

**CITY OF WAVERLY
WRIGHT COUNTY, MINNESOTA
Ordinance No. 16-01**

AN ORDINANCE AMENDING SECTIONS 90.15-90.21 NUISANCES IN THE
WAVERLY CITY CODE OF ORDINANCES

The Waverly City Code of Ordinances is hereby amended as follows:

Section 1. Sections 90.15-90.21 are replaced as follows:

90.15 NUISANCE ORDINANCE DEFINITIONS

For the purpose of this Ordinance, the meaning of the following terms, phrases, words, and their derivations shall be construed as set forth in such definition.

1. Abandoned building - Abandoned building shall mean any building or portion thereof which has stood with an incomplete exterior shell for longer than three years or any building or portion thereof which has stood unoccupied for longer than one year and which meets one or more of the following criteria:
 - A. Unsecured.
 - B. Boarded.
 - C. Having multiple exterior Housing Code or Building Violations.
 - D. Placarded as "Unfit for Human Habitation" pursuant to the City of Waverly and Minnesota Codes.
2. Abatement deadline - Abatement deadline shall mean the date by which the nuisance must be abated as specified in a written order.
3. Annoyances - Annoyances shall mean any condition which unreasonably annoys, injures or endanger the safety, health, morals, comfort, or repose of any considerable number of members of the public.
4. Dangerous structure - Dangerous structure shall mean any structure which is potentially dangerous to persons or property including specifically, but not exclusively.
 - A. A structure which is in danger of partial or complete collapse.
 - B. A structure which has any exterior parts such as chimneys, eaves, porches, siding, railings, or trim which are loose or in danger of falling.
 - C. A structure which has any parts such as porches, stairs, ramps, rails, balconies, or roofs which are accessible and which are collapsed, in danger of collapsing, or unable to support a person.
5. Enforcement officer - Enforcement officer shall mean the City Clerk, Fire Chief, Health Officer, or a duly authorized representative.

6. Extermination - Extermination shall mean the eradication of vermin by methods such as poison, fumigation, or trapping.
7. Hazardous waste - Hazardous waste shall mean any material so defined by Minnesota Statutes or Minnesota Code of Agency Rules.
8. Illegal activities - Illegal activities shall mean any action or condition which constitute a violation of law.
9. Interested party - Interested party shall mean any owner of record, occupying tenant, or lien holder of record.
10. Junk - Junk shall mean accumulations of discarded or disused machinery, household appliances, automobile bodies, broken or unused metal, wood, lumber, cement, electrical fixtures, plumbing fixtures, building materials except for building materials awaiting use in construction or improvement presently in progress on the same premises, trash, debris, rubbish situated outside of a building or if situated inside building stored in such a manner as to constitute a fire, health or safety hazard or in a manner conducive to the harboring of vermin.
11. Last known address - Last known address shall mean the address shown on the records of the Wright County Auditor or a more recent address known to the enforcement officer. In the case of parties not listed in the auditor's records, the last known address shall be that address obtained by the officer after a reasonable search.
12. Noxious substances - Noxious substances shall mean substances, solid, liquid, or gas, which are offensive, detrimental to health, hurtful, or dangerous. Noxious substances shall include specifically, but not exclusively, any dead animal, putrid carcass, decayed animal matter, green hides, or any putrid, spoiled, foul, or stinking beef, pork, fish, offal, hides, skins, fat, grease or liquors, human or animal excrement, manure, or sewage.
13. Nuisance - Nuisance shall mean any substance, matter, emission, or thing which creates a dangerous or unhealthy condition or which threatens the public peace, health, safety, or sanitary condition of the City or which is offensive or has a blighting influence on the community and which is found upon, in, being discharged or flowing from any street, alley, highway, railroad right of way, vehicle, railroad car, water, excavation, building, erection, lot, grounds, or other property located within the City of Waverly.
14. Obstructions - Obstructions shall mean objects or conditions which interfere with, endanger or prevent the ordinary or safe use of any property.
15. Owner - Owner shall mean any person shown to be the owner of the property on the records of the Wright County Auditor.

