

Introduced by Council Member _____

Seconded by Council Member _____

ORDINANCE NO. 801

AN ORDINANCE OF THE CITY OF RED LAKE FALLS, MINNESOTA, AMENDING CHAPTER VIII ENTITLED “NUISANCES AND OFFENSES” BY REVISING THE PUBLIC NUISANCE REGULATIONS AND BY MODIFYING THE ENFORCEMENT AND ABATEMENT PROCEDURES

**THE CITY COUNCIL OF THE CITY OF RED LAKE FALLS, MINNESOTA, DOES ORDAIN,
AS FOLLOWS:**

CHAPTER VIII, PART 1, Section 801 of the City Code entitled “Nuisances” is repealed in its entirety and replaced with the following:

PART 1. NUISANCES

Section 801.01. FINDINGS AND INTENT

This chapter shall be construed to promote the health, safety, general welfare, and zoning and land use objectives of the city.

Section 801.02. PUBLIC NUISANCE PROHIBITION

A person must not act, or fail to act, in a manner that is or causes a public nuisance. For purpose of this ordinance, a person that does any of the following is guilty of maintaining a public nuisance:

- 1) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public; or
- 2) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- 3) Does any other act or omission declared by law or this ordinance to be a public nuisance.

Section 801.03. PUBLIC NUISANCES AFFECTING HEALTH

The following are hereby declared to be nuisances affecting health:

- 1) The exposed accumulation of decayed or unwholesome food or vegetable matter;
- 2) All diseased animals running at large;
- 3) All ponds or pools of stagnant water;
- 4) Carcasses of animals not buried or destroyed within twenty-four (24) hours after death;
- 5) Accumulation of manure, refuse, or other debris;
- 6) Privy vaults and garbage cans which are not rodent-free or fly-tight, or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- 7) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- 8) All noxious weeds and other rank growths of vegetation upon public or private property;

- 9) Dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities;
- 10) All public exposure of people having a contagious disease; and
- 11) Any offensive trade or business as defined by statute not operating under local license.

Section 801.04. PUBLIC NUISANCES AFFECTING MORALS AND DECENCY

The following are hereby declared to be nuisances affecting public morals and decency:

- 1) All gambling devices, slot machines, and punch boards, except otherwise authorized and permitted by federal, state, or local law;
- 2) Betting, bookmaking, and all apparatus used in those occupations;
- 3) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- 4) All places where intoxicating or 3.2 malt liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort, for the purpose of drinking intoxicating or 3.2 malt liquor, or where intoxicating or 3.2 malt liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place, and
- 5) Any vehicle used for the unlawful transportation of intoxicating or 3.2 malt liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

Section 801.05. PUBLIC NUISANCES AFFECTING PEACE AND SAFETY

The following are declared to be nuisances affecting public peace and safety:

- 1) All snow and ice that is not removed from public sidewalks within forty-eight (48) hours after the snow or other precipitation causing the condition has ceased to fall;
- 2) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
- 3) All wires and limbs or trees that are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- 4) Any person participating in any party or other gathering that causes the unreasonable disturbing of the peace, quiet, or repose of another person;
- 5) All unnecessary and annoying vibrations;
- 6) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds, except under conditions as are permitted by this ordinance or other applicable law;
- 7) Radio aerials or television antennae erected or maintained in a dangerous manner;
- 8) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk that causes large crowds or people to gather, obstructing traffic and the free use of the street or sidewalk;
- 9) All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated as to endanger public safety, or not constructed and maintained as provided by ordinance;
- 10) The allowing of rainwater, ice, or snow to fall from any building or structure upon any street or sidewalk or to follow across any sidewalk;
- 11) Any barbed wire fence located less than six (6) feet above the ground and within three (3) feet of a public sidewalk or way;
- 12) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- 13) Wastewater cast upon or permitted to flow upon streets or other public properties;

- 14) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other materials in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or other safety hazards from such accumulation;
- 15) Any well, hold, or similar excavation that is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- 16) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash, grass clippings or other materials;
- 17) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substances that may injure any person or animal or damage any pneumatic tire when passing over such substance;
- 18) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- 19) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one (1) footcandle when abutting any commercial or industrial parcel; and
- 20) All other conditions or things that are likely to cause injury to the person or property of another.

Section 801.06. **NOISE VIOLATIONS**

A. Prohibited noises.

The following are declared to be nuisances affecting public health, safety, peace, or welfare:

- 1) Any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person, or precludes their enjoyment of property, or affects their property's value (this general prohibition is not limited by any specific restrictions provided in this ordinance);
- 2) All obnoxious noises, motor vehicle or otherwise, in violation of Minn. R. Ch. 7030, as they may be amended from time to time, are hereby incorporated into this ordinance by reference;
- 3) The use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise;
- 4) The discharging of the exhaust or permitting the discharge of the exhaust of any statutory internal combustion engine, motor boat, motor vehicle, motorcycle, all-terrain vehicle (ATV), snowmobile, or any recreational device, except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;
- 5) Any loud or excessive noise in the loading, unloading, or unpacking of any vehicle; and
- 6) The use or operations, or permitting the use or operation, of any radio receiving set, television set, musical instrument, music device, paging system, machine, or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet, and comfort of any person nearby.

