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CHAPTER 674

Public Nuisances

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674.01. PURPOSES.

Consistent with the letter and spirit of the provisions of M.S.A. 5.2073(j) and (k) and M.C.L.A. 117.3, as amended, which authorize and direct home rule cities to enact ordinances and to provide for the public peace and health, and for the safety of persons and property, the purposes of this chapter are to prevent, reduce or eliminate nuisances, nuisance factors or causes of nuisance within the City, thereby providing for the public peace and health and for the safety of persons and property within said City; to provide for the enforcement of this chapter; to provide a means by which such nuisances, nuisance factors or causes of nuisance may be abated; and to provide penalties for the violation of this chapter.

674.02. DEFINITIONS.

All words and phrases used in this code shall be given their ordinary and common meaning unless defined herein, and all words and phrases, defined or not, shall be interpreted so as to further the purpose of eliminating or preventing the conditions set forth in Sections 674.03 and .04.

Unless the context clearly indicates otherwise, when words are used in this Chapter, the following rules of construction shall apply:

(1) The singular includes and shall apply to the plural, and the plural applies to and includes the singular.

(2) The masculine gender shall include the feminine and neuter, and the feminine and neuter shall include the masculine.

(3) Where the text uses the negative of a defined word, the negative of the definition shall be applied.

(4) The definition of a verb or a noun shall be used in an appropriate fashion where the adverbial or adjectival form of the word is used.

The following words and terms shall mean:

ABANDON shall mean the failure to continue the exercise of care, custody and control of property owned by a person, or that meets at two (2) or more of the following categories:

- A. Is open to entry;
- B. Is fire damaged to an extent which prohibits safe occupancy;
- C. Is the site of loitering or vagrancy;
- D. Has criminal activity on the premises;
- E. Demonstrates a lack of property maintenance and upkeep;
- F. Is under notice for being in violation of City ordinances;
- G. Is boarded for at least thirty (30) days;
- H. Has taxes in arrears for a period of time exceeding three hundred sixty-five (365) days;
- I. Is under condemnation notice or legal order to vacate;

- J. Is structurally unsound;
- K. Is a potential hazard or danger to persons.

ABANDONED VEHICLES means any vehicle or trailer left for more than 72 hours on any street, Highway, alleyway, right-of-way, municipal parking lot, or municipal easement that is unlicensed.

APPROVED means acceptable to the Code Official or other designee of the City Manager or other designee.

BUILDING means any structure upon a property, presently or formerly used or intended to be used in whole or in part for the purpose of commerce, trade, manufacture, business, government, worship, education, office, medical, storage or any other purpose.

CODE OFFICIAL OR OTHER DESIGNEE OF THE CITY MANAGER means the official who is charged with the administration and enforcement of this code, or any duly authorized representative. The Code Official or other designee of the City Manager may be the Chief of Police and/or the Building Inspector, the Zoning Administrator, or any duly authorized representative of the City Manager or Chief of Police.

CONDEMN means to adjudge unfit for occupancy or use.

COST OF ABATEMENT means the actual costs of the demolition or repair of the structure less revenue obtained if salvage was conducted prior to demolition or repair. Costs shall include, but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expended for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by a Code Official or other designee of the City Manager, or designee of the City Manager.

DANGEROUS means a menace to the health, safety, or well-being of the public.

DAY means a 24 hour period.

DETERIORATION means to weaken, disintegrate, corrode, rust or decay and lose effectiveness.

EASEMENT means that portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

EMERGENCY means a condition which is a violation of this code and which constitutes an imminent danger calling for immediate action in order to avoid death, injury or illness to a human or the destruction or severe damaging of real or personal property.

EXTERIOR means the open space on the premises and on adjoining property under the control of owners or operators of such premises.

GARBAGE means any spoiled or discarded animal or vegetable material resulting from the handling, preparation, cooking or consumption of food for humans or animals, as well as other organic waste material subject to rapid decomposition, including trash to which such material has adhered.

GRAFFITI means any mark or marks on any surface or structure made without prior permission of the property owner and made in any manner, including but not limited to, writing, inscribing, drawing, tagging, sketching, spray-painting, painting, etching, scratching, carving, engraving, scraping, or attaching. Chalk marks on sidewalks are not "graffiti."

