
- (L) Any well, hole, or similar excavation that is left uncovered or in such other condition as to constitute a hazard to any child or other person or vehicle coming on the premises where it is located;
- (M) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
- (N) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substances that may injure any person or animal or damage any pneumatic tire when passing over such substance;
- (O) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- (P) An animal running at large; “at large” defined to be not properly in control by the owner or custodian, and not on the private property of the owner or custodian. Control would be defined as to be in verbal control, on a leash, or with an electronic collar.
- (Q) The storage or accumulation of junk or other refuse in direct sight at ground level from any public right-of-way or adjoining private property, which is stored 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 other safety hazards from such accumulation. Property kept in a licensed place is excepted. Building materials may be kept outside of an enclosed structure for a maximum of thirty (30) days following the expiration of a building permit for which such material has been acquired. For the purpose of this section, junk is defined as any material or substance which does not serve, nor is it intended to serve, any useful purpose or the purpose for which it was originally intended. Junk is considered to include, but is not limited to, refuse, empty cans, bottles, debris, used furniture, discarded or disused machinery, appliances, clothing, papers, boxes, pallets, tires, iron, brass, copper, or other metals or materials.
- (R) Explosives kept without a license.
- (S) Intentionally establishing and maintaining a condition, including providing food, in or adjacent to a residential district by an owner, tenant, or occupant which attracts wild animals (i.e.; feral cats, deer, raccoons, etc.), to the property and/or adjoining property.
- (T) A building or structure within the City infested with rats or other vermin.
- (U) In any area of the City, the existence of a structure which because of fire, wind, natural disaster or physical deterioration is no longer suitable nor useful for the purpose for which it was intended.
- (V) In any area zoned for residential purposes, the existence of a vacant dwelling, garage, or other out-building, unless such building is kept securely locked, windows kept glazed or neatly boarded up or otherwise protected to prevent entrance by vandals or children for a period not to exceed three (3) days; and. This provision is not applicable to residential structures that are being actively marketed for sale.
- (W) Any person participating in any party or other gathering that causes the unreasonable disturbing of the peace, quiet, or repose of another person; and
- (X) All other conditions or things that are likely to cause injury to the person or property of another.

SECTION FIVE. NOISE VIOLATIONS.

(A) Prohibited noises.

The following are declared to be nuisances affecting public health, safety, peace, or welfare:

(1) Any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person, or precludes their enjoyment of property, or affects their property's value (this general prohibition is not limited by any specific restrictions provided in this ordinance);

(2) All obnoxious noises, motor vehicle or otherwise, in violation of Minn. R. ch. 7030, as they may be amended from time to time, are hereby incorporated into this ordinance by reference;

(3) The discharging of the exhaust or permitting the discharge of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle (ATV), snowmobile, or any recreational 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;

(4) The use or operation, or permitting the use or operation, of any radio receiving set, television set, musical instrument, music device, 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, or interferes with the right of another to use peacefully his or her property or public property without disturbance. Unless permitted by the City.

(a) It shall be presumed that a violation of Section 5.A subdivision 4 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, between the hours of 10:30 p.m. and 7:00 a.m., or at a distance of 100 feet or more, between the hours of 7:00 a.m. and 10:30 p.m.

(5) A dog present in or kept in a residential district or in a district adjacent to a residential district, which habitually barks, whines, or growls.

(6) A person shall not permit or participate in any party or other gathering of people, on public or private property, which causes unreasonably loud noise that disturbs the peace, quiet and comfort of others or interferes with the right of another to use peacefully his or her property or public property without disturbance. It shall be presumed that a violation of this section has occurred when any noise from a gathering is plainly audible, at a distance of 50 feet or more, between the hours of 10:30 p.m. and 7:00 a.m.

(7) When a police officer has probable cause that a violation of this section is occurring, the officer may order all persons present, other than the owner or tenant of the premises, to disperse and leave the premises immediately. It shall be a violation of this section for any person to refuse to leave after being so ordered by the police officer.

