

ORDINANCE NO. 1361

AN ORDINANCE AMENDING CHAPTER 6.5, HOUSING, ARTICLE II, RENTAL HOUSING, DIVISION 2, STANDARDS, SECTION 6.5-46, RESPONSIBILITIES OF OWNERS AND OCCUPANTS AND CHAPTER 12, SOLID WASTE, ARTICLE II, DISPOSAL OF GARBAGE AND RUBBISH

The City Council of the City of Willmar hereby ordains as follows:

Section 1. AMENDMENT OF MUNICIPAL CODE SECTION 6.5-46. Chapter 6.5, Article II, Division 2, Section 6.5-46 of the Willmar Municipal Code is hereby amended as follows (deleted material is crossed out; new material is underlined; sections and subsections not being amended are omitted):

**Sec. 6.5-46. - Responsibilities of owners and occupants.**

- (g) Every owner of rental housing shall supply facilities or refuse containers for the sanitary and safe storage and/or disposal of rubbish and garbage. The owner shall ensure that such facilities and containers are emptied and the contents thereof removed as often as they become full or the contents thereof cause a noxious odor or otherwise become offensive to the senses, but under no circumstances less frequently than once every week for any rental unit located in the Central Business Zoning District (CBD), any multiple dwelling located in any zoning district, or any premises containing a rental unit and a commercial or industrial use in any zoning district.

Section 2. AMENDMENT OF MUNICIPAL CODE Chapter 12, Article II. Chapter 12, Article II of the Willmar Municipal Code is hereby amended to read as follows (deleted material is crossed out; new material is underlined; sections and subsections not being amended are omitted):

**Sec. 12-26. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Dumpster* means a unit that is intended to be used primarily for the disposal of waste material, and that has a capacity larger than 100 gallons.

*Garbage* means: animal and vegetable waste materials and all other putrescible waste material, whether resulting from the handling, preparation, cooking, service and consumption of food or otherwise, excluding yard waste.

- ~~(1) The refuse animal or vegetable matter, or both, from kitchens, pantries and dining rooms of hotels, restaurants, boardinghouses, tenement houses, flats and dwelling houses;~~
- ~~(2) The animal refuse from slaughterhouses and butcher shops; and~~
- ~~(3) The refuse fruit and vegetable matter from stores and fruit houses.~~

*Rubbish* means paper, boxes, cartons, house sweepings, tin cans, bottles, junk, automobiles, machinery, metals, tires, inner tubes, and any other article or debris that creates an unsightly appearance.

Waste container means any container utilized for the storage of waste material, excluding dumpsters.

Waste material means garbage, rubbish and any other article or item that is generated from residential, commercial, industrial, agricultural or community activities and is discarded due to its worthlessness or offensiveness.

Yard waste means grass clippings, leaves or vegetable or garden matter which can be biologically decomposed resulting in an innocuous final product, but excludes brush, bushes, branches, trees, or similar large material.

#### **Sec. 12-27. - Waste storage and disposal in general.**

- (a) Every owner of property, together with every occupant of a residential dwelling and every manager or occupant of a multiple unit residential dwelling or commercial or industrial establishment, shall be responsible for ensuring that the waste generated at such property is stored and disposed of in compliance with the requirements of this Article.
- (b) It shall be illegal for any person to dispose of any waste material generated by that person or on property owned or occupied by such person on the property of another or into any waste storage facility owned and maintained by another without such other person's permission. It shall be illegal and constitute a theft of public services for any person to dispose of any waste material generated by that person or on property owned or occupied by such person into a public trash receptacle or other public waste storage facility except as expressly permitted by this Article.

#### **Sec. 12-2728 - Storage of garbage.**

- (a) All garbage accumulated on any property in the city shall be drained of liquids, bagged, and deposited, kept and stored, by

~~every householder or occupant of any dwelling house, boardinghouse, flat, apartment, store, restaurant, hotel, or any other place of business, in a waste container that meets the requirements of section 12-30. fly and water tight containers of sufficient size to receive all garbage which may accumulate between times of collection and disposal thereof. Each such container shall be provided with a bail or handles and a tight-fitting cover.~~ The container shall be kept at such place on the premises as to be convenient for the garbage collector, and not in close proximity to the buildings or premises of others. All garbage from commercial and industrial uses concerning food and/or produce products, including hotels, restaurants, grocery stores, butcher shops, food processing facilities and fruit houses shall be double bagged prior to being deposited into such a waste container.

- (b) No person shall deposit or permit to be deposited any garbage or garbage containers at any place nearer [to] the street or thoroughfare adjacent to the front lot line of any property than that portion of the dwelling or structure located nearest the street or thoroughfare, except as follows: Garbage or garbage containers may be placed on the boulevard or area adjacent to a public street after 8:00 p.m. on the day immediately preceding the day for scheduled garbage pickup at that location. Garbage containers and any garbage not removed by the garbage collector shall be removed from the area adjacent to the street before 8:00 p.m. on the day of the scheduled garbage pickup for that location.

