

**ORDINANCE NO. 2007-5-14  
NUISANCES AND PUBLIC SAFETY**

**CITY OF FEDERAL DAM, CASS COUNTY, MINNESOTA**

AN ORDINANCE ADOPTING PORTIONS OF THE MINNESOTA BASIC CODE RELATING TO HEALTH AND SAFETY: NUISANCES (MN BASIC CODE §92) AND ABANDONED PROPERTY (MN BASIC CODE §90).

State law references: Public nuisances, Minn. Stats. §617.80 et seq; public nuisances prohibited, Minn. Stats. §609.74.

**Article I**

**Nuisances**

**SECTION 1. Public Nuisance Defined.** Whoever by an act of 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, morals, 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 for which no sentence is specifically provided.

**SECTION 2. Specific Public Nuisances.** The following are hereby declared to be public nuisances affecting health, public peace and safety and public morals and decency;

- 1) Allowing, keeping, maintaining, causing, suffering or permitting any type of waste, including garbage, refuse, rubbish, decayed animal or vegetable matter, rotting lumber, barrels, cans, bottles, tubes, buckets, detached tires or other artificial containers or any other material, including discarded or unused machinery and appliances in which flies, mosquitoes, insects, rats or other vermin may breed, or which is a fire, health or safety hazard;
- 2) An animal running at large (see F.D. Dog Ordinance, amended #2006-8-06);

- 3) A dog which habitually barks (see F.D. Dog Ordinance, amended #2006-8-06);
- 4) A pond or pool of foul or stagnant water;
- 5) Carcasses of animals not buried or destroyed within twenty-four (24) hours after death;
- 6) Privy vaults (see F.D.S.P. Sewer Ordinance #2006-2-13, Sect. 2, para. A & B) and garbage cans which are not animal, rodent and other vermin free or insect-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- 7) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances (see F.D.S.P. Sewer Ordinance #2006-2-13, Sect. 4);
- 8) All weeds and other rank growths of vegetation (see F.D. Weed Ordinance #2005-6).
- 9) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- 10) Public exposure of persons and animals having contagious disease;
- 11) A building or structure within the City infested with rats or other vermin;
- 12) Depositing garbage, rubbish, offal, or the body of a dead animal or other litter upon any public highway, street or alley, public waters or ice thereon, shore-land areas adjacent to public waters, public lands, or without the consent of the owner, private lands or water or ice thereon.
- 13) Storage or accumulation of junk or other refuse in the open. 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 and appliances and so forth;
- 14) Any discarded materials, chemicals, pesticides, herbicides, fungicides or waste (solid, liquid or gaseous) and/or their containers which is determined to constitute a fire or environmental hazard, or to be detrimental to human life, health or safety;
- 15) The burying of garbage, trash or waste in the ground at any location;
- 16) The depositing of garbage or refuse on public property or on adjacent private property;
- 17) The open burning of any garbage, trash or waste;
- 18) Snow and/or ice on a public walkway or driveway not removed by the owner of any building or lot in the City within the first twelve (12) hours of daytime after

- the ceasing to fall of snow or other precipitation;
- 19) A tree, hedge, billboard or other obstruction which prevents a person from having a clear view of all traffic approaching an intersection;
  - 20) Wires, limbs of trees and other objects which are so close to the surface of a public street as to constitute a danger to persons or vehicles;
  - 21) All unnecessary noise and annoying vibrations in violation of Minn. Rules Ch. 7030, as they may be amended from time to time;
    - a) 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;
    - b) The participation in a party or other gathering of people giving rise to noise which disturbs the peace, quiet, or repose of the occupants of other property.
    - c) 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 recreational device except through a muffler or other device that effectively prevents loud or explosive noises there from and complies with all applicable state laws and regulations;
  - 22) Obstructions and excavations affecting the ordinary use of the public streets, alleys, walkways, or public grounds except under such conditions as are permitted by this Ordinance or other applicable law;
  - 23) Radio aerials or television antennae erected or maintained in a dangerous manner;
  - 24) Any use of property abutting a public street or any use of a public street which causes large crowds of people to gather, obstructing traffic and the free use of the streets;
  - 25) Signs:
    - a) A hanging sign, awning, and other similar structure over a public street, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
    - b) Abandoned Signs: Any sign and/or its supporting sign structure which

remains without a sign message or whose display surface remains blank for a period of one (1) year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business shall not be deemed abandoned unless the property remains vacant for a period of one (1) year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of abandoned sign.

