

ORDINANCE #500-008
AN ORDINANCE REGULATING NUISANCES

The City Council of the City of Hewitt does hereby ordain:

SECTION 1: Public Nuisances: Whoever, by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor, and, shall, upon conviction thereof, be subject to penalty as set for in Ordinance #100-004.:

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;
2. Interferes with, obstructs or renders dangerous for passage any public highway or right of way or waters used by the public;
3. Is guilty of any other act or omission declared by law or by any Chapters, Sections or Provisions of this Code to be a public nuisance and for which no sentence is specifically provided.

SECTION 2: Public Nuisances Affecting Health: The following are hereby declared to be nuisances affecting health:

1. Uncontained, 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 non-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 and soot, or cinders in unreasonable quantities; and
10. Any offensive trade or business as defined by statute not operating under local license.

SECTION 3: Public Nuisances Affecting Peace and Safety: The following are declared nuisances affecting peace and safety:

1. All snow and ice not removed from public sidewalks within twenty-four (24) 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 of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
4. All obnoxious noises in violation of Minnesota Rules Chapter 7030, as may be amended from time to time which are hereby incorporated by reference into this Code;
5. The discharging of exhaust or permitting the discharge of exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle, 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;
6. The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, 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. Operation of any device referred to above between the hours of 10:00 p.m. and 6:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of fifty (50) feet if the source is located outside a structure or building shall be prima facie evidence of violation of this Section;
 7. No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet or repose of another person;
 8. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under conditions as are permitted by this Code or other applicable law;
 9. Radio aerials or television antennae erected or maintained in a dangerous manner;
 10. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which cause large crowds of people to gather, obstructing traffic and/or the free use of the street or sidewalk;
 11. All hanging signs, awnings and other similar structures over streets and sidewalks so as to endanger public safety, or not constructed or maintained as provided by Ordinance;
 12. Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or right-of-way;
 13. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
 14. Waste water cast upon or permitted to flow upon streets or other public properties;
 15. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material 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 safety hazards from accumulation;
 16. Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;
 17. Obstruction to the free flow of water in a natural waterway or public street drain, gutter or ditch with trash or other materials;
 18. The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substances which may injure any person or animal or damage any pneumatic tire when passing over the substance;
 19. The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
 20. All other conditions or things which are likely to cause injury to the person or property of anyone.

SECTION 4: Public Nuisances Affecting Morals and Decency: The following are hereby declared to be nuisances affecting public moral and decency:

1. All gambling devices, slot machines, and punch boards, except as otherwise authorized by federal, state or local law;
2. Betting, bookmarking and all apparatus used in those occupations;
3. All houses kept for the purpose of prostitution, promiscuous sexual intercourse or sexual activity, gambling houses and houses of ill fame;
4. All places where intoxicating 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 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 that place;

5. Any vehicle used for the unlawful transportation of intoxicating liquor or promiscuous sexual activity or sexual intercourse, or any other illegal or immoral purpose.

SECTION 5: Noises Prohibited:

- 5.01 No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures or endangers the comfort, peace, repose, health, safety or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited to the specific restrictions of this Section, Chapter or Code.
- 5.02 No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling or other noise.
- 5.03 No person shall create loud or excessive noise in loading or unloading or unpacking any vehicle.
- 5.04 No person shall create any excessive noise on a street, alley or public grounds adjacent to any school, institution of learning, church or hospital when the noise unreasonably disturbs or disrupts or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.

SECTION 6: Restrictions on Certain Operations:

- 6.01 No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power maintenance equipment except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday, weekend day or holiday. Snow removal equipment is exempt from this provision.
- 6.02 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 weekday weekend day or holiday.
- 6.03 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 6:00 a.m. and 10:00 p.m. on any weekday, weekend day or holiday.

SECTION 7: Nuisance Parking and Storage:

- 7.01 The outside parking and storage of large numbers of vehicles and vehicle materials, supplies and/or equipment not customarily used for residential purposes in violation of the provisions and 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 public streets, alleyways and/or right-of-ways;
 4. decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood; and/or
 5. otherwise adversely affects property values
- 7.02 Unlawful parking and storage:
 1. A person must not place, store or allow the placement or storage of ice fish 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 property line.
 2. A person must not place or store or allow the placement or storage of pipe, lumber, forms, steel, machinery or similar materials, including all materials used in connection with a business, outside, on residential property, unless shielded from public view by a fence or similar structure as allowed by this Code.