**Sec. 12-2829. - Storage of rubbish.**

All rubbish shall be stored, deposited and kept in such a manner that the rubbish is not blown around or scattered by the wind, and at such a place that the rubbish will not be in close proximity to the buildings or property of others.

**Sec. 12-30. - Waste Containers.**

- (a) All waste containers utilized for the storage of garbage in the city shall be clean, rust-resistant, water-tight, non-absorbent and washable, and shall be equipped with a tight-fitting cover, which shall remain securely closed at all times when waste is not being deposited therein. Waste containers shall be of sufficient size to receive all garbage which may accumulate between times of collection and disposal thereof, subject to the requirements of paragraph (b) of this section.

- (b) Dumpsters may not be used or located in areas within the city's R-1 (One Family Residential) and R-2 (One and Two Family Residential) zoning districts, except as permitted in advance by the Planning and Development Services Department on a temporary basis not to exceed 14 days for construction debris when a building permit has been issued for the property, for general debris resulting from a large scale cleaning project, or following a transfer of possession of the property. In all other areas within the city dumpsters may be used provided they comply with the requirements of paragraph (a) of this section.

**Sec. 12-2931. - Frequency of removal Disposal of Waste.**

- (a) Garbage containers shall be emptied and the contents thereof removed as often as such receptacles become full or the contents thereof cause a noxious odor or otherwise become offensive to the senses, but under no circumstances less frequently than once each week for one family detached residential, multi-family residential, commercial or industrial uses, and at more frequent intervals if the city orders that it is necessary to protect the public health., in the case of, private residences and dwelling houses, at intervals of not more than two (2) weeks; and other uses in the case of boardinghouses, tenement houses and flats, at intervals of not more than one (1) week. In the case of commercial and industrial uses concerning food and/or produce products, including hotels, restaurants, grocery stores, butcher shops, food processing facilities and fruit houses, garbage shall be removed daily from April 1 in each year to November 1 in each year, while from November 1 in one year to April 1 of the following year garbage shall be removed as often as the garbage containers become full otherwise required herein. In the case of multiple unit commercial or industrial rental property, the property owner shall be responsible for arranging for the garbage removal service for the entire facility.
- (b) All rubbish shall be removed at such intervals of frequency as to prevent the rubbish from becoming rotten and cause a noxious odor or otherwise become offensive to the senses ~~offensive to smell.~~

**Sec. 12-3032. - Hauling.**

- (a) Except as otherwise provided herein, garbage shall be hauled and delivered only in the containers in which it is required in section 12-2728 to be deposited, kept and stored.

- (b) Rubbish shall be hauled and delivered only in such a manner that it is not blown around or scattered by the wind.

**Sec. 12-~~31~~33. - Disposal at county landfill.**

Any person may dispose of either garbage or rubbish by hauling and delivering it to the sanitary landfill facility provided by the county.

**Sec. 12-34. - Public Nuisance.**

The accumulation, storage or disposal of waste in violation of this Article is a public nuisance and may be abated by the procedure established in Sec. 9-3 independent of the administrative citation procedure established in Sec. 12-35, and the actual expenses incurred by the city in abating such violations may be assessed against the property upon which the violation occurred pursuant to Sec. 12-38.

**Sec. 12-35. - Administrative Enforcement.**

The intent of this Section is to gain compliance with this Article prior to any formal criminal or civil court action. The hearing process provided for in this Section shall be in addition to any other legal or equitable remedy available to the City for City Code violations, except that if a determination is made by the Community Development Committee pursuant to the hearing process detailed in Section 12-36 that a violation did not occur, the City may not then proceed with criminal prosecution for the same act or conduct.

- (a) Orders to correct; administrative citations. Upon the reasonable belief that a violation of this article has occurred, the City's Planning and Development Services Director or the Director's designee shall serve on the violator an order to correct the violation. The order to correct the violation shall require compliance within not less than three and not more than seven days. If compliance is not achieved within the time specified in the order to correct, or if the violation subject to the order occurs at a property that was found to have violated this Article at any time in the preceding three months, the official is authorized to issue an administrative citation stating the date, time, and nature of the offense, the name of the official issuing the citation, the amount of the scheduled civil fine, and the manner for paying the fine or appealing the citation by requesting an administrative conference. The citation shall be presented in person or by mail to the person responsible for the violation.