- 26) The allowing of rain water, ice, or snow to fall from any building or structure upon any public street or walkway;
- 27) Any barbed wire fence less than six feet above the ground and within three feet of a public walkway;
- 28) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- 29) Waste water cast upon or permitted to flow upon public streets or walkways or other public property;
- 30) A well, hole or similar excavation which is left unguarded, uncovered or in such condition as to constitute a hazard to any person coming on the premises where it is located;
- 31) Obstruction to the free flow of water in a natural waterway or public street drain, gutter, or ditch with trash or other materials;
- 32) The placing or throwing on any street, walkway 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 such substance;
- 33) 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 as a dwelling, not useful for any other purpose for which it was intended;
- 34) In any area of the City, the existence of a vacant structure, dwelling, garage, or other out-building, unless such structure or building is kept securely locked, windows kept glazed or neatly boarded up, or otherwise protected to prevent entrance by vandals, children or other persons;
- 35) Explosives kept without a license;
- 36) Permitting an unused refrigerator or other container, sufficiently large to retain any child with doors which fasten automatically when closed, to be exposed

and accessible to children, without removing the doors, lids, hinges, or latches.

37) In any area of the City, the storage of junk automobiles, racing cars, and stock cars in the open. For the purpose of this paragraph, the term “junk automobiles” shall include any motor vehicle, part of a motor vehicle, including tires, 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:

- a) unusable or inoperable because of lack of, or defects in component parts; or
- b) unusable or inoperable because of damage from collision, deterioration, or having been cannibalized;
- c) beyond repair and therefore not intended for future use as a motor vehicle; or
- d) being retained on the property for a possible use of salvageable parts;

(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 contest between vehicles or for timing speed.)

(A classic car or pioneer car, as defined in M.S. §168.10 is not considered an abandoned vehicle.)

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

39) Gambling devices, slot machines, and punch boards, except as authorized by the City of Federal Dam through the Northland Lion’s Club;

40) Betting, bookmaking, and all apparatus used in such occupations;

41) A building or place kept for purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;

42) A building or place where alcoholic beverages are manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of consuming alcoholic beverages, or where alcoholic beverages are kept for sale or other disposition in violation of law, and all alcoholic beverages and other property used for maintaining such a place;

43) Any vehicle used for the illegal transportation of alcoholic beverages, or for promiscuous sexual intercourse, or any other immoral or illegal purpose;

44) A building or place where the unlawful sale or possession of a controlled substance occurs.

45) Buildings, fences and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they (a) are unsightly, (b) decrease adjoining landowners and occupants' enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhood patterns. Section 1.

## Article II

### Health and Safety

**SECTION 1.** No person shall fire or discharge any gun, pistol or firearm of any description within the City Limits except in the lawful defense of person, family, or property or in necessary enforcement of law.

**SECTION 2.** Salvage Yards: All junk, wrecking or salvage yards within the City of Federal Dam and Cass County shall require a conditional use permit. Salvage yards shall include a lot or yard for the keeping of more than two (2) unlicensed motor vehicles or the remains thereof for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment. Salvage yards shall be considered an industrial use. All salvage yards shall comply with applicable federal US-EPA standards and Minnesota Statutes and Minnesota Rules including but not limited to Chapter 7045 regarding the management of hazardous waste.