B. Hourly restriction of certain operations.

- 1) Domestic power equipment. No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power equipment, except between the hours of 7:00 a.m. and 9:00 p.m. on any day or holiday. Snow removal equipment is exempt from this provision.
- 2) Refuse hauling. No person shall collect or remove garbage or refuse in any residential district, except between the hours of 6:00 a.m. and 10:00 p.m. on any day or holiday.

- 3) Construction activities. No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment, except between the hours of 7:00 a.m. and 9:00 p.m. on any day or holiday.
- 4) Radios, music devices, paging systems, and the like. The operation of any device referred to in subdivision (A) (6) between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible as the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure ore building shall be prima facie evidence of a violation of this section.
- 5) Noise impact statements. The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation, alteration, or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. The Council shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning changes requested.

Section 801.07. **NUISANCE PARKING AND STORAGE**

A. Declaration of nuisance. The outside parking and storage on residentially zoned property of large numbers of vehicles and vehicles, materials, supplies, or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it: (1) obstructs views on streets and private property, (2) creates cluttered and otherwise unsightly areas, (3) prevents the full use of residential streets for residential parking, (4) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (5) decreases adjoining landowners’ and occupants’ use and enjoyment of their property and neighborhoods, and (6) otherwise adversely affects property values and neighborhood patterns.

B. Unlawful parking and storage.

- 1) A person must not place, store, or allow the placement or storage of ice fishing houses, skateboard ramps, playhouses, or other similar non-permanent structures outside continuously for longer than twenty-four (24) hours in the front yard area of residential property unless more than one hundred (100) feet back from the front property line.
- 2) A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in conjunction with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.
- 3) A person must not cause, undertake, permit, or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements:
 - (a) No more than four (4) vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. The maximum number does not include vehicles of occasional guests who do not reside on the property.
 - (b) Vehicles that are parked or stored outside in the yard areas must be on a paved or graveled parking surface with border or edging or driveway area.
 - (c) Vehicles, watercraft, and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away for school for periods of time but still claim the property as their legal residence will be considered residents on the property.

Section 801.08. **INOPERABLE MOTOR VEHICLES**

- A. Declaration of nuisance.** Any motor vehicle described in this section shall constitute a hazard to the health and welfare of the residents of the community as such vehicles can harbor noxious diseases, furnish a shelter and breeding ground for vermin, and present physical danger to the safety and well-being of children and citizens. Motor vehicles also contain various fluids which, if released into the environment, can and do cause significant health risks to the community.
- B. Inoperable motor vehicles.** It shall be unlawful to keep, park, store, or abandon any motor vehicle that is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operation within the state, pursuant to Minn. Stat. § 168B.011, subd. 3, as it may be amended from time to time. Collector vehicles apply to Minn. State. § 168.10.
- C. Screening.** This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road, or alley, and which does not foster complaint from a resident of the city. Privacy fencing is permissible.

Section 801.09. **ADMINISTRATIVE VIOLATIONS AND ABATEMENT PROCEDURE**

A. Definitions.

- 1) *Enforcement Officer* shall mean all persons designated as enforcement personnel or acting as inspectors for the city of any other city employee appointed by the City Administrator to enforce the provisions relating to public nuisances and other provisions set forth in Chapter VIII of the City Code.
- 2) *Last Known Address* shall mean the address shown on the records of the Red Lake County Property Information and Taxpayer Services or a more recent address known to the enforcement officer.
- 3) *Owner* shall mean the owner or owners of the property on the records of the Red Lake County Information and Taxpayer Services.
- 4) *Personal Service* shall mean by personally handing the item to the intended recipient or by leaving the same at the intended recipient's residence or place of business with a person of suitable age and discretion.
- 5) *Responsible Party* shall mean any owner of record of the property, occupying tenant or lien holder of record.
- 6) *Service by Mail* shall mean by depositing the item with the United States Postal Service addressed to the intended recipient at his or her last known address with first class postage prepaid thereon.

- B. Duties of Enforcement Office.** It is the duty of the enforcement officer to enforce the provisions relating to junk, public health and safety hazards, nuisances, and other unlawful conditions set forth in this chapter, including the power to inspect private premises and to issue administrative citations and notices and orders for abatement. The enforcement officer shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no enforcement officer will enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property, unless having first obtained a warrant or order from a court of competent jurisdiction authorizing entry.

