

May 3, 2018

A special meeting of the City of Bertram was held on the above date at 7:00 PM at City Hall. The purpose of this meeting was first readings of the revised Nuisance Ordinance and a Dangerous Buildings Ordinance. Mayor James Drahos was present and presided at the meeting. Council members present were Steve Carpenter, Dave Hunt (by phone), Robert Malone, Nancy McBurney, and William Mulholland.

Revised Nuisance Ordinance read by Mayor Drahos. Malone made motion to approve the first reading of the revised Nuisance Ordinance. MSB Mulholland. Roll call vote: Malone-Aye, Carpenter-Aye, McBurney-Aye, Hunt-Aye, Mulholland-Aye. First reading of **Nuisance Ordinance O-1-2018** passed. Malone made motion to suspend the three-consideration rule to waive the second and third readings of the Nuisance Ordinance. MSB McBurney. Roll call vote: Malone-Aye, Carpenter-Aye, McBurney-Aye, Hunt-Aye, Mulholland-Aye. Second and third readings waived. This is a summary of the changes from the previous version:

Paragraph I defines nuisance to mean whatever is injurious to health, indecent, or unreasonably offensive to the senses or an obstacle to the free use of property, so as essentially to unreasonably interfere with the comfort and enjoyment of life or property.

Par. II details various types of nuisances that includes, but it not limited to: offensive odors emitting from a property, blocking public passageways, homes of ill fame, signage that blocks views of public streets, storage of inflammable junk, emission of dense smoke, articles or substances that cause blockage of drainage, accumulations of rubbish.

Par. III makes reference to supplemental ordinances O-1-04 Junk & Junk Vehicles, and O-2-2018 Dangerous Buildings.

Par. IV states that creation or maintenance of a nuisance is prohibited.

Par. V state the Mayor, Council or other authorized municipal officer can serve a property declared a nuisance with a written notice to abate within a reasonable time.

Par. VI details what the notice to abate should contain.

Par. VII state the notice to abate may be in the form of an ordinance or sent by certified mail to the property owner.

Par. VIII allows for the recipient of an abatement notice to request a hearing with the Council to discuss whether a nuisance exists.

Par. IX allows for abatement in an emergency.

Par. X states if a person neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of expenses incurred which will be paid by the City.

Par. XI allows for the collection of costs to be invoiced to the property owner who failed to abate and, if the amount is not paid within 1 month, the Clerk shall certify the costs to the County Treasurer and such costs will then be collected with, and in the same manner, as general property taxes.

Par. XII allows for the property owner to negotiate installment payments for charges exceeding \$500.00.

Par. XIII states failure to abate results in violation of this ordinance.

Par. XIV MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of or in addition to the provisions set forth above, the requirements of this chapter may be enforced as a municipal infraction as set forth below.

1. MUNICIPAL INFRACTION. A violation of this chapter or any ordinance of code herein adopted by reference or the omission or failure to perform any act or duty required by the same, is a municipal infraction punishable by civil penalty as provided herein.
2. PENALTIES. A municipal infraction under this chapter is punishable by the following civil penalties:
 - a. First Offence: \$250.00
 - b. Second Offence: \$500.00
 - c. Third and Subsequent Offences: \$1,000.00

Each day that a violation occurs or is permitted to exist constitutes a separate offence. Any person violating this chapter may also be required to pay all costs and expenses involved in the prosecution of the violation.

3. CIVIL CITATIONS. The Mayor, City council person or any officer authorized by the City to enforce this chapter may issue a civil citation to a person who commits a municipal infraction. The citation may be served by personal service as provided in Iowa Rule of Civil Procedure 1.305, by certified mail addressed to the defendant at the defendant's last known mailing address or by publication in the manner as provided in Iowa Rule of Civil Procedure 1.311. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the Clerk of the District Court. The citation shall serve as a notification that a civil offence has been committed and shall contain the following information.

- a. The name and address of the defendant.
- b. The name and description of the infraction attested to by the officer issuing the citation.
- c. The location and date or time of the infraction.
- d. The amount of civil penalty to be assessed or the alternative relief sought, or both.
- e. The manner, location, and time in which the penalty may be paid.
- f. The time and place of court appearance.
- g. The penalty for failure to appear in court.

4. ALTERNATIVE RELIEF. Seeking a civil penalty as authorized in this chapter does not preclude the City from seeking alternative relief from the court in the same action. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief for any violation of this chapter. The City may, in addition to other remedies, institute an injunction, mandamus, or other appropriate lawful action necessary to prevent, correct, or abate such violation.

CRIMINAL PENALTIES. This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means.

Dangerous Buildings Ordinance read by Mayor Drahos. Malone made motion to approve the first reading of the Dangerous Buildings Ordinance. MSB Carpenter. Roll call vote: Malone-Aye, Carpenter-Aye, McBurney-Aye, Hunt-Aye, Mulholland-Aye. First reading of **Dangerous Buildings Ordinance O-2-2018** passed. Malone made motion to suspend the three-consideration rule to waive the second and third readings of the Dangerous Buildings Ordinance. MSB Mulholland. Roll call vote: Malone-Aye, Carpenter-Aye, McBurney-Aye, Hunt-Aye, Mulholland-Aye. Second and third readings waived. This is a summary of the ordinance:

Par. I identifies City Council, Mayor or other person(s) designated by Council as responsible for enforcement of this ordinance.

Par. II generally defines dangerous buildings as building/structures that are structurally unsafe or do not provide adequate egress, are fire hazards, or are otherwise unsafe to human life. Such structures are declared a public nuisance and shall be abated by repair, rehab, demo, or removal in accordance with this ordinance.

Par. III further defines unsafe buildings with inadequacies in structure, inadequate maintenance conditions, fire hazards, and abandoned properties.

Par. IV states that any building reported as dangerous or damaged shall be examined and, if found to be unsafe, written notice shall be given to the person in charge of the building or premises detailing the defects. Notice may require 48 hours for repair or demo to begin (or other such reasonable time) and 90 days for completion. If necessary, such notice shall also require the structure or portion of it be vacated until repairs are completed, inspected, and approved by the City Council. Subparagraph 1: Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice. Subparagraph 2: Hearing. Such notice shall also advise the owner that he or she may request a hearing before the City Council on the notice by filing a written request for hearing within the time provided in the notice.

Par. V states the City Council shall conduct a hearing as follows: The owner shall be served with written notice specifying the date, time and place of hearing; At the hearing, the owner may appear and show cause why the alleged unsafe building and/or nuisance shall not be abated; The council shall make and record findings of fact and may issue such order as it deems appropriate.

Par. VI states that signage shall be posted at each entrance of a dangerous building to read "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF BERTRAM, IOWA." This notice may not be removed until required repairs, demo or removal are complete without written permission of the City Council or Mayor, and no person shall enter the building except to complete necessary repairs.

Par. VII allows the City Council to order a person who fails, neglects, or refuses to comply with notice to repair, rehab, or demo as a violator of the provisions of this ordinance and may order completion of work by the City. All costs incurred will be paid by the City and charged to the owner of the premises and may be levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

Details copies of these ordinances may be obtained from City Hall, 50 Angle Street, the first Wednesday of every month from 6:30-7:00 pm or after the conclusion of the City Council meeting. Or you may contact the City Clerk at (319) 431-6956 or by email at berrylisa49@yahoo.com to request copies of these ordinances.

Mulholland made motion to adjourn. MSB Carpenter. None opposed, meeting adjourned at 8:00 PM.

Lisa Berry
Clerk