

ORDINANCE NO. 1369

AN ORDINANCE AMENDING CHAPTER 128 OF THE FRIDLEY CITY CODE PERTAINING TO ABATEMENT OF EXTERIOR NUISANCES

The City Council of the City of Fridley hereby finds, after review, examination and recommendation of staff, that the Fridley City Code be hereby amended as follows:

CHAPTER 128 ABATEMENT OF EXTERIOR PUBLIC NUISANCES

128.01. PURPOSE

The Council of the City of Fridley has determined that the health, safety, general welfare, good order and convenience of the public is threatened by certain exterior public nuisances on property within the City limits. It is declared to be the intention of the Council to abate such nuisances, and this Chapter is enacted for that purpose.

128.02. APPLICATION

This Chapter shall apply to the abatement of public nuisances as defined in Chapter 110 of City Code maintained exterior to the principal structure involving including, but not limited to solid waste, junk vehicles (as defined in Chapter 123), large commercial vehicles having a gross licensed weight over 12,000 pounds, which are in violation of the provisions of Chapter 506, and outside storage of materials and equipment including, but not limited to, disused machinery, household appliances and furnishings, tires, automotive parts, scrap metal, lumber, and all other materials and equipment stored in a yard or conditions that are in violation of the Zoning Code or deemed to create an exterior public nuisances as described in 128.04 Chapter 110.03, or a vision safety violation as defined in Chapter 205, or deemed to be a public nuisance by any other section of the City Code. (Ref. 1043)

~~128.03. HEARING EXAMINER~~

~~1. — Position Created.~~

~~The position of Hearing Examiner is hereby created. The City Manager may, at his discretion and with the approval of the Council, contract with third parties for the furnishing of all services of the Hearing Examiner as contained in this Chapter and set the rate of compensation therefor.~~

~~2. — Qualifications.~~

~~The hearing examiner shall be an individual trained in law; however, it shall not be required that the hearing examiner be currently licensed to practice law in the State of Minnesota.~~

~~3. — Duties.~~

The Hearing Examiner shall have the following duties:

~~A. Set dates and hear all contested cases following appeals of orders of the Code Enforcement Officer or other duly authorized agents.~~

~~B. Take testimony from all interested parties.~~

~~C. Make a complete record of all proceedings including findings of fact and conclusions of law.~~

~~D. Affirm, repeal or modify the order of the Code Enforcement Officer or other duly authorized agents.~~

128.034. INSPECTION AND INVESTIGATION

1. Periodic Inspection.

The Code Enforcement Officer or other duly authorized agents shall cause to be inspected all public and private properties within the City which might contain an exterior public nuisance as defined in this Code section as often as practicable to determine whether any such conditions exist. The Code Enforcement Officer or other duly authorized agents shall also investigate all reports of exterior public nuisances located within the City.

2. Right of Entry.

The Code Enforcement Officer or other duly authorized agents may enter upon all public and private properties for the purposes of conducting inspections for exterior public nuisances. If the property owner and/or occupant of any property refuses said inspector(s) right of entry for inspection, the City may seek an administrative search warrant or other order of the District Court for said purpose of entry and inspection.

128.045. ABATEMENT OF EXTERIOR PUBLIC NUISANCES

Upon a determination by the Code Enforcement Officer or other duly authorized agent that an exterior public nuisance exists on any public or private property within the City, said official shall order the exterior public nuisance to be abated in accordance with this Code section.

128.056 PROCEDURE FOR REMOVAL OF EXTERIOR PUBLIC NUISANCES

1. Notice.

Whenever the Code Enforcement Officer or other duly authorized agent finds with reasonable certainty that an exterior public nuisance exists on any public or private property in the City, said official shall notify the affected property owner by first class mail that the nuisance must be abated within a reasonable period of time, not less than twenty (20) days from the date of service of the notice. (Service by mail shall be deemed complete upon mailing.) The order shall set forth the following:

- A. The specific nature of the violations and requirements for compliance.
- B. That the property owner may, within ~~twenty (20)~~ ten (10) days of the date of the order, request a hearing before the ~~Hearing Examiner~~ Appeals Commission and ~~by what procedure such hearing may be requested.~~
- C. That failure to abate the nuisance or request a hearing within the applicable time period will result in summary abatement procedures, and ~~that~~ the cost of abatement, including City staff time, will be assessed against the subject property.