- (b) Civil fines. A person responsible violating this article may be subject to a civil fine in an amount not to exceed the amount of the maximum fine allowed if each ordinance violation had been prosecuted as a misdemeanor.
- (c) Payment of civil fine; request for administrative conference.
- (1) The person responsible for the violation must either pay the scheduled civil fine to the City Clerk's Office or request a conference with the Planning and Development Services Department Director within 20 calendar days after issuance of the administrative citation. This administrative conference will be with the Planning and Development Services Director and his or her designee who has reviewed the underlying facts of the violation, the history of prior violations, the impact of the violation on adjoining properties, and any information provided by the person responsible for the violation. Based upon those facts, the Planning and Development Services staff will determine if any settlement options may, consistent with the public health, welfare and safety, be offered to the person responsible for the violation as an alternative to the payment of the entire amount of the fine. This conference shall take place within 20 calendar days of the Department's receiving the request. If a settlement cannot be reached at the administrative conference, the person responsible for the violation may, at the conclusion of the conference, either pay the fine or appeal the same to the Community Development Committee pursuant to Section 12-36. A request for an administrative conference must be made to the Planning and Development Services Department by mail or telephone. Only the Planning and Development Services Director and his or her designee have authority to dismiss the citation and/or waive the scheduled civil fine during the administrative conference. Failure to pay the fine or request an administrative conference within 20 calendar days of the date of the citation shall be deemed an admission of the charges set forth therein.
- (2) The person responsible for the violation may not appeal a fine to the Community Development Committee pursuant to Sec. 12-36 without first having timely requested an administrative conference with the Planning and Development Services Department. Failure to attend the administrative conference as scheduled shall be deemed an admission of the charges set forth in the administrative citation.

(d) Fee for late payment of civil fine.

- (1) A late payment fee of 10% of the civil fine amount shall be imposed if the person responsible for the violation fails to pay the civil fine within 20 calendar days after issuance of the administrative citation or fails to timely request an administrative conference pursuant to this Article.
- (2) If a civil fine is not paid within the time specified and no request for an administrative conference is timely received, the nonpayment of the civil fine shall constitute a personal obligation of the violator that may be collected by any appropriate legal means.

**Sec. 12-36. - Appeals.**

- (a) Any person aggrieved by a decision of the Planning and Development Services Department pursuant to Sec. 12-35 may appeal such decision to the Community Development Committee of the City Council by submitting a written notice of appeal to the City Administrator within 14 days after the date the Planning and Development Services Department's decision was issued. Upon conclusion of an administrative conference under Sec. 12-35, the Planning and Development Services staff shall prepare a summary of the conference and shall state the decision reached. Such summary and statement shall become a part of public record.
- (b) The Community Development Committee, upon receipt of an appeal, shall set a time and place for a hearing and shall advise the applicant in writing by mail, postage prepaid to address of applicant, of such time and place, at least seven (7) days prior to the date of the hearing. At such a hearing the appellant shall be given an opportunity to be heard and to show cause why such notice or order should be modified, extended, or withdrawn.
- (c) The Community Development Committee shall hear any evidence provided by the appellant and Planning and Development Services Department staff, respectively, and shall issue a decision in writing to sustain, modify, or withdraw the order or citation. In modifying or withdrawing any order or citation, the committee shall consider whether the conduct or conditions documented by the Planning and Development Services Department staff constituted a violation of this Article and whether the Planning and Development Services Department staff complied with all procedural requirements of this Article.

**Sec. 12-37. - Judicial Review.**

An aggrieved party may obtain judicial review of the decision of the Community Development Committee by petitioning the Minnesota Court of Appeals for a writ of certiorari pursuant to Minn. Stat. § 606.01.

**Sec. 12-38 - Assessments of Civil Fines, Late Fees and Abatement Expenses.**

(a) *Charges Subject to Assessment.* Unpaid civil fines imposed for violations of this Article, together with late fees thereon, and any expenses incurred by the city in abating the violations, may be assessed against:

- (1) property which was the subject matter or related to the subject matter of the civil fines; or
- (2) property which was the location of an activity, proposed use, delivery of city service, or other circumstance which resulted in the civil fine.

(b) *Prior Voluntary Payment.* Prior to any assessment for unpaid fines, the City Clerk or the Clerk's designee shall seek voluntary payment of the fines by notifying the owner of the property in writing of the fine imposed.

(c) *Assessment Procedure.* On or before the first day of October of each year, the unpaid civil fine and late fees, including the administrative charge due under subdivision (d) of this Section, together with the actual expenses incurred by the city in abating the violation and interest thereon at the maximum lawful rate permitted under Minnesota Statutes, Chapter 429, to be charged against said lot or parcel of land, together with a description of the premises and the name of the supposed owner, shall be certified to the County Auditor and shall be collected in the same manner as taxes and/or special assessments against the premises. The charge shall be a perpetual lien on the premises until paid. Prior to the certification to the County Auditor, the owner shall be given written notice of the proposed assessment and have the right to a hearing before the City Council to determine the propriety of the charge(s) to be assessed.

(d) *Administrative Charge for Assessment.* An administrative charge of \$25.00 shall be due upon the mailing of the notice of the proposed assessment.

**Secs. ~~12-3239~~—12-45. - Reserved.**

Section 3. EFFECTIVE DATE. This ordinance shall be effective from and after its adoption and second publication.

This Ordinance introduced by Council Member: Fagerlie

This Ordinance introduced on: March 3, 2014

This Ordinance published on: March 8, 2014

This Ordinance given a hearing on: March 17, 2014

This Ordinance adopted on: March 17, 2014

This Ordinance published on: March 22, 2014