16. Personal service - Personal service shall mean service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence with a person of suitable age and discretion then residing therein.

17. Privy - Privy shall mean any type of non-flush fixture for the receipt and storage of human waste including specifically, but not exclusively, fixed units with vaults as well as portable units.

18. Property - Property shall mean any parcel of land whether vacant or not, whether any structure thereon is occupied or not, or whether submerged or not.

19. Refuse - Refuse shall mean putrescible and non-putrescible and combustible and noncombustible waste, including specifically, but not exclusively, paper, garbage, material resulting from the handling, processing, storage, preparation, serving and consumption of food, vegetable or animal matter, offal, rubbish, plant wastes such as tree trimmings or grass cuttings, ashes, incinerator residue, street cleanings, construction debris, detached vehicle parts and unlicensed vehicles which are not stored inside a building, and industrial and market wastes.

20. Responsible party - Responsible party shall mean any one or more of the following:

A. Agent.

B. Collector of rents or assignee.

C. Holder of a contract for deed.

D. A mortgagee or vendee in possession.

E. Receiver or executor or trustee.

F. Lessee.

G. Other person, firm, or corporation exercising apparent control over a property.

21. Service by mail - Service by mail shall mean by depositing the item with the United States Postal Service addressed to the intended recipient at his last known address with first class postage prepaid thereon.

22. Unoccupied building - Unoccupied building shall mean a building which is not being used for a legal occupancy or a building which has been ordered vacated by the city.

23. Unsecured - Unsecured shall mean:

A. Open to entry by unauthorized persons without the use of tools or ladders.

B. Open to the elements because of broken, cracked or missing windows, doors, siding, molding, brick, stucco, concrete, metal, roofing or other exterior building surfaces.

24. Vermin - Vermin shall mean specifically, but not exclusively, rats, mice, skunks, raccoons, chipmunks, woodchucks, snakes, bats, grackles, starlings, pigeons, bees, wasps, hornets, cockroaches or flies.

25. Weeds - Weeds shall mean useless and troublesome plants commonly known as weeds including specifically, but not exclusively, noxious weeds such as cocklebur, burdock, tumble mustard, wild mustard, wild oats, Canadian Thistle, oxeye daisy, quack grass, Frenchweed, and Russian thistle.

90.16 NUISANCES

Nuisances, which shall include specifically, but not exclusively, the following, are prohibited:

Junk, refuse, noxious substances, hazardous wastes - Junk, refuse, noxious substances, or hazardous wastes laying, pooled, accumulated, piled, left, deposited, buried or discharged upon, in, being discharged or flowing from, any property, body of water, structure, or vehicle; except for:

A. Junk, refuse deposited at places designated and provided for that purpose in accordance with the regulations of the City.

B. Junk, refuse stored in accordance with the regulations of the City.

C. Compost piles established and maintained in accordance with the regulations.

D. Dead animals buried in accordance with the regulations of the City.

E. Green hides received, stored, dressed, packed, or sold in accordance with the regulations of the City.

F. Sewage discharged in accordance with the regulations of the City.

Firewood - Piles of firewood in excess of 200 cubic feet stored closer than 10 feet to buildings used for human habitation, piles of firewood higher than six feet from point of elevation from ground, or piles of firewood harboring vermin.