2. Hearing.

Any property owner who feels aggrieved by an order of the Code Enforcement Officer or other duly authorized agent issued pursuant to this chapter may request a hearing before the Appeals Commission. Such request shall be filed in writing with the office of the Community Development Director within ~~twenty (20)~~ ten (10) days after the date of service of the notice by the Code Enforcement Officer or other duly authorized agent. The Community Development Director shall notify the Appeals Commission and the property owner of the date, time, and place of the hearing. The Community Development Director shall notify the appealing property owner of the selected public hearing date not less than 10 days prior to the date of the hearing. The hearing shall be conducted no more than ~~sixty thirty (30/60)~~ days after the property owner's request, unless a later date is mutually agreed to by the property owner and the City. Both the property owner and representatives of the City may appear at the hearing with counsel and may call witnesses and present relevant and competent evidence. Within ten (10) days after such hearing, the Appeals Commission shall affirm, repeal or modify the order of the Code Enforcement Officer or other duly authorized agent. The Appeals Commission order shall be accompanied by written findings of fact, and may include a finding of fact as to the absence of value of the ~~refuse and/or junk~~ materials deemed to constitute an exterior public nuisance. Any person aggrieved by the decision of the Appeals Commission may appeal that decision to the City Council by filing notice of such appeal with the Community Development Director within twenty (20) days of receiving notice of the Appeals Commission's decision. At its next available regular meeting following the filing of a notice of appeal, the Council shall review the decision and findings of fact of the Appeals Commission and shall affirm, repeal or modify that decision. If the Council affirms the Appeals Commission's decision declaring that an exterior public nuisance exists, the City shall abate the exterior public nuisance after twenty (20) days following the Council's final determination, unless the property owner petitions for a court order to the contrary within said twenty (20) days. (Ref 1283)

3. Disposition of Property.

The City maintains the right to dispose of all property that it removes from public and private properties through abatement procedures as outlined in this Chapter. Disposal of property deemed to have value shall occur no less than thirty (30) days after the property is secured, but in any event shall not occur until the property owner is deemed to waive administrative appeals or exhausts all administrative appeals. ~~unless~~ The City shall not dispose of property if the property

owner obtains a court order to the contrary and/or pays all costs associated with the removal and storage of said property within said thirty (30) day time period. The City maintains the right to immediately dispose of refuse and/or junk materials deemed to be without value.

4. Assessment.

The Code Enforcement Officer or other duly authorized agent shall keep a record of the costs of abatements ~~done~~ completed under this Chapter and shall provide ~~regular~~ detailed reports to the Finance Director or other appropriate officer regarding all work performed for which assessments are to be made, stating and certifying the description of the land, lots or parcels involved and the amount assessable to each. The ~~amounts~~ costs to be assessed shall include up to an additional twenty-five percent (25%) to cover any administrative costs associated with the abatements. ~~On or before September 1 of each year, the~~ The City Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Chapter. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under other pertinent statutes, for certification to the County Auditor and collection the following year along with current taxes. Such assessment shall be payable in a single installment or by up to no more than ten (10) equal annual installments as the City Council may provide, pursuant to Minnesota Statutes, Section 429.101, Subdivision 2.

128.067. RELEASE OF PROPERTY

To reclaim those materials that have been removed in accordance with 128.056, the owner or lienholder must pay any costs and administration fees incurred by the City. The owner or lienholder reclaiming the materials shall sign a "Release of Property" form and shall agree not to return the items to any their original location in the City of Fridley that creates a new violation of city ordinances. If additional removal of the same or similar items is deemed necessary by the City, an abbreviated but reasonable notice period will be provided before the removal takes place. All other provisions of City ordinance 128, including the right to a hearing, will still apply. (Ref. Ord. 1069)

128.08. EFFECTIVE DATE _____

~~The effective date of this Chapter shall be January 1, 1994.~~

128.079. SEVERABILITY

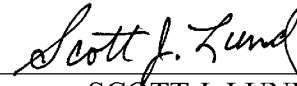
Every section, provision or part of this Chapter is declared separable from every other section, provision or part to the extent that if any section, provision or part of this Chapter shall be held to be invalid, such holding shall not invalidate any other section, provision or part thereof.

128.0810. NON-EXCLUSIVENESS

Nothing in this Code section shall be deemed a waiver or limitation of any statutory right and/or power of the City as to hazardous buildings, properties or materials, nor shall this Code section be deemed to otherwise limit the right and/or power of the City to conduct other administrative

and/or regulatory searches and inspections including, but not limited to, health inspections, fire scene and arson inspections and regulated business and industries inspections, nor shall this Code section be deemed to be an exclusive remedy of the City regarding the abatement of exterior public nuisances.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FRIDLEY THIS 24TH DAY OF JUNE, 2019.



SCOTT J. LUND, MAYOR

ATTEST:



DEBRA A. SKOGEN, CITY CLERK

Public Hearing: May 15, 2019 & May 28, 2019
First Reading: June 10, 2019
Second Reading: June 24, 2019
Published: July 5, 2019