

Ordinance # 823

AN ORDINANCE PERTAINING TO NUISANCES AND NUISANCE ABATEMENT AND REPEALING ORDINANCE #727.

THE CITY COUNCIL OF THE CITY OF SPRAGUE DOES ORDAIN AS FOLLOWS:

Nuisances:

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Section 1: Purpose

The purpose of this Ordinance is to exercise police power in relation to public nuisances and the abatement of such nuisances, to protect the public health, safety and welfare, and to promote the economic development of the City. It is also the purpose of this Ordinance to prevent and prohibit those conditions which reduce the value of private property, interfere with the enjoyment of public and private property, create and constitute fire and other safety and health hazard, and generally create a menace to the health and welfare of the public and contribute to the degradation of the character of neighborhoods and depreciation of property values. It is necessary for the public health, safety and welfare to regulate, prevent and prohibit conditions which may constitute disorderly, disturbing, unsafe, unsanitary, fly-producing, rat harboring, and or disease-causing places, conditions, or objects. It is necessary for the public social and economic welfare to regulate, prevent, and prohibit conditions, which degrade the City's scenic attractiveness and livability and its economic development.

Section 2: Definitions

A. "Abate" means to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the Enforcement Officer, in his or their judgment, determines is necessary in the interest of the general health, safety and welfare of the community.

B. "Enforcement Officer" means the Nuisance Committee, Lincoln County Sheriff, Fire Chief or representative authorized by the City Council.

C. "Junk" includes the storage of all old appliances, equipment or parts thereof, all old iron or other scrap metal, cardboard, old lumber, old wood and mattresses, which items are not being used for their intended purpose, metal articles, broken stone or cement, and discarded building materials and does not include orderly stacked firewood.

D. "Litter" means and includes all waste material, including but not limited to disposable packages or containers thrown or deposited on public or private property.

E. "Refuse" means vegetable offal, animal offal, discarded food, cans, bottles, all other waste substances from private and public establishments, and from residences; but shall not include small amounts of weeds, twigs, grass or other material resulting from the normal tending of lawns and gardens.

F. "Premises" means any building, lot, parcel, real estate, land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

G. "Responsible Person" means the legal property owner.

H. "Weed, Vegetable Growth", and "Horticultural Growth " mean and include but are not limited to trees, plants, shrubs, bushes, flowers, garden vegetables and grasses and further include all of detriment prohibited by this ordinance.

Section 3: Designated Specifics

The following specifics acts, omissions, places, conditions and things are declared to be nuisances:

A. The erecting, maintaining, using, placing, depositing, leaving, or permitting to be or remain in or upon any street, avenue, alley, park, right-of-way, or any other public or private place, in the city of any one or more of the following disordered, disturbing, unsanitary, fly-producing, rat or mouse-harboring, disease-causing places, conditions, or things, to wit:

B. Any putrid, unsound, or unwholesome, bones, meat, hides, skins, or the whole or any part of any dead animal, fish or fowl.

C. Privies or cesspools.

D. Filthy, littered, or trash-covered, house yards, barnyards, stable yards, vacant areas in the rear of any store or business, vacant lots, houses, buildings or premises.

E. Animal manure in appreciable quantity.

- F. Poison oak or poison ivy whether growing or otherwise, liquid household waste, human excreta, garbage, or any waste vegetable (excluding compost piles) or animal matter in any appreciable quantity.
- G. Cans, bottles, glass, ashes, scrap metal, lumber, packing materials, bedding, mattresses, packing cases, crates, boxes, or anything whatsoever in which rats or mice may breed, or which may constitute a fire hazard, or which constitute a hazardous attraction to children.
- H. All places used or maintained as junkyards, or dumping grounds, or for the wrecking or dissembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn out, wrecked, or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof.
- I. Any unguarded or abandoned pit, excavation, well, swimming pool, or other uncovered hole into which a person could fall.
- J. Any noise caused by any harbored animal, or by the operation of any machine, or by operation of any device for the playing of music, or any other noise-producing device, between the hour of ten o'clock P.M. and seven o'clock A.M. to the annoyance of any person of normal sensibilities.
- K. Any refrigerator, freezer, or other insulated or non-insulated container in which a child could suffocate.
- L. Toxic, radioactive, caustic, flammable, explosive, or other dangerous or hazardous substances, except as housed where applicable and stored in accordance with health, environmental, refuse, zoning laws and ordinances.
- M. Maintaining or allowing, trees, plants, shrubs, or vegetation, or parts thereof, which overhang any sidewalk or street, or alley, or which are growing thereon in such a manner as to obstruct or impair the free and full use of the sidewalk, street, or alley by the public.
- N. Any questionable item, situation or action not specified within this Ordinance shall be addressed and determined whether to be a violation or non-violation by the Enforcement Officer.

Section 4: Liability for Abatement

The responsible person shall be liable for abating a nuisance and every successive owner of the property who neglects to abate a containing nuisance upon or in the use of such property caused by former owner is liable therefore in the same manner as the owner who created the nuisance.

