

ORDINANCE NO. 71

AN ORDINANCE WHICH DEFINES AND PROHIBITS PUBLIC
NUISANCES IN THE CITY OF SHELLY

The City Council of the City of Shelly does hereby ordain as follows:

SECTION 1. DEFINITIONS

- A. Public Nuisance Defined. Whoever, by an 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, moral 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
 - 3) 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.
- B. The term "junk" shall include without limitation parts of machinery or motor vehicles, unused furniture, stoves, refrigerators or other appliances, remnants of wood, metal or any other cast off material of any kind whether or not the same could be put to any reasonable use.
- C. The term "junk automobiles" shall include without limitation any motor vehicle (including, but not limited to, snowmobiles, motorcycles, three and four wheel all-terrain vehicles) which is not licensed for use upon the highways of the State of Minnesota for a period in excess of sixty (60) days and shall also include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of sixty (60) days, provided that there is excepted from this definition unlicensed but operative vehicles which are kept as a stock and trade of a regular licensed and established new or used car automobile dealer.
- D. "Long grass", Long grass as used herein shall mean any grass or vegetative material six inches or longer.
- E. "Blighted structure" shall include, without limitation, any dwelling, garage, out-building, factory, shop, store, warehouse or any other structure or part of a structure which, because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling.

SECTION 2. Public Nuisance 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. Accumulations of manure, refuse or other debris;
- F. 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, cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;
- H. All noxious weeds, long grasses, or 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 persons having a contagious disease;
- K. Any offensive trade or business as defined by Statute not licensed by the City Board of Health as defined by law.

SECTION 3. Public Nuisances Affecting Morals and Decency. The following are hereby declared to be nuisances affecting public morals and decency:

- A. Betting, bookmaking, and all apparatus used in such occupations;
- B. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;
- C. All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, persons 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 such a place;
- D. Any vehicle used for the transportation of intoxicating liquor or promiscuous sexual intercourse or any other immoral or illegal purposes.
- E. Any obscene, offensive language painted upon any building or structure which is observable by any member of the public in or upon public areas immediately adjacent to said structure.

SECTION 4. 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 persons from having a clear view of all traffic approaching any intersections within a reasonable distance;
- B. All wires and limbs of trees which are so close to the surface of the sidewalk or street as to constitute a danger to pedestrians or vehicles;
- C. All unnecessary noises and annoying vibrations;
- D. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such other conditions as are permitted by Ordinances or other applicable law;
- E. Radio aerials or television antennas 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 which causes large groups of people to gather, obstructing traffic and the free use of the streets or sidewalks or resulting in

noisy conduct, tending reasonably to arouse alarm, anger or resentment in others;

- G. 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 in a reasonable manner;
- 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 less than six (6') feet above the ground and within three (3') feet of public sidewalk or way;
- J. Waste water cast upon or permitted to flow upon streets or other public property;
- K. The accumulations in the open of discarded or disused machinery, household appliances, junk automobiles, junk or other material in a manner conducive to the harboring of rats, mice, snakes, or vermin or to fire, health or safety hazards from such accumulations, or from the rank growth of vegetation among the items so accumulated;
- L. Any well hole or other similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child coming on the premises where it is located;
- M. Obstruction to the free flow of water in a natural waterway or 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 substance which may injure any person or animal or damage any vehicle in passing over such substance;
- O. The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- P. All other conditions or things which are likely to cause injury to the person or property of anyone.
- Q. To allow to remain on the property any blighted structure or any structure which is in such a condition as to be a danger to persons in or around said structure or which is maintained in a manner conducive to the harboring of rats, mice, snakes or vermin or to fire, health or safety hazards from accumulations or which is an attractive nuisance to young children as evidenced by the observed appearance of children under the age of 18 in, around or about said structure.
- R. Any structure with broken windows or doors, leaning or sagging porches, decaying foundations, peeling paint on more than 1/3 of the surface of any wall of the structure, any other condition which may injure any person or property as a result of the structure collapsing.

SECTION 5. Duties of City Officers.

