

ORDINANCE No. 111A

NUISANCES

THE CITY OF STOCKTON ORDAINS:

Article I Nuisances

Section 1. Public Nuisance Defined. Whoever by an act of failure to perform a legal duty intentionally does not 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 number of member of the public; or

(2) Interferes with, obstructs, or renders dangerous for passage, and 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) A pond or pool of foul or stagnant water;

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

(4) Privy vaults 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;

(5) All weeds and other rank growths of vegetation. "Weeds" shall mean and include not only such noxious weeds as defined in Section 18.171 of Minnesota Statutes, but also such undesirable, useless, uncultivated and troublesome plants as are commonly known as weeds to the general public and all pollen producing plants which are hazard to hay-fever sufferers;

(6) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;

(7) Public exposure of persons and animals having contagious disease;

(8) A building or structure within the City infested with rats or other vermin;

(9) Depositing garbage, rubbish, offal, or the body of a dead animal or other litter upon any public highway, public waters or ice thereon, shoreland areas adjacent to public waters, public lands, or without the consent of the owner, private lands or water or ice thereon.

(10) Storage or accumulation of junk or other refuse in the open. Property kept in a licensed place is accepted. 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 and appliances and so forth;

(11) The burying of garbage, trash or waste in the ground at any location other than a legally designated disposal area;

(12) The burning of any garbage, trash or waste;

(13) Snow and/or ice on a public sidewalk not removed by the owner of any building or lot in the City abutting on or adjoining such public sidewalk within the first twelve (12) hours of daytime after the ceasing to fall of snow or other precipitation;

(14) A tree, hedge, billboard or other obstruction, which prevents a person from having a clear view of all traffic approaching an intersection;

(15) Wires, limbs of trees and other objects which are so close to the surface of a public sidewalk or street as to constitute a danger to persons or vehicles;

(16) All unnecessary and disruptive noise and vibrations, between the hours of 10:00 P.M. to 7:00 A.M.;

(17) Obstructions and excavations affecting the ordinary use by the public streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this code or other applicable law;

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

(19) Any use of property abutting a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstruction traffic and the free use of the streets or sidewalks;

(20) A hanging sign, awning, and other similar structure over a public street or sidewalk, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;

(21) The allowing of rain water, ice, or snow to fall from any building or structure upon any public street or sidewalk or to flow across any public sidewalk;

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

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

(24) Waste water cast upon or permitted to flow upon public streets or sidewalks or other public property;

(25) 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;

(26) Obstruction to the free flow of water in a natural waterway or public street drain, gutter, or ditch with trash or other materials;

(27) 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 pneumatic tire when passing over such substance;

(28) 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;

(29) 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;

(30) Explosives kept without a license;

(31) 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.

(32) 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, 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:

(i) unusable or inoperable because of lack of, or defects in component parts; or

(ii) Unusable or inoperable because of damage from collision, deterioration, or having been cannibalized;

(iii) Beyond repair and therefore not intended for future use as a motor vehicle; or

(iv) 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.

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

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

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

(36) 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;

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

(38) A building or place where the unlawful sale or possession of a controlled substance occurs;

(39) Any party or gathering from which the noise must be clearly audible and offensive at a distance of 50-feet or of such nature to disturb the peace, quiet or repose of another person between the hours of 10:00 P.M. and 7:00 A.M. A police officer may order all persons present other than the owners or tenants of the building or place to immediately disperse. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this section.

(i) Evidence. Noise of such volume as to be clearly audible at a distance of 50-feet from the structure or premises in which the party or gathering is occurring; or in the case of apartment buildings, in the adjacent hallway or apartment, shall be prima facie evidence of a violation of this section.

(ii) Exceptions. The following are exempt from a violation of this section: Activities which are duly authorized, sponsored, or licensed by the City of Stockton, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity; OR Church bells, chimes or carillons; AND Persons who have gone to the party for the sole purpose of abating the violation.

ARTICLE II DUTIES OF CITY OFFICERS

Section 1. Duties. The City Council and/or a person or persons designated by it, and the Winona 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.

ARTICLE III 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 officer charges with enforcement determines that a public nuisance is being maintained or exists on premises in the City, the officer 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 Stockton City Council provided that any appeal must be submitted in writing to the City of Stockton not later than ten (10) 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 be 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 ten (10) days.

(5) If an appeal of the City Council's order is not made to the district Court within ten (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.

(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 IV
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 V
PENALTY

Section 1. Penalty. Whoever is convicted of violating any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine imposed on the fee schedule or imprisonment, not to exceed the maximums provided by Minnesota Statutes, or both, plus the costs of prosecution in either case.

ARTICLE VI
REPEAL

That any ordinance that is inconsistent with this ordinance is hereby repealed.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF STOCKTON THIS
_____ DAY OF _____, 2012.

(seal)

Christopher Parker, Mayor

ATTEST:

Bethany Winchester, Clerk-Treasurer