(8) When sound violating this section is produced by an electronic sound system or audio equipment that is located in or on a vehicle, the vehicle's owner is guilty of the violation; provided that, if the vehicle's owner is not present, the person in possession of the vehicle at the time of the violation is guilty of the violation.

(9) This section shall not apply to sound produced by the following:

- (a) Amplifying equipment used in connection with activities for which a permit has been granted or in connection with activities of any organized school, church, approved civic celebrations or other event or activity open to the public;
- (b) Anti-theft devices;
- (c) Church bells, chimes or carillons, school bells or emergency civil defense warning signals; and
- (d) Authorized emergency vehicles or other vehicles required by law to be equipped with sound devices.

(B) Hourly restriction of certain operations.

(1) **Domestic power equipment.** No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 8:30 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

(2) **Refuse hauling.** A collector shall collect from his/her customer only between the hours of 6:00 a.m. and 6:00 p.m. No collections shall be allowed on Sundays, New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving Day, and Christmas Day.

(3) **Construction activities.** No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 8:30 a.m. and 9:00 p.m. on any weekend or holiday. This prohibition shall not apply to work being performed by employees of the City, the County or State in the performance of their official duties or work performed in an emergency situation.

(C) Noise impact statements. The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation, alteration, or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. The Council shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning changes requested.

SECTION SIX. NUISANCE PARKING AND STORAGE.

(A) **Declaration of nuisance.** The outside parking on streets in residential zones and storage on residentially zoned property more than two (2) vehicles (unless receiving permission by the City Council to have more), materials, supplies, or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it:

- (1) obstructs views on streets,

- (2) creates cluttered and otherwise unsightly areas,
- (3) prevents the full use of residential streets for residential parking,
- (4) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited,
- (5) decreases adjoining landowners' and occupants' use and enjoyment of their property and neighborhood, or
- (6) otherwise adversely affects property values and neighborhood patterns.

(B) Unlawful parking and storage.

(1) A person must not place, store, or allow the placement or storage of ice fishing houses, skateboard ramps, playhouses, or other similar non-permanent structures outside continuously for longer than twenty-four (24) hours in the front yard area of residential property.

(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 conjunction with a business, outside on residential property.

(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 (4) 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 the property. The 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 areas 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 from school for periods of time but still claim the property as their legal residence will be considered residents on the property.

SECTION SEVEN. INOPERABLE MOTOR VEHICLES.

(A) **Declaration of nuisance.** Any motor vehicle described in this section shall constitute a hazard to the health and welfare of the residents of the community as such vehicles can harbor noxious diseases, furnish a shelter and breeding ground for vermin, and present physical danger to the safety and well-being of children and citizens. Motor vehicles also contain various fluids which, if released into the environment, can and do cause significant health risks to the community.

(B) In any area, the storage of junk automobiles, racing cars, stock cars, or trucks in the open. For the purpose of this section, 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 on the highways of the State of Minnesota and is either:

- 1. Unusable or inoperable because of lack of, or defects in component parts; or

2. Unusable or inoperable because of damage from collision, deterioration, or having been cannibalized; or
3. Beyond repair and therefore not intended for future use as a motor vehicle; or
4. Being retained on the property for possible use of salvageable parts or restoration.

The term “racing car” shall include any motor vehicle designed or intended for operation on a speedway, racetrack, or other facility used or designed for high-speed contests between vehicles or for timing of speed. The term “stock car” shall include any motor vehicle of standard design and construction which is modified, adapted, or altered in any manner to increase its speed or safety, and designed or intended for operation on a speedway, racetrack, or other facility used for high speed contests between vehicles or for timing of speed.

(C) **Screening.** This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road, or alley, and which does not foster complaint from a resident of the city. Privacy fencing is permissible.

SECTION EIGHT. DUTIES OF CITY OFFICERS.

City officials may apply and enforce any provision of this ordinance relating to public nuisances within this jurisdiction. Any peace officer or other designated city official shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no peace officer or designated city official will enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing entry.