3. Weeds - Grass or weeds which have grown upon any property to a height of eight or more inches or which have gone to seed.
4. Stagnant water - Stagnant water standing on any property and any property, container, or material kept in such a condition that water can accumulate and stagnate.
5. Vermin harborage - Conditions which in the opinion of the enforcement officer are conducive to the harboring or breeding of vermin including specifically, but not exclusively, materials stored less than 12 inches off the ground.
6. Vermin infestations - Infestations of vermin except for bees or pigeons kept in accordance with the regulations of the City.
7. Sanitary Structures - Structures for sanitation such as privies, vaults, sewers, private drains, septic tanks, cesspools, drain fields which have failed or do not function properly or which are overflowing, leaking, or emanating odors. Septic tanks, cesspools, or cisterns which are abandoned or no longer in use unless they are emptied and filled with clean fill. Any vault, cesspool, or septic tank which does not meet the following criteria:
 - A. The bottom and sides are cemented to be impervious to water.
 - B. The bottom is at least six feet below grade.
 - C. Proper ventilating pipes and covers are provided.
 - D. Located at least 20 feet from any house, residence, building, or public street.
 - E. Cleaned at least once a year.
 - F. The property served is located such that connection to the public sewer is not available.
8. Manure vaults - Manure vaults which have become offensive. Manure vaults for stables where more than two horses are kept which are not cleaned twice in each week.

9. Unsecured building - Building or portion thereof which is unsecured.
10. Dangerous structure - Dangerous structure.
11. Abandoned building - Abandoned building.
12. Safety hazard - Any thing or condition on property which, in the opinion of the enforcement officer, may contribute to injury of any person present on the property. Safety hazards shall include specifically, but not exclusively, open holes, open foundations, open wells, wires which are too close to the ground or in violation of any applicable safety code, dangerous trees or limbs, abandoned refrigerators, or barbed wire fences less than six feet above the ground and within three feet of a public sidewalk or way, dangerous and unguarded machinery in any public place or so situated, stored or operated on private property so as to attract the public, antennae erected or maintained in a dangerous manner, or trapping devices
13. Fire hazard - Any thing or condition on property which, in the opinion of the enforcement officer, creates a fire hazard or which is a violation of the Fire Code.
14. Health hazard - Any thing or condition on property which, in the opinion of the enforcement officer creates a health hazard or which is a violation of any health or sanitation law including specifically, but not exclusively the following:
 - A. Public exposure of persons having a contagious disease.
 - B. Diseased animals not under treatment.
 - C. Diseased animals running at large.
15. Statutory and Common Law nuisance - Any thing or condition on property which is known to the common law of the land, the Statutes of Minnesota, or the Waverly City Code including specifically, but not exclusively, the Waverly Zoning Ordinance, as a nuisance.
16. Obstructions - Obstructions shall include specifically, but not exclusively, the following:
 - A. Snow and ice not removed from the public sidewalks within 24

hours after the precipitation has ceased to fall.

- B. Rain, ice, or snow or wastewater falling or flowing from private property or buildings onto public property except gutters, drainage ways and storm sewers.
 - C. Use of a public street or sidewalk or use of property abutting a public street or sidewalk which caused large crowds of people to gather, obstructing traffic, streets or sidewalks, except in accordance with the regulations of the City.
 - D. Excavations obstructing public property except in accordance with the regulations of the City.
 - E. Placing or storing boxes, good, wares, merchandise, building materials, machinery, business or trade articles on public property except for the purpose of immediately transferring the same to some other proper place.
 - F. Placing or throwing on any public property of any glass, tacks, nails, bottles, or other substances which may injure any person, animal or property or damage any pneumatic tire or vehicle when passing over such substance.
 - G. Signs, awnings, vegetation or other objects located on private property which are not constructed and maintained as required by law, which prevent persons from having a clear view of all traffic approaching intersection, or which overhand and obstruct public property.
 - H. Obstructing the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other substances.
 - I. Digging, excavating, placing culverts, placing dams, or doing any act which alters or affects the drainage of property or alters or affects flows of the public storm sewer and drainage ditch system except in accordance with the regulations of the city.
17. Burial - The burial or entombment of any remains of a deceased human being except within a public or private cemetery established under law.
18. Open Burning - Open burning in violation of Chapter 90.60-90.70.
19. Annoyances - Annoyances shall include specifically, but not exclusively, the following:
- A. Noises, odors, vibrations or emissions of smoke, fumes, gas, soot, cinders, ash or otherwise which exceed the standards of the Minnesota Pollution Control Agency, or if no standards is then in effect which have an unreasonable and adverse effect.
 - B. Operation of artificial lighting facilities upon private property without an effective shade or equivalent devise to protect nearby residential premises from being adversely affected thereby.
 - C. Any offensive trade or business as defined by law and not otherwise licensed by the city.

