

ORDINANCE NO. _____

**AN ORDINANCE DEALING WITH SUBSTANDARD BUILDINGS AND STRUCTURES
IN THE CITY OF CLINTON**

Findings.

1. There have been several complaints regarding the conditions of certain buildings and structures within the City of Clinton which constitute a nuisance to the public.
2. The existing Ordinance does not contain a provision which deals with these types of public nuisances.
3. The Clinton City Council believes that it is in the best interests of the residents of the City of Clinton to enact an ordinance prohibiting substandard buildings and structures within the City of Clinton.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CLINTON ORDAINS AS
FOLLOWS:**

1. That Clinton City Ordinance _____ is hereby enacted to read as follows:

“Section 1: Building Maintenance and Appearance.

- (A) *Declaration of nuisance.* Buildings, fences and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they (a) are unsightly, (b) decrease adjoining landowners and occupants’ enjoyment of their property and neighborhood, and/or (c) adversely affect property values and neighborhood patterns. Additionally, these buildings, fences, and other structures, because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment constitute a fire hazard or a hazard to public safety or health.
- (B) *Standards.* A building, fence or other structure is a public nuisance if it does not comply with the following requirements:
 - (1) No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.
 - (2) Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:
 - (a) Any one wall or other flat surface; or
 - (b) All door and window moldings, eaves, gutters, and similar projections on any one side or surface.
 - (3) No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.
 - (4) Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.
 - (5) Cornices, moldings, lintels, sills, bay or dormer windows and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.
 - (6) Roof surfaces must be tight and have no defects that admit water. All roof

- drainage systems must be secured and hung properly.
- (7) Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.
- (8) Foundations must be structurally sound and in good repair.
- (9) The property otherwise constitutes a fire hazard or a hazard to public safety or health because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment.

Section 2: Duties of City Officers. For purposes of this Ordinance, the Sheriff or person designated by the City Council may enforce the provisions relating to nuisances. Any peace officer or designated person 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 peace officer or designated person shall 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 the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.

Section 3: Abatement.

(A) *General provisions.*

- (1) When the existence of a violation of this Section comes to the attention of the City Council, law enforcement officer, or the person appointed as the Building Official by the City Council, the law enforcement officer or Building Official shall make an inspection of such nuisance.
- (2) Following such inspection the Building Official or law enforcement officer shall make an appropriate order for the elimination of the nuisance. The order shall be in writing; recite the grounds upon which the Building Official or law enforcement officer concluded it was a nuisance; specify the actions required to be taken to eliminate the hazard and provide a reasonable time for compliance with the order (which shall be no more than thirty (30) days from the date of the order).
- (3) Such order shall be mailed to the owner of the property on which the hazardous building is located by certified or registered mail at the owner's last known address on file with the City Clerk's Office or with the County Auditor's Office. If the premises are not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.
- (4) Following the expiration of the time specified in the order for compliance the Building Official or law enforcement officer shall re-inspect the property to determine whether the nuisance has been eliminated.
- (5) In the event it is determined by the Building Official or law enforcement officer that the order has not been complied with, the Building Official or law enforcement officer shall notify the mayor in writing and said writing shall also contain recommendations for the abatement of the nuisance.
- (6) No extensions shall be allowed, unless an appeal provided for in paragraph (C) herein is taken, which the Building Official or law enforcement officer shall communicate such information to the City Council in writing.

(B) *Failure to comply with order.* Should it be determined by the City Council or the Mayor,

- that the order of the Building Official or law enforcement officer has not been complied with, the City shall serve notice upon the owner and said notice shall state that a motion for summary enforcement of the order will be made to the District Court of the county in which the hazardous building or property is situated unless corrective action is taken or unless an answer is filed within then (10) days of the day of service. Summary enforcement may include demolition of any building or structure at issue, or the removal of items of personal property or vegetative material from the property at issue. Any expenses incurred by the City in acting pursuant to a Court Order shall be a lien upon such real estate at issue, if any. The City Clerk shall certify to the County Auditor of Big Stone County a statement of the amount of the cost incurred by the City. Such amount, together with interest, shall be entered as a special assessment against such lot or parcel of land and be collected in the same manner as real estate taxes. Additionally, the City may recover any expenses incurred in carrying out the abatement process pursuant to M.S.A. §463.22.
- (C) *Appeal by owner.* If an answer is filed and served as provided by paragraph (B), further proceedings in the action shall be governed by the Rules of Civil Procedure for the District Courts. The answer must be received prior to the service of the motion for summary enforcement, otherwise any future court hearings shall be conducted solely to determine whether the nuisance has been corrected, and no evidence shall be allowed contesting the initial determination by the City that an actual nuisance exists.
- (D) *Limitation on liability.* The City of Clinton, the Building Official, a law enforcement officer and/or any employee charged with the enforcement of this Ordinance, shall not be liable for any damage that may occur to persons or property as a result of any act required of the Building Official, a law enforcement officer, or any employee of the City of Clinton or by reason of any act or omission of the Building Official, law enforcement officer, or any such employee
- (E) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A), (B), and (C) of this section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the Building Official or law enforcement officer shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety, or welfare. The Building Official or law enforcement officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A), (B), and (C) of this section, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.
- (F) *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.

Section 4: Recovery of Cost.

- (A) *Personal liability.* The owner of premises on which a nuisance has been abated by the city or a person who has caused a public nuisance on a 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 Clerk or other 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 Clerk.
- (B) *Assessment.* After notice and hearing as provided in M.S. §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 Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S.A. §429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and 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, as the City Council may determine in each case.

Section 5: Penalty. Any person violating any provision of this Ordinance, or interfering with the Building Official, law enforcement officer, or any City employee in the performance of their duties under this Ordinance, shall be guilty of a misdemeanor in accordance with M.S.A. §609.03(3). Each day a person is in violation of this Ordinance shall constitute a separate violation of this Ordinance.”

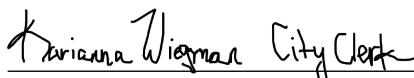
PASSED AND ADOPTED this 12th day of November, 2019.

CLINTON CITY COUNCIL



Greg Basta, Mayor

ATTEST:



Karianna Wiegman, City Clerk

Motion: LEE SIGLER

Seconded: BRUCE BENSON

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