HAZARDOUS means a condition which has been determined to be likely to result in the death, injury or illness of a human or result in severe damage to real or personal property.

IMMINENT DANGER means any condition which could cause serious or life-threatening injury or death at any time.

INFESTATION means the presence, within or contiguous to, a structure or premises of insects, rodents, vermin or other pests.

INOPERABLE MOTOR VEHICLE means any vehicle, camper or ORV which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

JUNK means an accumulation of garbage, scrap lumber, wood, plastic, metal, old furniture, mattresses, appliances, building materials, equipment, inoperable motor vehicles or vehicle parts that are unsightly and/or promote infestation, that are new, old or discarded articles that are considered useless or of little value.

MISCELLANEOUS DEBRIS means those things or conditions existing on property in the City which create hazards to the public and to children from a health or fire standpoint, including conditions which by their unsightly appearance can result in depressing the values of other property in the immediate area.

NEGLECT means the lack of proper maintenance for a building or structure.

NON-RESIDENTIAL BUILDING means any rental unit, commercial, industrial, or any property occupied by someone other than the owner.

NUISANCE means all property conditions that are prohibited by this code.

OCCUPANCY means the purpose for which a building or portion thereof is utilized or occupied.

OWNER means any person, agent, operator, firm, corporation or entity having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON means an individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.

PREMISES means a lot, plot or parcel of land, easement or public way, including any structures thereon.

PUBLIC WAY means any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

RECURRENT VIOLATION means any identical or substantially similar violation of this ordinance within one (1) calendar year of the last noticed violation.

RUBBISH means any combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

SALVAGE, JUNK or SCRAP VEHICLE means any vehicle, camper, ATV, ORV or trailer that is partially disassembled, missing doors, windows, wheels and/or tires and other parts.

STRUCTURE means that which is built or constructed or a portion thereof.

TRASH means waste materials and items which are not in good repair or are discarded and which are of little or no value, including, but not limited to plaster, paper, wrappings, plant cuttings, household furnishings, building materials, packing and clothing, appliances, equipment, machinery or parts thereof.

UNLICENSED VEHICLE means any vehicle, camper, ATV, ORV or trailer that does not maintain current license plate, tags, and/or registration as issued by the Michigan Secretary of State or other appropriate licensing agency or bureau.

VACANT means any residential building that has not been inhabited for more than 90 days.

WORKMANLIKE means executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

674.03. NUISANCE DEFINED AND PROHIBITED.

A public nuisance is whatever unreasonably annoys, injures, or endangers the safety, health comfort or repose of the public; violates any Negaunee City Ordinance; offends public decency, interferes with, obstructs or renders dangerous any street, highway, navigable waterway, lake or stream; or in any way renders the public insecure in life or property. Public nuisances shall include, but not be limited to, whatever is forbidden by any provision of this Chapter.

No person shall maintain or permit to be maintained any nuisance, nuisance factor or cause of nuisance upon any property in the City which is owned, leased, rented, occupied or otherwise under the control of such person.

674.04. SPECIFIC NUISANCES.

The following non-exhaustive list of uses, buildings, structures, premises and activities are hereby specifically deemed to be nuisances, nuisance factors or causes of nuisance and are hereby prohibited:

- A. Buildings, structures and premises:
 - 1. That present imminent danger or an emergency;
 - 2. That have been deemed dangerous, hazardous, unfit for occupancy, or condemned pursuant to the provisions by any local, state or federal code official;
 - 3. That are used for unlawful purposes or itself themselves unlawful or in violation of local, state, or federal law, in whole or in part;
 - 4. That are vacant or abandoned;
 - 5. That lack workmanlike construction, demonstrate significant exterior deterioration, neglect or graffiti, or that has an infestation and/or need pest elimination;

6. That infringe on any public way or public easement without permission; and/or

7. That cause excessive noise, odor, vibrations, light, air borne contaminants, pollution, smoke or other condition negatively affecting the general welfare of the City and its residents.