20. Illegal activities - Illegal activities shall include specifically, but not exclusively, the following:

- A. Gambling devices, slot machines, and punch boards except as permitted by law.
- B. Betting, bookmaking and all apparatus used in such occupations except as permitted by law.
- C. Houses kept for the purpose of prostitution or promiscuous sexual conduct, gambling, houses of ill fame, and bawdy houses.
- D. 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.
- E. Vehicles used for the illegal transportation of intoxicating liquor, or for the promiscuous sexual conduct or any other illegal purpose.

21. Vehicle Violations - Vehicle violations shall include specifically, but not exclusively, the following:

- A. Unlicensed vehicles which are not stored inside a building.
- B. The parking of vehicles, on or in front of a residential lot, which exceeds double the number of persons residing on the premises and having a valid driver's license (except for short term parking (8 hours or less) and guest parking not to exceed 2 days).
- C. The parking of passenger vehicles and trucks, on or off street, in an inoperative state in residential districts for a period exceeding 7 days; inoperative shall mean incapable of movement under their own power and in need of repairs.

22. Any other act or omission declared by law to be a nuisance and for which no penalty is specifically provided.

90.18 VIOLATIONS

- I. No person shall, directly or indirectly or by omission, create a nuisance.
- 2. No responsible party shall allow a nuisance to remain upon or in any property, structure or vehicle under his control.
- 3. No owner of any truck, trailer, or railroad car, or other vehicle shall leave the vehicle standing on or along any street, highway, freeway, or railroad track, or other public or private property within City of Waverly carrying or containing any refuse, noxious substance, or hazardous waste, except as otherwise permitted by the Waverly City Code.

90.19 DISCLOSURE OF RESPONSIBLE PARTY

Upon the request of the enforcement officer, a responsible party or owner shall disclose the name of any other responsible party or owner known to him. This shall include specifically, but not exclusively, the persons for whom he is acting, from whom he is leasing the property, to whom he is leasing the property, with whom he shares joint ownership, or with whom he has any conveyancing contract.

90.20 INSPECTION OF UNOCCUPIED BUILDINGS

An owner or responsible party shall, upon the request of the enforcement officer, provide the officer with access to all interior portions of any unoccupied buildings in order to permit the officer to make a complete inspection.

90.21 ORDER TO CEASE

In the event that an enforcement officer observes a person creating a nuisance, the officer may, after presenting proper identification, order that the person cease creating a nuisance.

90.22 ENFORCEMENT OFFICER AUTHORIZED TO ENTER

The enforcement officer shall be authorized to enter any property or structure in the city for the purpose of enforcing and assuring compliance with the provisions of this Chapter.

90.23 AUTHORITY TO ABATE

1. The City is authorized to abate nuisances in accordance with the procedures set forth in Sections 16.10, 16.11, and 16.12. All abatement costs incurred shall be charged against the property as a special assessment to be collected in the manner provided for in the City Code, Chapter 47, except when a request is filed for a review of an emergency abatement the assessment hearing shall be replaced by the hearing provided for in Section 16.12.
2. Abatement may include specifically, but not exclusively, removing, cleaning, exterminating, cutting, mowing, grading, repairing, draining, securing, boarding, barricading, fencing, and demolishing.
3. Abatement costs shall include specifically, but not exclusively, the costs of the abatement; the cost of investigation, such as title searches, inspection, and testing; the cost of notification; filing costs; and administrative costs.

90.24 SERVICE

When service of an order or notice is required, any one or more of the following methods of service shall be adequate.

