

ORDINANCE 259

AN ORDINANCE REGULATING NUISANCES
WITHIN THE CITY OF ARLINGTON

The City Council of the City of Arlington, Minnesota to promote the public safety, health and welfare, hereby ordain as follows:

Section 1: Purpose. The purpose of this ordinance is to regulate nuisances as defined herein, in a manner designed to protect and promote the health and welfare of the public, and to maintain property values.

Section 2: Definitions.

- 2.1 Owner: Those shown as owner or owners on the records of the Sibley County Recorder.
- 2.2 Responsible Party: Any one or more of the following:
 - agent, assignee or collector of rents for owner;
 - holder of a contract for deed;
 - a mortgagee or buyer in possession;
 - receiver, executor or trustee for owner;
 - lessee;
 - or other person or entity exercising apparent control over a property.
- 2.3 Mail: Service by mail shall mean depositing the item with the U.S. Postal Service addressed to the intended recipient at their last known address with First Class postage prepaid thereon.
- 2.4 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.
- 2.5 Refuse: Refuse includes, but is not limited to, household waste, discarded paper and cardboard, garbage, material resulting from the handling, processing, and consumption of food, vegetable or animal matter, offal, animal excrement, plant waste such as tree trimmings or grass cuttings, ashes, incinerator residue, street sweepings, construction debris, detached vehicle parts, furniture other than furniture designed as lawn furniture, appliances, inoperable equipment, and any other items or materials which are unsightly, attractive to insects or vermin, produce a noxious odor or are otherwise considered offensive by a reasonable person.

Section 3: Refuse Storage and Removal: All refuse shall be kept or stored inside an enclosed building or appropriate garbage disposal containers, and shall be removed from the premises to a proper garbage disposal facility or recycling collection center on a regular basis, which is defined as no less often than every 14 days.

Section 4: Nuisances: Owners and/or responsible parties shall be considered as maintaining a nuisance if they are in violation of any of the rules of this ordinance, to include the following:

- 4.1 It shall be considered a nuisance to collect, store or allow refuse contrary to this ordinance.
- 4.2 No motor vehicles designed to operate on public highways which are either inoperable or unlicensed or which are both inoperable and unlicensed shall be stored on any private property within the City of Arlington, unless stored in a building, or surrounded by a fence or other enclosure as approved by the City Council to keep said vehicle from public view. No motor vehicle, regardless of condition, shall be parked or stored at any time on front lawns in residential areas. No motor vehicle, regardless of condition, shall be parked or stored at any time on back lawns in residential areas, with the exception of seasonal use motor vehicles such as recreational vehicles, motor homes, and boat trailers, which may be stored on backyard areas in a neat and orderly fashion in cases where the owner does not have the sufficient garage or driveway space to store such recreational vehicle.
- 4.3 During construction or repair of property within the city limits, building materials shall be stacked or stored in a neat and orderly fashion, and in a manner so as to avoid presenting any danger to the general public. Refuse building materials shall be neatly piled or stored in garbage disposal containers. All building materials and refuse shall be cleared from the construction project no later than 14 days after completion of the construction or repair.
- 4.4. Hazardous Waste, as defined by Minnesota law, shall at all times be properly handled, stored and promptly removed by a properly trained and equipped person or entity, as soon as possible after said hazardous waste is detected by any person or entity. No hazardous waste is to be created or transported into city limits except in conformity with all federal, state and local laws, regulations and permits.
- 4.5 Lawns and landscaped areas are to be cut or trimmed so that grass areas do not exceed 6 inches in height. Noxious weeds are to be controlled by physical removal or chemical treatment. Volunteer trees or bushes are to be removed or properly trimmed. Planted trees and bushes are to be properly trimmed so as to create a neat appearance, and to avoid overlapping boundary lines. Leaves, cut branches and logs are to be stored and handled in the same manner as other refuse, except that cut timber used for fireplaces may be kept and stored for use in an enclosed container or structure, or fenced off from public view.

Section 5: Abatement Procedures: In the event that a nuisance is found to exist within city limits in violation of this ordinance, the following abatement procedures will be used:

- 5.1 Notice: City staff shall serve a written notice on the owner and/or responsible party of the property in violation, using a notice form approved by the City Council, stating the specific manner in which the ordinance has been violated, and explaining that the nuisance must be abated within 10 days after the receipt of said notice. The notice may be served by personal service on the owner and/or responsible party, or by mail. If the notice is served by mail, the 10 day notice term shall begin to run from the date the notice was mailed.
- 5.2 If the property owner and/or responsible party does not abate the nuisance within the 10 day notice term, the city may do any or all of the following:

- 5.2.1 The City may abate the nuisance by the use of city staff or hired contractors, and charge the cost of such abatement to the appropriate owner and/or responsible party.
- 5.2.2 The City may cite the owner and/or responsible party with a violation of city ordinance, which shall be considered a criminal misdemeanor.
- 5.2.3 The City may request that the Court issue its Order compelling the appropriate owner and/or responsible party to abate the nuisance within a time designated by the Court, subject to a contempt of court citation for non-compliance.
- 5.2.4 If the owner and/or responsible party fails to pay the city cost of abatement, the City may assess such charges against the property benefitted as a special assessment, under Minnesota law, for certification to the County Auditor in collection together with current taxes payable in the year following the violation.