3. A person must not cause, undertake, permit or allow the outside parking or storage of vehicles on residential property unless it complies with the following requirements:
 - a. no more than four vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the City.
 - b. vehicles, watercraft and other articles stored outside in the front yard area must be owned by the person who resides on that property. Students who are away at school for periods of time but still claim the property as his or her legal residence will be considered residents on the property.
- 7.03 Inoperable Motor Vehicles: It shall be unlawful to keep, park, store or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair parts for other vehicles, kept for scrap, dismantling or salvage of any kind, or which is not properly licensed for operation within the state, pursuant to Minnesota Statute 168B.011, Subdivision 3, as may be amended from time to time.
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 a complaint from a resident of the City.

SECTION 8: Building and Structure Maintenance:

- 8.01 Buildings, structures and fences that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be a public nuisance because they:
 1. are unsightly;
 2. decrease adjoining landowners' and occupants' enjoyment of their property and neighborhood; and
 3. adversely affect property values.
- 8.02 A building, structure or fence is a public nuisance if it does not comply with the following requirements;
 1. No part of any exterior surface shall have deterioration, holes, breaks, gaps, loose or rotting boards or timbers;
 2. Every exterior surface that has finish such as paint applied must be maintained to avoid noticeable deterioration of the finish
 3. No glass, including windows and exterior light fixtures may be broken or cracked.
 4. Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.
 5. Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.
 6. Chimneys, antennae, air vents and other similar projections must be structurally sound and in good repair and properly secured.
 7. Foundations must be structurally sound and in good repair.

SECTION 9: Weeds: This section shall be in addition to any state statute or county ordinance presently in effect, subsequently added, amended or repealed.

- 9.01 For the purposes of this Section, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

Destruction Order: The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the Ordinance violation.

Property Owner: The person occupying the property, the holder of the legal title or a person having control over the property of another, such as right-of-way, easement license or lease.

Weeds, grasses or rank vegetation: Includes but is not limited to:

alum (allium)

Buckthorn

Bur Cucumber
Canada Thistle
Corncockle
Crossleaf Groundsel
Curly Dock
Dodder
Field Bindweed
French Weed
Hairy Whitetop
Hedge Bindweed
Hoary Cress
Horsenettle
Johnsongrass
Leafy Spurge
Mile-a-Minute Weed
Musk Thistle
Oxeye Daisey
Perennial Sowthistle
Poison Hemlock
Purple Loosestrife
Quackgrass
Russian Knapweed
Russian Thistle
Serrated Tussock
Shatter Cane
Sorghum
Wild Carrot
Wild Garlic
Wild Mustard
Wild Onion
Wild Parsnip
Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated or otherwise maintained for two consecutive years
Any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants growing to a height of more than twelve inches.
Uncontrolled, uncultivated growth of annuals and perennial plants

The term weeds does not include shrubs, trees or cultivated plants or crops.

In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

9.02 All property owners shall be responsible for the removal, cutting, disposal and elimination of weeds, grasses and rank vegetation or other controlled plant growth on their property which at the time of notice is more than twelve inches in height.

9.03 Any person, including the City, who believes there is property located within the City which has growing plant matter in violation of this Section shall make written, signed and dated complaint to be filed with the City Clerk.

9.04 Upon receiving notice of such probable existence of weeds in violation of this Section, a person designated by the City Council shall make an inspection and prepare a written report to the City Council regarding the condition. Upon conclusion of the City Council that there is probable belief that this Section has been violated, the City Clerk shall forward written notification in the form of a "Destruction Order" to the property owner or the person occupying the property. The notice shall be mailed by certified mail, to the property owner or person occupying the property. Such notice shall provide that the designated violation shall be removed by the property owner or person occupying the property within fourteen (14) days of receipt of the notice.

9.05 The property owner may appeal by filing written notice of objections with the City Clerk

within forty-eight (48) hours of the notice, excluding weekend days and holidays, if the property owner objects to the findings and conclusions of the City Council. An appeal by the property owner shall be brought before the City Council and shall be decided by a majority vote of the Council Members. It shall be the responsibility of the property owner to demonstrate that the matter in question is shrubs, trees, cultivated plants or other plants allowable by this Section and should not be subject to destruction under this Section.

9.06 In the event that the property owner shall fail to comply with the "Destruction Order" within seven days, and has not filed notice of appeal or intent to appeal with the City Clerk, the City Council may employ the services of city employees and remove the weeds to conform with this Section by all lawful meanings.

9.07 The property owner shall be liable for all costs of removal, cutting, destruction and/or elimination associated with weed destruction.

