

ORDINANCE NO. 01-03

NUISANCES

Section I. PUBLIC NUISANCE DEFINED. Whoever by his 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 endanger 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 and for which no sentence is specifically provided.

Section II. PUBLIC NUISANCE AFFECTING HEALTH. The following are hereby declared to be nuisances affecting health:

1. Exposed accumulation of decayed or unwholesome food or vegetable matter;
2. All diseased animals running at large;
3. All ponds or pools of stagnant water;
4. Carcasses of animals not buried or destroyed within 24 hours after death;
5. Accumulations of manure, refuse, or other debris;
6. 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;
7. The pollution of any public well or cistern, stream or lake, canal, or body of water by sewage, industrial waste, or other substances;
8. All noxious weeds and other rank growths of vegetation upon public or private property-see Section IV - Weeds/Grass Control;
9. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
10. Any offensive trade or business as defined by statute, not licensed by the Council as defined by law;
11. Any other land use or condition found unreasonable to injure or endanger the health of any members of the public.

Section III. PUBLIC NUISANCES AFFECTING PUBLIC MORALS AND DECENCY.

1. All gambling devices, slot machines, and punch boards except authorized and permitted by federal, state, or local law;
2. Betting, bookmaking, and all apparatus in those occupations;
3. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, house of ill fame, and bawdy houses;
4. All places where intoxicating or 3.2 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 intoxication or 3.2 liquor which is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place: and
5. Any vehicle used for unlawful transportation of intoxicating 3.2 malt liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

Section IV. PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

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

1. All snow and ice not removed from public sidewalks within 12 hours after the commencement of the next succeeding business day after the snow or other precipitation has ceased to fall;
2. All trees, hedges, billboards, or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection;
3. All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
4. Any person participating in any party or other gathering that causes unreasonable disturbing of the peace, quiet, or repose of another person;
5. All unnecessary and annoying vibrations;
6. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this code or other applicable law;
7. Radio aerials or television antennae erected or maintained in a dangerous manner;

8. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk without prior approval of the City Council, which causes large crowds of people to gather, obstructing traffic and the free uses of the streets or sidewalks;
9. All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated to endanger public safety;
10. 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;
11. Any barbed wire fence.
12. All dangerous, unguarded machinery in any public place so situated as to present a hazard to the public or operated in a dangerous manner;
13. Wastewater cast upon or permitted to flow upon streets or other public property;
14. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, 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 accumulation or from the rank growth of vegetation among the items so accumulated;
15. Any well, hole or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any person coming on the premises where it is located;
16. Obstruction to the free flow of water in a natural waterway or a public street or drain, gutter, or ditch with trash or other materials;
17. person or animal or damage any pneumatic tire when passing over such substance;
18. The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
19. All other conditions or things which are likely to cause injury to the person or property of anyone.

Section V. 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 use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise;
4. The discharging of the exhaust or permitting the discharge of the exhaust of any statutory internal combustion engine, motorboat, 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 there from and complies with all applicable state laws and regulations;
5. Any loud or excessive noise in the loading, unloading, or unpacking of any vehicle; and
6. The use or operation, or permitting the use or operating, 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 to disturb the peace, quiet, and comfort and any person nearby.

B. HOURLY RESTRICTIONS 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 AM and 10:00 PM on any weekday or between the hours of 8:00 AM and 10:00 PM on Saturday, 10:00 AM and 10:00 PM on Sundays and holidays. Snow removal and contracted refuse hauling equipment are exempt from this provision.
2. **Construction activities.** No person shall engage in or permit construction activities involving any kind of electric, diesel, or gas-powered machine or other power equipment, except between the 7:00 AM and 10:00 PM on any weekday or between the hours of 8:00 AM and 10:00 PM on Saturday, 10:00 AM and 10:00 PM on Sundays and holidays. Snow removal and contracted refuse hauling equipment are exempt from this provision.
3. **Radios, music devices, paging systems, and the like.** The operation of any device referred to in subdivision (A) (6) between the hours of 10:00PM and 7:00AM in a manner 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 a violation of this section.
4. **Special Events - Exemptions.** It is recognized by the City that public policy requires discretion in enforcing this section in the context of certain special events. It is

further recognized that special events are by their nature unique and infrequent. Therefore, noise levels relating to special events operating with approval of the City, including, but not necessarily limited to, annual town celebrations, MIA-POW Motorcycle run, public dances, and other special events sanctioned by the City, shall be exempt from the prima facie provisions of Section 5, sub-sections A6 and B1-2.

Section VI. INOPERABLE MOTOR VEHICLES.

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.

1. **Inoperable motor vehicles.** It shall be unlawful to keep, park, or store any unlicensed, unregistered, or inoperable vehicle, including boats, snowmobiles, trailers or any other means of conveyance, or abandon any motor vehicle that is not in operating condition, partially dismantled, used for repair or parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operating within the state pursuant to Minn. Stat. 168B.011, subd. 3. as it may be amended from time to time.
2. **Screening.** This section does not apply to a motor vehicle enclosed in a lawfully erected 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.
3. **Privacy Fencing.** Defined as a permanently installed structure made of wood, vinyl, aluminum and composite, or similar material erected as an enclosure, barrier, or boundary. A privacy fence must:
 - a. Not to exceed 8 feet in height;
 - b. Be a minimum of six feet in height;
 - c. Be a maximum of 12 inches above the ground.
 - d. Have 30 Percent or less of their surface area open for free passage of light and air and designed to conceal from view the activities behind them

Section VII. WEEDS AND GRASS CONTROL.