B. Any property or premises with noxious or poisonous weeds or an unmaintained lawn/grass in excess of eight (8) inches.

C. Any property or premises with dead trees, branches, shrubs, leaves or other organic matter that present a fire danger or other health or safety hazard.

D. Any storage or accumulation of trash, junk, garbage, rubbish or miscellaneous debris of any kind, without a landfill construction or operation permit, except for:

1. The storage or accumulation of domestic garbage, rubbish, junk or miscellaneous debris in such a manner as not to create a health or safety hazard; and

2. The maintenance for noncommercial purposes of a compost pile in such a manner as not to create a health or safety hazard.

E. The storage or accumulation of abandoned vehicle(s), salvage, junk or scrap vehicles, inoperable motor vehicles, and unlicensed vehicles.

F. Any other use, building, structure, premise and/or activity that substantially meets the definition of a nuisance as defined in Section 674.03 of this Chapter.

674.05. ADMINISTRATION, INSPECTIONS, ENFORCEMENT AND NOTICE.

A. Application. The provisions of this Chapter shall apply to all buildings, structures and properties located in the City of Negaunee.

B. Enforcement. The City may, but shall not be required to, bring a violation of the standards established in this Chapter to the attention of the property owner or other responsible person.

C. Inspections Authorized. The standards of this Chapter are to be enforced by inspections of buildings, structures, premises, property and uses by a Code Official(s) or other duly appointed or empowered individuals.

D. Notice. The Negaunee Police, Code Official, City Manager or other duly appointed representative shall serve a written notice of violation of any nuisance, which will include identification of the property, a statement of the violation and why the notice is being issued, an order of correction allowing time to abate the nuisance, and make the repairs and improvements, the right to appeal the violation, and a statement indicating that the City may abate the violation, charge such costs to the property owner, and/or file a lien against the property, and/or the City may take any other action

necessary to ensure the abatement of the nuisance and recoument of costs associated therewith. The notice shall be served by personal delivery to the owner, or sent first-class mail to the last known address of the owner.

674.06. TIME TO CORRECT; COSTS; CITY ACTION.

A. Time to Correct. Any Notice of Violation shall provide a specified time for achieving compliance in relation to the seriousness of the violation. If a Notice of Violation is issued, the following time limits shall be used:

1. Not more than twenty-four (24) hours for an emergency.
2. Not more than ten (10) days for correcting hazardous conditions.
3. Not more than thirty (30) days for all other violations, except as stated otherwise below.

4. The Code Official or other designee of the City Manager may approve an extension of time to correct a violation provided in a written notice when there are documented extenuating circumstances beyond the control of the responsible person and/or where the responsible person has made a substantial documented effort to correct violations.

B. Costs of Abatement. Costs of abatement of nuisance(s) are the sole responsibility of the property owner.

674.07. IMMEDIATE ACTION, EXPENSES, EMERGENCY ORDERS AND ABATEMENT OF EMERGENCIES.

A. Immediate Action. The City Manager may take immediate, reasonable measures to abate any nuisance, nuisance factor or cause of nuisance, without prior approval or order of Council, if, in the opinion of the City Manager, the public health or safety requires immediate action, or if the responsible person cannot be contacted or refuses or fails to correct an emergency condition within the time ordered.

In circumstances where the public health or safety does not require immediate action, the City Manager may take reasonable measures to abate any nuisance, nuisance factor or cause of nuisance after prior approval or order of Council.

B. Expenses. Any expense incurred by the City for the purpose of abating a nuisance, nuisance factor or cause of nuisance, pursuant to the provisions of this chapter, shall be:

1. Assessed as a lien upon the property involved;
2. Placed on the tax roll for the property;

3. Sought from the responsible through a special assessment on the property; and/or

4. Sought from the responsible party through a nuisance or other appropriate court action at law or equity in a court of competent jurisdiction.