1. Personal service

2. Service by mail, unless it is a written order which gives three days or less for the completion of any act required by the order.
3. If the appropriate party or address cannot be determined after reasonable effort, by posting a copy of the order in a conspicuous place on the property.
4. If a mailed order or notice is returned by the United States Postal Service, a good faith effort shall be made to determine the correct address, unless the order or notice orders abatement and that abatement has been completed.

90.25 ABATEMENT PROCEDURE

Unless the nuisance is as described in Sections 16.11 or 16.12, or the City may abate the nuisance by the procedure described below.

1. Order - The enforcement officer shall serve a written order upon the owner and any responsible party known to the officer, The order may also be served upon any party known to have caused the nuisance. The order shall contain:
 - A. A description of the property sufficient for identification which shall include the legal description.
 - B. The location of the nuisance.
 - C. A description of the nuisance and the basis upon which it is declared to be a nuisance.
 - D. The remedial action required to abate the nuisance.
 - E. The abatement deadline, as determined by the enforcement officer allowing a reasonable time for the performance of any act required.
 - F. A statement that the order may be appealed and a hearing before the City Council obtained by filing a written request with the City Clerk before the appeal deadline which shall be the abatement deadline designated in the order or seven calendar days after the date of the order, whichever comes first.
 - G. A statement that unless the remedial action is taken before the abatement deadline or unless a request for a hearing is filed with the City Clerk within the time specified, the city may abate the nuisance and charge all costs incurred against the property as a special assessment to be collected in the same manner as taxes.
2. Setting hearing date - In the event that an appeal is filed with the City Clerk, the City Council shall within three weeks fix a date for a hearing.

3. Notice - The City Clerk shall mail a notice of the date, time, place, and subject of the hearing to the owner and known responsible parties.

4. Hearing - At the time of the hearing, the City council shall hear from the enforcement officer and any other persons who wish to be heard. After the hearing, the City Council shall adopt a resolution confirming or modifying the order of the enforcement officer. If the Council's resolution requires abatement, the Council shall fix a time within which the nuisance must be abated and provide that unless corrective action is taken or unless the Council's determination is appealed to the District Court within the time specified, the city may abate the nuisance. The City Clerk shall mail a copy of the resolution to the owner and known responsible parties.

5. Abatement - Unless the remedial action is taken or an appeal to the District Court filed within the time specified, the city may abate the nuisance.

90.26 SUBSTANTIAL ABATEMENT PROCEDURE

When the enforcement officer determines that a nuisance exists on a property, and the cost of abatement of the nuisance is estimated to exceed two thousand dollars, or the abatement involves demolition of a building other than a structure accessory to a residential building, or the abatement substantially diminishes the value of the property, and except in the case of an emergency as provided for in Section 90.27, the city may abate the nuisance by the procedure described below. A good faith estimate of the abatement costs, not the actual cost calculated after the abatement is completed, shall be the basis for determining which abatement procedure shall be used,

1. Order - The enforcement officer shall serve a written order upon the owner, all interested parties, and any responsible party known to the officer. The order shall contain the following:
 - A. A description of the property sufficient for identification which shall include the legal description.
 - B. The location of the nuisance.
 - C. A description of the nuisance and the basis upon which it is declared to be a nuisance
 - D. The remedial action required to abate the nuisance.
 - E. The abatement deadline, as determined by the enforcement officer allowing a reasonable time for the performance of any act required.
 - F. A statement that unless the remedial action is taken before the abatement deadline, the matter will be referred to the City Council which may order the city after a hearing to abate the nuisance and

charge all costs incurred against the property as a special assessment to be collected in the same manner as taxes.

2. Setting hearing date - Unless the remedial action is taken within the time specified in the written order, the enforcement officer may notify the City Council that substantial abatement is necessary and appropriate. Upon being notified by the enforcement officer, the City Council shall within three weeks fix a date for a hearing.