1. Noxious weeds, grasses, and rank vegetation includes but is not limited to the following:
 - a. Alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Whitetop, Hedge Bindweed, Hoary Cress, Hosenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Must Thistle, Oxeye Daisy Perennial Snowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Mustard, Wild Onion, and Wild Parsnip.
 - b. Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two (2) consecutive years;
 - c. Bushes of the species of tall, common, or European barberry, further known as *Berberis Vulgaris* or its horticultural varieties;
 - d. Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding six (6) inches;
 - e. Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants; and
 - f. The term WEEDS does not include shrubs, trees, cultivated plants, or crops.
2. In no event shall cultivated plants or crops include plants which have been defined State Statute or administrative rule as being noxious or detrimental plants.
3. Owners Responsibility for trimming, removal, and the like. All property owners shall be responsible for the removal, cutting, or disposal and elimination of weeds, grasses, and rank vegetation or other uncontrolled plant growth on their property, which at the time of notice, is more than six (6) inches in height.
4. **Filing Complaint.** Any person, including the City, who believes there is property located within corporate limits of the City which is growing plant matter in violation of this ordinance shall make a complaint with the City Administrator, Public Works, City Council Member, or designee.

Section VIII. 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.

Section IX. ABATEMENT PROCEDURE.

1. **Procedure.** Whenever the peace officer or other designated City 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 shall be certified or registered mail. 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, not to exceed 30 days. If the notice of violation is not complied within the time prescribed by the City Council, the City may take any and all action necessary to abate said nuisance immediately and may assess to the landowner any and all costs incurred therein, including legal fees and costs, and said assessment shall be a specific lien against any real estate owned by said landowner.
2. **Notice.** 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 shall be served by a peace officer or designated official 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 if the owner of record or occupant refuses to accept notice, notice of the violation shall be served by posting it on the premises.
3. **Emergency enforcement, emergency enforcement, summary enforcement.** In cases of emergency, where delay in abatement required to complete the procedure and notice requirement as set forth in subdivisions (1) and (2) of this section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the City Council 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 (1) of this section and may order that the nuisance be immediately terminated or abated. If the nuisance is to be immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.
4. **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.
5. **Unlawful parties or gatherings.** When law enforcement determines that a gathering is creating such a noise disturbance as prohibited under Section V.A.6, the officer may order all persons present, other than the owner or tenant of the premises where disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered to do so by law enforcement. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.
6. **Judicial remedy.** Nothing in this section shall prevent the City from seeking a judicial remedy when no other adequate administrative remedy exists.

Section X. RECOVERY OF COST.

1. **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.
2. **Assessment.** After notice and hearing as provided in Minn. Stat.429.061, as it may be amended from time to time. If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalk, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infested trees, the City Administrator shall, on or before September 1, next following the 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 XI. PENALTY. Any person found to be in violation of any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine or imprisonment, not to exceed the maximums provided by Minnesota Statutes, or both, plus the costs of prosecution in either case.

Section XII. SEVERABILITY. If any provision is found to be invalid for any reason by a court of

competent jurisdiction, the validity of the remaining provisions shall not be affected.

1. Criminal Penalty -

Whoever permits real property under his or her control to be used to maintain a public nuisance or lets the same knowing it will be so used or who intentionally violates any other provision of this ordinance is guilty of a misdemeanor.

2. Civil Remedy -

In addition to the penalty described in Part A above, or, as an alternative to said remedy, the City Council may take remedial action to abate the nuisance. Upon its determination that a violation of this ordinance has occurred, the City Council shall notify the person or persons in violation that, if said person or persons have not cured the violation as stated in the notice with specificity, within seven (7) days of the notice, the City Council shall cure the violation and assess the cost thereof upon the real property of the violators. Notice shall consist of mailing by first class mail addressed to the owner of the property according to the records in the Marshall County Assessor's Office.

The property owner is responsible for all collection costs associated with weeds or grass destruction, including but not limited to court costs, attorney's fees, and interest on any unpaid amounts incurred by the City. If the City uses municipal employees, it may set and assign an appropriate per hour rate for employees, equipment, supplies, and chemicals which may be used.

If no real property is available for assessment, the City may proceed to obtain a civil judgment against the violators for the cost of the abatement. In circumstances where the City Council deems that an emergency abatement is necessary, the notice requirement previously described herein may be waived until after the abatement has occurred.

3. Future Abatements -

For properties for which there have been one or more notices issued within the prior 6-month period, compliance with Section V-B shall not be required. For those properties, the first notice issued within a 6-month period shall contain a general notice that the City may abate future violations without providing additional specific notice of the violation.

Lori Warne, Mayor _____ Date: _____

Tammy Hansen, City Administrator _____

First Reading: June 5, 2022
Second Reading: August 1, 2022
Third Reading: August 15, 2022
Fourth Reading: March 6, 2023

Published in The Honker: March 11, 2023

SUMMARY OF CITY OF NEWFOLDEN, MINNESOTA

NUISANCE ORDINANCE NO. 01-03

The following is the official summary of additions to Nuisance Ordinance No. 01-03, approved by the City Council of the City of Newfolden on the 6th day of March, 2023.

The following are declared nuisances affecting public health, safety, peace, or welfare.

Noise Violations defined as domestic power equipment, construction activities, radios, music devises, paging systems, and special events are defined and restricted to specific hours, dependent on day of the week.

INOPERABLE MOTOR VEHICLES. 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.

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