Section 5: Nuisance Committee

- A. Appointed and or reappointed on the first regular City Council meeting of January by the Mayor or Acting Mayor.
- B. Committee to consist of at least three citizens at large. A council member may not serve on the committee.
- C. Committee will appoint a Chairperson.

- D. Committee will provide all necessary documentation to be filed with City Clerk's office.
- E. Committee will present a written report at the City Council Meeting that will be entered into the public record under committee reports.
- F. Any member of the committee that is unable to participate or misses three meetings within a three month period will be removed and a replacement will be appointed at the next regular City Council meeting.

Section 6: Abatement Resolution Proceedings

- A. Any person may initiate a nuisance complaint at any time.
- B. Complaint forms will be available at the City Clerk's Office during business hours.
- C. Complaint forms need not be signed and can be totally anonymous. If the complainant desires a follow up report, one may be requested on the complaint form.
- D. Once a complaint form is received by City Clerk, it will be dated and the Nuisance Committee will be notified within 24 business hours.
- E. Once notified, Committee must respond to complaint within five working days, investigate and document which part of the nuisance ordinance is being violated.
- F. If no nuisance is found, the complaint form will be marked as "No Violation Found" dated and filed with the City Clerk.
- G. Committee will provide written report at the next City Council Meeting to be entered in the record under Committee Reports.
- H. If committee determines the Ordinance has been violated, the City Clerk will be instructed by the City Council to send a Certified Letter to the legal property owner explaining which section/sub-section of the Nuisance Ordinance has been violated.
- I. The property owner will be given 15 calendar days to respond or resolve the violation.
- J. The property owner may request a hearing before the City Council within the 15 day period of the Certified Letter. The hearing will be scheduled at the next regular City Council meeting.
- K. If the property owner has not responded or resolved the violation, a \$250 fine, plus any associated court costs, will be assessed and filed with Lincoln County District Court. Property owner will be notified of fine by certified letter or served by Lincoln County Sheriff's office.
- L. When the violation is resolved, the Committee will file a report to include: Initial complaint form, copy of notice letter, and final deposition of complaint to be filed with the City Clerk.

Section 7: Abatement by City of Sprague

If the nuisance is not abated by removal or destruction by the property owner within the time stated in the resolution, the Enforcement Officer may abate the same and render a bill covering the costs of the City of such abatement, including all expenses and postage (certified mail) to the property owner. If the property owner fails or refuses to pay the bill within 20 days from the postmark, or if no bill is rendered because the property owner cannot be found, the Enforcement Officer in the name of the City may file a lien therefore against said property, which lien shall be certified to the Lincoln County Treasure for collection.

Section 8: Abatement Suit

If the property owner does not respond or resolve the nuisance, the City may abate the nuisance at the cost of the defendant, in which case the court shall inquire into an estimate as may be the sum necessary to defray the expense of the abatement, and assess and enter it as part of the judgment in the case, and shall be collected and enforced in the same manner that fines and costs are by law and enforced.

Section 9: Immediate Danger

Whenever any condition or use of the premises causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health or safety of the public or a significant portion thereof, and the responsible person(s) cannot be contacted or refuse(s) to immediately abate the condition, the Enforcement Officer shall have the authority to summarily and without notice abate the same. The expenses of such abatement may become a civil debt against the owner or the responsible person and shall be collectible in the same manner as any other civil owing to the City or as otherwise provided in this Ordinance.

Section 10: Disposition of Abatement Monies

All money collected for abatement purposes shall be credited by the City Clerk to the department for the division of the City which shall be actually employed in the abatement of the nuisance.

Section 11: Junk Vehicles

Refer to Ordinance #703 or any revisions.

Section 12: Penalty of Violation

Every person who shall violate any provision of this ordinance shall be guilty of a civil infraction and shall be fined as stated in Section 6 of this Ordinance, plus all legal fees and court costs, plus such sum as may be fixed for the abatement thereof. A separate offense May be deemed committed on each day during which a nuisance is not abated.

Section 13: Repealing Ordinance #727

Ordinance #727 is hereby repealed. Previously enacted ordinances or resolutions affected hereby are accordingly modified if in conflict with the provisions hereof.

Section 14: Severability

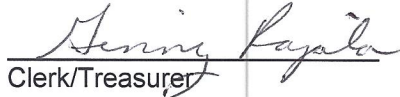
If any provision of this ordinance or of the codes referred to herein, or its application to any person or circumstances is held invalid, the remainder of this ordinance or the application of the provision to other persons or circumstances is not affected.

Section 15: Effective Date:

This ordinance shall become effective immediately upon its passage, approval and publication in summary form.

Passed by the City of Sprague Council this 5th day of December 2012.

ATTEST:


Clerk/Treasurer

APPROVED:


Mayor

APPROVED AS TO FORM:

City Attorney