C. **Emergency Orders.** If the Code Official or other designee of the City Manager, or designee of the City Manager determines that a condition exists or is likely to exist which is an emergency, the City shall immediately attempt to verbally inform the responsible person and all occupants of the building of the nature of the condition. The City shall immediately attempt to give verbal notice to the responsible person to correct the condition. Such an order shall be effective immediately. A written notice of the violation as called for by this Chapter shall also be prepared and mailed and/or personally served to the responsible person as soon as practicable. If notice is attempted to be served in good faith, but cannot be completed prior to having to take action necessary to abate an emergency condition, such notice shall be posted upon the subject property in a prominent location. Failure to comply with an emergency notice or order is a violation of this Chapter.

D. **Emergency Entry.** When an emergency is believed to exist within a property, building or accessory building subject to this Chapter, the City shall have the right to enter immediately and at any time thereafter, without a warrant or without requesting permission. Entry must be for the sole purpose of public safety and determining that an emergency exists or to abate an emergency condition known to exist.

647.08. CHANGE IN OWNERSHIP.

An owner or responsible person of a property who has received a notice regarding a violation of a provision of this Chapter shall notify the City by writing the Code Official or other designee of the City Manager within ten (10) days of transferring ownership of the cited property to another person or entity. The notice to the City shall include the name, address and telephone number of the new owner and the effective date of the transfer of ownership. The City shall issue a new Notice of Violation to any new person or entity assuming the ownership or the status of responsible person for any property which has been cited in a Notice of Violation. An owner or responsible person who has failed to comply with a Notice of Violation shall remain responsible for any violations cited in a Notice of Violation and shall not be relieved of the responsibility of having violated any provision of this code by transferring ownership or responsible person status.

674.09. REMOVAL OF POSTED SIGN OR NOTICES.

No person shall remove, damage, deface, interfere with, move or conceal any Notice or sign posted in accordance with the provision of this code without first obtaining permission of the City or having first abated the nuisance. A one-hundred dollar (\$100)

fine will be issued for each posted sign or notice improperly removed, damaged, defaced, interfered with, moved, or concealed without first complying with the requirements of this Section.

674.10. EXISTING REMEDIES.

The provisions in this Chapter shall not be construed to abolish or impair existing remedies of the City or its officers or agencies relating to the removal or demolition of any structure that is dangerous, unsafe or insanitary.

674.99. COURT ORDERS, PENALTIES, AND FINES AND FEES.

A. Violations Separate. Each violation of any provision of this Chapter may be charged as separate violation. Each violation shall be denominated as a separate count on the complaint or citation. Upon conviction in a court of law, the defendant shall be sentenced separately on each count.

B. Penalties and Sentencing. Upon conviction for violation of any provision of this Chapter, the Court shall sentence the defendant to pay a fine not less than fifty dollars (\$50), but not more than up to five hundred dollars (\$500.00). The Court shall, when justice so requires, from requiring a defendant to bring property subject to this code into compliance with the terms herein and to prevent further violations.

C. Fines and Fees. Fines shall reflect the seriousness of each offense as well as the history of the person convicted. Fines shall not be less than the following amounts for each separate offense:

1. At least one hundred fifty dollars (\$150.00) for each failure to comply with an emergency order or correct a hazardous condition.

2. At least fifty dollars (\$50.00) for each failure to comply with any other provision of this Chapter or any order or Notice issued in accordance with the provisions of this code.

D. Fines Doubled. In cases of recurrent violations, which shall be defined as any cited violation not remediated or cured within fifteen days (15) after the initial citation is issued, any applicable fine will be doubled up to \$500 maximum fine.

E. City Costs. Upon conviction for violation of any provision of this code, the Court shall order the defendant to reimburse the City for all of the costs of enforcement of this code attributable to the violations for which the defendant was convicted, including but not limited to the costs of inspection, prosecution, administration. If such condition is not imposed, the City may file a civil action against the defendant and may, upon proof of the defendant's conviction, recover all of the costs referred to above.

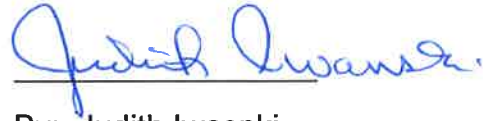
Whereupon, this Ordinance was declared passed and adopted this 14th day of November, 2019.

This Ordinance shall be published as required by law, and shall be effective on the 25th day of November, 2019.



By: David Kangas,

Its Mayor



By: Judith Iwasnki

Its Clerk