3. Notice - Written notice of the time, date, place and subject of the hearing shall be given as follows:

A. At least ten days prior to the hearing, the enforcement officer shall serve the notice upon the owner and interested parties by personal service. If, after reasonable effort personal service cannot be made, either of the following methods of notice shall be considered adequate:

(1) Confirmed mail service which is either certified mail with signed receipt returned or first class mail confirmed by written response.

(2) Mailing the notice to the last known address and publishing the notice once a week for two weeks in the official newspaper and posting the notice in a conspicuous place on the building or property.

B. At least ten days prior to the hearing, the enforcement officer shall mail a notice to any responsible party known to the enforcement officer.

4. Hearing - At the time of the hearing, the City Council shall hear from the enforcement officer and any other persons who wish to be heard. After the hearing, the City Council shall adopt a resolution confirming or modifying the order of the enforcement officer. If the Council's resolution requires abatement, the Council shall fix a time within which the nuisance must be abated and provide that unless corrective action is taken or unless the Council's determination is appealed to the District Court within the time specified, the city may abate the nuisance and charge all costs incurred against the property as a special assessment to be collected in the same manner as taxes. The enforcement officer shall mail copies of the resolution to any of the persons required to be notified in Subd. 3 for whom the enforcement officer has a current mailing address.

90.27 EMERGENCY ABATEMENT PROCEDURE

When the enforcement officer determines that a nuisance exists on a property and the nuisance constitutes an immediate danger or hazard which if not immediately abated will endanger the health or safety of the public and there does not exist sufficient time to follow the procedures of sections 90.25 or 90.26, the city may abate the nuisance by the procedure described below.

1. Order by mayor - the City may order emergency abatement by an administrative order signed by the mayor. A good faith effort shall be made to inform the owner of the action being taken.

2. Notice of the abatement - Following an emergency abatement and as soon as the costs incurred are known to the enforcement officer, he shall serve written notice upon the owner. The notice shall contain:

A. A description of the property sufficient for identification which shall include the legal description.

B. The location of the nuisance.

C. A description of the nuisance and the basis upon which it is declared to be a nuisance.

D. The remedial action taken by the City.

E. The reasons for immediate action.

F. The costs incurred in abating the nuisance,

G. A statement that unless the owner requests a hearing before the City Council to review the actions taken by the city by filing a written request with the City Clerk within 14 calendar days after the date of the notice, the city will charge all costs incurred against the property as a special assessment to be collected in the same manner as taxes.

3. Setting hearing date - In the event that a request for a review is filed with the City Clerk, the City Council shall within three weeks fix a date for a hearing.

4. Notice - At least ten days prior to the hearing, the City Clerk shall mail notice of the date, time, place and subject of the hearing to the owner.

5. Hearing - At the time of the hearing, the City Council shall hear from the enforcement officer and any other persons who wish to be heard. After the hearing the City Council may adopt a resolution levying a special assessment for all or portion of the costs incurred in abating the nuisance. The enforcement officer shall mail a copy of the resolution to the owner.

90.28 PENALTY

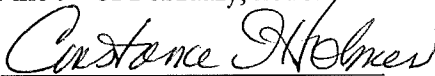
Any person who violates any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine and/or imprisonment as set forth in Minnesota Statute Section 609.03, as may be amended.

90.29 OTHER REMEDIES

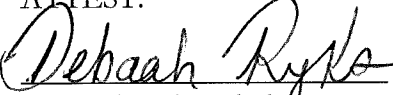
The City, in its sole discretion, may criminally prosecute any violations and/or seek abatement of the nuisance, as outlined herein. Nothing in this chapter shall be construed to limit the authority of the City under other provisions of the City Code.

Section 2. Effective Date: This ordinance will become effective upon passage and publication according to law.

Passed by the Waverly City Council on the 9th of February, 2016.


Constance Holmes, Mayor

ATTEST:


Deborah Ryks, Clerk