SECTION 10: Open Burning:

10.01 Definitions: For the purposes of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Fire Chief, Fire Marshall, and Assistant Fire Marshall(s): The Fire Chief, Fire Marshall or Assistant Fire Marshall(s) of the Fire Department which provides fire protection services to the City.

Open Burning: The burning of any matter if the resultant combustion products are emitted directly into the atmosphere without passing through a stack, duct or chimney, except a "recreational fire" as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers and propane or natural gas devices are not defined as "open burning".

Recreational Fire: A fire set with approved starter fuel not more than three feet in height, contained within the border of a "recreational fire site" as defined herein, using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all time; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans and air quality so that nuisance, health or safety hazards will not be created. No more than one recreational fire is allowed on any one property at any one time.

Recreational Fire Site: An area of no more than a three foot diameter circle (measured from inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only; which is below ground, on the ground or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not included and are not a "recreational fire site" as defined herein. Recreational fire sites are not to be located closer than twenty-five (25) feet from any structure.

Starter Fuels: Dry, untreated, unpainted, kindling, branches, cardboard or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution must be used to start an open burn.

Wood: Dry, clean fuel only such as twigs, branches limbs, charcoal cord wood or untreated dimensional lumber. The term does not include wood that is green with leaves or needles, rotten, wet, oil soaked or treated with glue, paint or preservatives. Clean pallets may be used for recreational fires when cut into three foot lengths.

10.02 Prohibited Materials:

1. No person shall conduct, cause or permit open burning of oils, petro fuels, rubber, plastics, chemically treated materials or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood, composite shingles, tar paper, insulation, composition board, sheet rock, wiring, paint or paint fillers.
2. No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, open burning or solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated

from demolition of commercial or institutional structures.

3. No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.

10.03 Permit for open burning: No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that in which a permit is not required for any fire which is a recreational fire as defined herein.

10.04: Purposes allowed for open burning: open burning permits may be issued for the following reasons:

1. Elimination of fire or health hazard that can not be abated by other practical means;
2. Ground thawing for utility repair and construction;
3. Disposal of vegetation matter for managing forest, prairie, or wildlife habitat, and in the development and maintenance of land rights-of-way where chipping, composting landspreading or other alternative methods are not practical;
4. Disposal of diseased trees generated on-site, diseased or infected nursery stock, diseased bee hives; or
5. disposal or unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse or removal or other alternative disposal methods are not practical.

10.05 Fire training permits: Fire training permits can only be issued by the Minnesota Department of Natural Resources (MN DNR, DNR)

10.06 Permit application for open burning and permit fees: Open burning permits shall be obtained by making application on a form prescribed by the Department of Natural Resources and adopted by the fire department. A permit fee shall be paid to the issuing entity, if applicable.

10.07 Permit holder responsibility:

1. Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or his or her competent representative. The open burning site shall have available appropriate communication and fire suppression equipment as set out in the fire safety plan.
2. The open burn fire shall be completely extinguished before the permit holder or his or her competent representative leaves the site. No fire may be allowed to smolder with no person present. It is the responsibility of the permit holder to have a valid permit, as required by this Ordinance, present, on site, for inspection by any requesting authority.
3. The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees.

10.08 Revocation of open burning permit: The open burning permit is subject to revocation at the discretion of the DNR officer, the Fire Marshall, Fire Chief or Assistant Fire Marshall(s). Reason for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn or a fire smoldering with no flame present.

10.09 If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical alternative method for disposal of the material exists, or a pollution or nuisance condition would result, or is a burn event safety plan cannot be drafted to the satisfaction of the Fire Chief, Fire Marshall, and/or Assistant Fire Marshall(s), those officers may deny the application for the open burn permit.

10.10 Burning ban or Air Quality Alert: No recreational fire will be permitted when the City or the DNR has officially declared a burning ban due to potential hazardous fire conditions or when the Minnesota Pollution Control agency (MPCA) has declared an Air Quality Alert.

SECTION 11: Penalty: Each day a violation of this Ordinance is committed or permitted to continue shall constitute a separate violation. Any person violating any of the provisions of this chapter,

shall upon conviction thereof, be subject to penalty as set forth in #100-004.

Passed by at least a 4/5ths majority vote of the City Council of the City of Hewitt, County of Todd and State of Minnesota, on this 24th day of February, 2009.

By: Juanita Mitchell, Mayor

Attest: Miriam A. Collom, City Clerk/Treasurer