- 1) Salvage Yard Standards: All junk, wrecking or salvage yards within the City of Federal Dam and Cass County shall meet the following minimum standards:
  - a) No material shall be disposed of or placed in a wetland.
  - b) All such uses shall have a minimum rear, side and road setback of one hundred (100) feet. No activity except fencing, berms or other screening may take place in the setback area which will be calculated on an individual needs basis.
  - c) All such uses shall comply with the Cass County Solid Waste Ordinance.
  - d) All waste including batteries, tires and hazardous waste shall be kept on the property in a manner consistent with applicable MPCA and US-EPA regulations or disposed of in a manner acceptable to pertinent County, State or Federal regulations.
  - e) Fencing, berms, and the use of natural topography and/or vegetation shall be

provided to shield the view of any salvage material from any surface water, public recreation facility, public road, private residence, or other structure.

- f) Fencing shall be installed in accordance with City specifications on the perimeter of all motor vehicle salvage or repair facilities and/or junkyards at least eight feet high and not to exceed 20 feet in height. Such enclosure shall be maintained in good condition at all times and constructed so that no dust or other material may pass through. Any such fence shall not have more than one opening on any public street and each opening shall not be more than 25 feet wide and shall be equipped with a substantial, solidtight gate or door of the same height as such fence or wall, and the same shall be kept securely closed at all times when such establishment is not open for business. No junk or storage of any description shall be kept, displayed or exhibited on the outside or protrude above such fence.
- g) The salvage yard shall conform to all on-site sewage treatment regulations.
- h) The salvage yard shall conform to all standards for wells of the State Health Department including the sealing of abandoned wells. (Cass Co. Land Use Ordinance #2005-01 Sect. 1122/1122.1)

### **Article III**

#### **Duties of City Officers**

**Duties.** The City Council and/or a person or persons designated by it, and the Cass County Sheriff's Department, shall enforce 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. Except in emergency situations of imminent danger to human life and safety, no Council person, police officer or designated person shall 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 Council person, officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.

## Article IV

### Abatement

#### **SECTION 1. Abatement.**

- 1) When an emergency exists and it reasonably appears there is a present danger to persons or property unless the nuisance is promptly abated, the Mayor or the Mayor's designated representative may direct that the work be undertaken upon such notice as is deemed appropriate under the circumstances.
- 2) When no emergency exists and whenever the designated representative charged with enforcement determines that a public nuisance is being maintained or exists on premises in the City, the representative shall notify in writing the owner and occupant, if other than the owner of the premises, of the fact and order that such nuisance be terminated and abated. The notice shall be served upon the owner of the property and the occupant, if other than the owner, either personally or by certified mail sent to the last known address of the owner and occupant of the property. For purposes of serving by certified mail, the addressee is considered to have been served the notice five (5) days after the date appearing on the certificate of mailing. A notice tag shall also be affixed to the door of any building situated on the property. If the premises are not occupied and the owner unknown, the notice may be served by posting it on the premises. The notice shall identify the nature of nuisance and the time, not exceeding ten (10) days, within which the nuisance is to be abated.
- 3) The property owner or occupant may appeal said notice to the Federal Dam City Council provided that any appeal must be submitted in writing to the City of Federal Dam not later than thirty (30) days following receipt of the notice.
- 4) 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 thirty (30) days.
- 5) If an appeal of the City Council's order is not made to the district Court within thirty (30) 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.

- 6) The City shall proceed with making the necessary arrangements to have the nuisance abated so as to comply with this ordinance and other applicable provisions of the city code.
- 7) 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.

## **Article V**

### **Recovery of Cost**

**SECTION 1. Personal Liability.** The owner of the premises on which the 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 City 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.

**SECTION 2. Assessment.** Any unpaid charges may be collected as a special assessment pursuant to law.

## **Article VI**

### **Penalty**

**SECTION 1. General Penalty.**

- 1) Whoever is convicted of violating any provision of this ordinance, including Minnesota Statutes specifically adopted by reference, which is designated to be a misdemeanor, is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or imprisonment for not more than 90 days, or both, the maximums provided by, plus the costs of prosecution.
- 2) Whoever is convicted of violating any provision of this ordinance, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor, is guilty of petty misdemeanor and shall be punished by a fine of not more than \$300, plus the costs of prosecution.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF  
FEDERAL DAM THIS 14<sup>TH</sup> DAY OF MAY, 2007.

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William Adams, Mayor

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Attest To:  
Patricia Ritter, Clerk-Treasurer