SECTION NINE. ABATEMENT PROCEDURE.

(A) **Non-Emergency Procedure.** Whenever the peace officer or other designated official determines that a public nuisance is being maintained or exists on the premises in the city, the official shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall identify the nature of the nuisance; 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 official 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 or obtain an administrative search and seizure warrant and abate the nuisance.

(B) The City may take any and all steps necessary to abate the nuisance of animals running at large, which could include catch and release, boarding, or euthanasia.

(C) **Notice(s).** Written notice of the violation; notice of the time, date, place, and subject of any hearing before the City Council; notice of the City Council order; and notice of motion for summary enforcement hearing shall be served by a peace officer or designated official on the owner of record and/or the occupant, if other than the owner, of the premises either in person or by certified or registered mail. For purposes of serving by certified mail, the addressee is considered to have been served the notice five days after the date appearing on the certificate of mailing. If the premise is not occupied, the owner of record is unknown, or if the owner of record or occupant refuses to accept notice, notice of the violation shall be served by positing it on the premises.

(D) Appeal.

1. The property owner or occupant may appeal said notice to the City Council provided that any appeal must be submitted in writing to the City of Goodview not later than 10 days following receipt of the notice.

2. If the property owner or occupant requests an appeal in compliance with the provisions of this section, a hearing shall be held before the City Council. Following said hearing, the City Council shall by resolution determine whether a nuisance is evident. Upon the finding of a nuisance, the City Council shall order that the cited conditions be removed, stored, or eliminated within 10 days.

3. If an appeal to the City Council's order is not made to the District Court within 10 days following the City Council's decision and the property owner or occupant has not brought the property into compliance as ordered, the City shall initiate action to abate the nuisance.

(E) **Emergency procedure; summary enforcement.** In cases of emergency, where delay in abatement required to complete the procedure and notice requirements as set forth in Section 9, subdivisions (A) through (D) of this section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the City Administrator or his/her designated representative may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the peace officer or other designated official shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement will unreasonably endanger public health, safety, or welfare. The officer or designated official shall notify in writing the occupant or owner of the premises of the nature of the nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in subdivision (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 Administrator may order summary enforcement and abate the nuisance.

(F) **Immediate abatement.** Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

(G) **Unlawful parties or gatherings.** When law enforcement determines that a gathering is creating such a noise disturbance as prohibited under Section Four, Subdivision W, the officer may order all persons present, other than the owner or occupant of the premises where the disturbance is occurring, to disburse immediately. No person shall refuse to leave after being

ordered to do so by law enforcement. Every owner or occupant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

(H) **Judicial remedy.** Nothing in this section shall prevent the city from seeking a judicial remedy when no other adequate administrative remedy exists. The City Attorney is empowered and directed, in addition to other remedies provided by law, and in the name of the City, to institute appropriate action or proceedings to restrain and abate a public nuisance.

SECTION TEN. RECOVERY OF COST.

(A) **Personal liability.** The owner of the premises on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, 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 administrator or other city 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 administrator.

(B) **Assessment.** After notice and hearing as provided in Minn. Stat. § 429.061, as it may be amended from time to time, the city administrator 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 Minn. Stat. § 429.101 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 any 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 (10), as the City Council may determine in each case.

SECTION ELEVEN. 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 one thousand dollars (\$1,000.00) or imprisonment for not more than ninety (90) days, or both, plus the costs of prosecution in either case.

SECTION TWELVE. SEVERABILITY.

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

SECTION THIRTEEN. REPEAL OF CODIFIED SECTIONS.

Sub-Sections A, B, and C of Section No. 92.01, Section 92.02, and Sub-Section C of Section 92.99 of the Code of Ordinances are hereby repealed upon the adoption of this ordinance.

SECTION FOURTEEN. EFFECTIVE DATE.

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat., § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

Passed by the Goodview City Council this 24th day of January, 2011.

Approved: Stephen Baumgart, Acting Mayor

Attested: Dan Matejka, City Administrator

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