The police department or other designee appointed by the City Council shall enforce the provisions of this Ordinance relating to nuisances affecting public safety, public peace, public health, public morals and decency. The police department shall assist other designated officers in the enforcement of the provisions of this Ordinance. Such officers 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 violation; notice of the time, date, place and subject of any hearing before the Nuisance Abatement Committee; notice of Nuisance Abatement Committee orders; and notice of motion for summary enforcement hearing shall be given as set forth in this subdivision.
- 1) Notice of violation. Written notice of violation shall be served by the officer charged with enforcement 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 Council Hearing. Written notice of any Nuisance Abatement Committee hearing to determine or abate nuisances 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 said council hearing, notice of the council's hearing shall be served by posting it on the premises.
 - 3) Notice of Nuisance Abatement Committee Orders. Except for those cases determined by the City to require summary enforcement, written notice of any Nuisance Abatement Committee order shall be made as provided in Minnesota Statutes 463.17.
 - 4) Notice of Motion for Summary Enforcement. Written notice of any motion for summary enforcement shall be made as provided for in Minnesota Statute 463.17 (Hazardous and Substandard Building Act).
- B. Procedure. Whenever the officer charged with enforcement 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 such 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 within which the nuisance is to be abated. The notice shall also state words to the effect that if the nuisance is not abated by the deadline given by the officer, the time of the next city council meeting shall be stated, at which time the owner or occupant may appear and be heard on the issue of whether or not there is a public nuisance and how it may be abated. If the notice of violation is not complied with within the time specified, the enforcing officer shall report that fact forthwith to this council. The council may, after notice to the owner or occupant and an opportunity to be heard determine, that the condition identified in the notice of the violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the council, the City may seek injunctive relief and may pursue criminal sanctions. That after, the Nuisance Abatement Committee 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 Nuisance Abatement Committee, the city may seek injunctive relief by serving a copy of the

Nuisance Abatement Committee 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 A and B above will permit a continuing nuisance to unreasonably endanger public health, safety or welfare. The Nuisance Abatement Committee may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer charged with enforcement shall determine that a public nuisance exists or is being maintained on premises in the city and the delay in the abatement of the nuisance will unreasonably endanger public health, public safety or public welfare. The enforcement officer 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 Nuisance Abatement Committee to consider the question of summary enforcement. The Nuisance Abatement Committee 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 a delay in abatement required to complete the procedure set forth in A above, and may order that such nuisance be immediately abated or terminated. If the nuisance is not immediately abated or terminated, the Nuisance Abatement Committee may order summary enforcement and abate the nuisance.
- D. Immediate Abatement. Nothing in Section 6 of this 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. Nothing in Section 6 of this Ordinance shall prevent the City from entering unto and upon any private lands to immediately cut long grass.

SECTION 7. Recovery of Cost.

- A. Personal Liability. The owner of the 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 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. Administrative costs shall include but not be limited to the cost of publication of council action; serving and posting notice; departmental costs and expenses, including overhead and allowances for time of city employees, any expense of any equipment used and any attorney's fees and court costs incurred.
- 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-infested trees, the clerk 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 Minnesota Statutes 429.101 against each separate lot or parcel to which the charges are attributable. The council may then spread the charges against said 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 decide in each case.

- C. Any property removed from the premises shall be retained by the City for thirty (30) days. The owner may recover the property by paying all moving and storage charges and payment of any costs as established under Section 7.A. above. Notice that the property will be deemed abandoned after thirty (30) days shall be sent to the owner of the real property at his last known address. Notice shall be deemed effective upon mailing.

SECTION 8. Nuisance Abatement Committee.

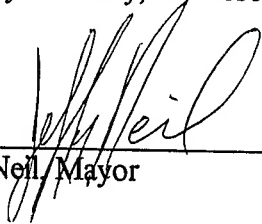
The Nuisance Abatement Committee shall be composed of three citizens of the City of Shelly (no more than two of which may be city council member) who shall be appointed by the Mayor with the approval of the city council. The term of appointment shall be for a period of three years or until a successor is appointed. In the event a member of the Nuisance Abatement Committee shall have a conflict of interest in hearing any case, the Mayor may appoint with the approval of the city council a temporary replacement to hear the subject matter. In the event of the disability, death or resignation of any member of the committee which creates a vacancy, the Mayor with approval of the City Council may appoint a person to fill the unexpired term of the disabled, resigned or deceased member.

SECTION 9. Penalty.

Any person convicted of violating any provisions of this ordinance is guilty of a misdemeanor and shall be punishable by a fine not to exceed \$700.00 or imprisonment for not more than ninety days or both, plus the cost of prosecution in either case.

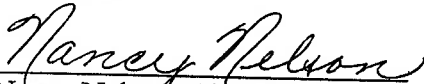
SECTION 10. All Ordinances or parts thereof, in conflict herewith are hereby repealed. This Ordinance shall be in full force and effect upon adoption and publication.

Adopted by the City Council of the City of Shelly, Minnesota, this 6th day of April, 1998.



Jeffrey Neil, Mayor

ATTEST:



Nancy Nelson, Clerk-Treasurer