- C. Service.** When service of an administrative citation, notice or order is required, any one of more of the following methods of service shall be adequate:
- 1) Personal service;
 - 2) Service by mail; or
 - 3) If the owner or responsible party cannot be determined after reasonable effort, by posting a copy of the administrative citation, notice or order in a conspicuous place on the property.
- D. Administrative Fine and Abatement Procedure.** Whenever, in the judgment of the enforcement officer, it is determined upon investigation that a public health and safety hazard, public nuisance, or other unlawful condition is being maintained or exists within the city, the following will apply:
- 1) *Administrative Fine.* Any person found in violation of any provision of this Chapter may be charged an administrative fine by the enforcement officer through the issuance and service of an administrative citation. The administrative citation shall include a statement that the administrative fine may be appealed and that a hearing before the City Administrator or designated hearing officer may be obtained by filing a written request with the City Clerk within ten (10) days of service of the administrative citation. It is the intent of the city to impose an administrative fine to defray costs associated with inspection and compliance services. The administrative fine must reflect the costs associated with inspection, notice and order, posting, and/or abatement of unlawful conditions set forth in this Chapter and shall be set and may, from time-to-time, be amended, by the Council by resolution.
 - 2) *Notice and Order for Abatement.* The enforcement officer will attempt to notify the owner and, if applicable, the responsible party immediately of the violation by serving a notice and order for abatement. The notice and order for abatement shall include: a description of the subject property sufficient for identification; the provision of the City Code violated; a description and location of the unlawful condition on the subject property and the remedial action required to abate the condition; an abatement deadline, which shall be determined by the enforcement officer and which shall allow for a reasonable amount of time for abatement; a statement that the person may appeal the violation and obtain a hearing before the City Administrator or a designated hearing officer by filing a written request with the City Administrator within ten (10) days of service of the notice and order for abatement; and a statement that, if remedial action is not taken nor a request for a hearing filed with the City Administrator within the time specified, the city will abate the unlawful condition and charge all costs incurred therein against the owner and/or responsible party and if the abatement charges are not reimbursed by the owner or responsible party, the abatement charges will be levied against the subject property as a special assessment to be collected in the same manner as property taxes.
 - 3) *Abatement.* If, after service of the notice and order for abatement, the person served fails to abate the unlawful condition or appeal the violation as provided herein, it may be abated under the direction of the enforcement officer. The charges for abatement include the actual costs of abatement. Abatement charges shall be the owner's and the responsible party's joint and several obligation. Failure by the owner or responsible party to reimburse the city for abatement charges shall be cause for the abatement charges to be levied against the subject property as a special assessment and collected as in the case of other special assessments. The City Administrator shall adopt a policy that comports with applicable law regarding the storage and disposal of property.

- 4) *Appeal and Hearing.* An owner or responsible party may appeal an administrative citation or order for abatement and obtain a hearing in accordance with this section. The hearing must be requested by submitting a written request to the City Clerk within ten (10) days of service of an administrative citation or order for abatement. The hearing shall be held on a date determined by the City Administrator or a hearing officer designated by the City Administrator but in no event shall the hearing be held more than ten (10) days after receipt of the written request for hearing. A notice shall be mailed to the person requesting the hearing stating the date, time, place and subject of the hearing. The hearing shall be conducted by the City Administrator or a designated hearing officer. At the hearing, the owner shall have an opportunity to present evidence and testimony before the hearing officer. The hearing officer may receive evidence and testimony from the enforcement officer and other parties who wish to be heard. After considering all the evidence, the hearing officer shall make an order as he or she deems proper.
- 5) *Immediate Abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.
- 6) *Criminal and Civil Enforcement.* Nothing in this section prevents the city from pursuing any other criminal or civil proceeding to enforce this Chapter.

Section 801.10. **RECOVERY OF COST**

- A. Personal liability.** The owner of the premises on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, 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 Administrator or other city official 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 Administrator.
- B. Assessment.** After notice and hearing as provided in Minn. Stat. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Administrator shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minn. Stat. § 429.101 against each separate lot or parcel to which the charges are attributable. The Council may then spread the charges against the property under that statute and any other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding ten (10), as the Council may determine in each case.

Section 801.11. **PENALTY**

Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for not more than ninety (90) days, or both, plus the costs of prosecution in either case.

Section 801.12. **SEVERABILITY**

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

Section 801.13. **EFFECTIVE DATE**

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat., § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

This Ordinance becomes effective on the date of its publication.

Voting in the negative: _____.

Voting in the affirmative: _____.

Passed this _____ day of _____, 2017.

Mayor

ATTEST:

City Administrator

Published in the Red Lake Falls *Gazette* on _____, 2017.