Section 6: Emergency Abatement Procedure. When a nuisance is found to exist which constitutes an immediate danger or hazard if not immediately abated, and there does not exist sufficient time to follow the standard abatement procedures as set out in this ordinance, the City may abate the nuisance as follows:

- 6.1. The City shall order emergency abatement by an Order signed by either the Mayor, City Administrator, Chief of Police, Fire Chief or City Health Officer.
- 6.2. Following the emergency abatement action, a notice shall be served by personal service or by mail on the owner and/or responsible party connected with the property describing the nuisance, the action taken by the City, the reason emergency abatement was needed, and the costs incurred in abating the nuisance, which said costs shall be charged to the appropriate owner and/or responsible party as set out elsewhere in this ordinance. The notice shall also state that the owner and/or responsible party shall have the right to appeal the emergency action abatement charge to the City Council, within 30 days after receiving the notice of said abatement. The City Council shall have the authority to waive the emergency abatement charge if the council, in its sole discretion, deems such waiver reasonable.

Section 7: Repeat Nuisance Call Service Fees.

- 7.1 Purpose: The purpose of this section is to protect the public safety, health and welfare and to prevent and abate repeat service response calls by the City to the same property or location for nuisance service calls, as defined herein, which prevent police or public safety services to other residents of the City. It is the intent of the City by the adoption of this Section to impose and collect service call fees from the owner or responsible party, or both, of property to which the City officials must repeatedly respond for any repeat nuisance event or activity that generates extraordinary costs to the City. The repeat nuisance service call fee is intended to cover the cost over and above the cost of providing normal law or code enforcement services and police protection City wide.
- 7.2 Scope and Application: This Section shall apply to all owners and responsible party of private property, which is the subject or location of the repeat nuisance

service call by the City. This Section shall apply to any repeat nuisance service calls as set forth herein made by an Arlington police officer.

7.3 Definition of Nuisance Call or Similar Conduct:

7.3.1 Any activity, conduct, or condition deemed as a public nuisance under any provision of City Ordinances.

7.3.2 Any conduct, activity or condition constituting a violation of Minnesota state laws prohibiting or regulating prostitution, gambling, controlled substances, use of firearms; and

7.3.3 Any conduct, activity, or condition constituting disorderly conduct under Chapter 609 of Minnesota Statutes.

7.4 Repeat Nuisance Service Call Fee: The City may impose a repeat nuisance service call fee, said fee amount to be set from time to time by resolution of the City Council, upon the owner and/or responsible party of private property if the City has rendered services or responded to the property on three or more occasions within a period of 365 days in response to or for the abatement of nuisance conduct, activity or condition of the same or similar kind. The repeat nuisance service call fee under this Section shall be an amount as set forth and duly adopted by City Council resolution. All repeat nuisance service call fees imposed and charged against the owner or responsible party under this Section shall be deemed delinquent 30 days after the City's mailing a billing statement therefore. Delinquent payments are subject to ten percent late penalty of the amount due.

7.5 Notice: No repeat nuisance service call fee may be imposed against an owner or responsible party of property without first providing the owner or responsible party with written notice of the prior nuisance service calls prior to the latest nuisance service call rendered by the City upon which the fee is imposed.

The written notice shall:

- State the nuisance conduct, activity or condition that is or has occurred or is maintained or permitted on the property, the dates of the nuisance conduct, activity or condition;
- State that the owner or responsible party may be subject to a repeat nuisance call service fee if a third or more nuisance service call is rendered to the property for the same nuisance, in addition to the City's right to seek other legal remedies or actions for the abatement of the nuisance or compliance with the law, and
- Be serviced personally or by U.S. Mail upon the owner or responsible party at the last known address.

7.6 Right to Appeal Repeat Nuisance Service Call Fee:

7.6.1 Upon the imposition of a repeat nuisance service call fee, the City shall inform the owner or responsible party of his/her right to a hearing on the alleged repeat nuisance service calls. The owner or responsible party

upon whom the fee is imposed may request a hearing by service upon the City Administrator at City Hall within 10 business days of the mailing of the fee invoice, inclusive of the day the invoice is mailed, a written request for hearing. The hearing committee shall schedule the hearing within 14 days of the date of the owner's or responsible party's request for hearing.

7.6.2 The hearing shall be conducted in an informal manner and the Minnesota Rules of Civil Procedure and Rules of Evidence shall apply. The hearing shall be taped, but need not be transcribed at the sole expense of the party who requests the transcription. After considering all evidence submitted, the hearing committee shall make written findings of fact and conclusions on the issue of whether the City responded to or rendered services for repeat nuisance service calls of the same or similar kind on three or more occasions within a 365 day period. The findings and conclusions shall be serviced upon the owner or responsible party by U.S. Mail within five days of the conclusion of the hearing.

7.6.3 An owner or responsible party's right to a hearing shall be deemed waived if the owner or responsible party fails to serve written request for hearing as required herein or fails to appear at the scheduled hearing date. Upon waiver of the right to hearing, or upon the hearing officer's written findings of fact and conclusions that the repeat nuisance call service fee is warranted hereunder, the owner or responsible party shall pay the fee imposed and shall be deemed delinquent 30 days after the failure to appear at the appeal hearing or after the hearing committee's written findings of fact and conclusion.

7.7 Legal Remedies Nonexclusive: Nothing in this section shall be construed to limit the City's other available legal remedies for any violation of the law which may constitute a nuisance service call hereunder, including criminal, civil, injunctive or others.

Section 8: Criminal Penalty: Any person or entity violating any provision of this ordinance may be charged with a misdemeanor, punishable by a fine and/or jail term up to the maximum set out in Minnesota Statute 4.12.231, and any laws amending or replacing said statute.

This Ordinance shall become effective immediately upon publication.

For City of Arlington

By James R. Kreft
Its Mayor

By Matthew Jaunich
Its City Administrator

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Second Reading: July 5, 2011
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