

CITY OF McVILLE

McVille, North Dakota

ORDINANCE #93

MINIMUM HOUSING, DILAPIDATED BUILDINGS, PUBLIC HEALTH & SAFETY ORDINANCE

An ordinance to amend and re-enact Ordinance # 93 relating to Miscellaneous Debris and Dilapidated Buildings in the City of McVille.

Be it ordained by the City Council and Mayor of the City of McVille, North Dakota:

Section 1. AMENDMENT

Ordinance #93 is hereby amended by incorporation of Ordinance #76, herebefore known as Minimum Housing Code for the City of McVille, North Dakota. This amended Ordinance #93 shall henceforth be known and cited as Minimum Housing, Dilapidated Buildings, Public Health and Safety Ordinance for the City of McVille, North Dakota.

Section 2: PURPOSE

The purpose of Ordinance #93, amended, is to prevent, reduce or eliminate the occurrence of dilapidated buildings and accumulation of miscellaneous debris which threaten the public health, safety and general welfare of persons throughout the City of McVille by limiting, restricting or prohibiting the storage of, placement of, or unreasonable accumulation of materials which are no longer safely or properly usable for the purpose for which they are intended and as they are defined below, in order to prevent:

- 2.1** injury or the threat of injury to residents or others throughout the City; and/or
- 2.2** the de-valuation of property values of owners of property and nearby owners of property throughout the City.

Section 3: REGULATION

No person shall store, place, park, or otherwise allow miscellaneous debris or dilapidated dangerous buildings on any property within the City of McVille.

Section 4: DEFINITIONS

- 4.1** The term “**person**” as used in this Ordinance shall mean and include one or

more persons of either gender, corporations, associations, clubs, partnerships or entities of any other kind.

- 4.2** The term “**miscellaneous debris**” is defined to mean materials of any kind which are no longer safely or properly useable for the purpose for which they are intended, or which are stored or allowed to remain in open, unsheltered space anywhere within the City in a manner which tends to create a hazard to the health, safety or welfare of the public. “**Miscellaneous debris**” shall include, but not be limited to: scrap metal, paper, wood, cans, bottles, wire, tires, glass, rags, appliances, furniture, building materials, concrete, plastics, machinery, and farming implements.
- 4.3** The term “**dilapidated dangerous building**” shall be defined as any building, structure, or portion of a structure which:
- 4.3.1** has been damaged by fire, wind or other natural occurrence or physical deterioration so as to have become dangerous to life, safety, morals or general health and welfare of the occupants or the people of the City;
 - 4.3.2** has been wrecked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to natural elements than is required in the case of similar new construction;
 - 4.3.3** is likely to fail, become detached or dislodged, or collapse and thereby injure persons or damage property;
 - 4.3.4** is a vacant dwelling, garage, or other outbuilding, unless such buildings are kept secure against unauthorized entry;
 - 4.3.5** is a partially completed structure, unless such structure is in the course of construction within one year and not more than two one-year extensions for completion and pursuant to a valid building permit;
 - 4.3.6** exclusive of the foundation, shows 33% or more of damage or deterioration of the supporting member or members, or 50% of damage or deterioration of non-supporting enclosing or outside walls or covering;
 - 4.3.7** has interior walls or other vertical structural members that lean, list or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base;
 - 4.3.8** has improperly distributed loads upon the floors or roofs in which the same are overloaded, or have insufficient strength to be reasonably safe for the use purpose;
 - 4.3.9** has light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein, or has inadequate facilities for egress in case of fire;
 - 4.3.10** has become, or is, so dilapidated, decayed, unsafe, unsanitary, or which so utterly fails to provide the amenities essential to decent living that

it is unfit for human habitation or are likely to cause or aggravate sickness or disease so as to work injury to the health, morals, safety or general welfare of those living therein;

- 4.3.11 has broken out windows, doors or any other opening that would provide a point of entry for vermin, small animals, birds, and unauthorized person(s) to enter the building/structure or areas therein;
- 4.3.12 is existing in violation of the building code, zoning ordinance, provisions of the fire prevention code or other ordinances of the City of McVile as may be heretofore referenced.

- 4.4 The term “**Board of Health**” as referenced throughout this Ordinance #93 shall mean the City Council of the City of McVile, in whole or in part, which serves by appointment of the Mayor as the Board of Health for the City.

Section 5: STANDARDS FOR REPAIR, VACATING, OR DEMOLITION

Any person who violates any of the provisions of this Ordinance #93 shall be subject to provisions for enforcement as hereafter defined and which shall be followed in substance by the City Council in ordering repair, vacation or demolition of dilapidated buildings:

- 5.1 If the dilapidated building can reasonably be repaired so that it will no longer exist in violation of the terms of this Ordinance, it shall be ordered repaired.
- 5.2 If the dilapidated building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated.
- 5.3 In any case where a dilapidated building is fifty percent (50%) damaged, decayed or deteriorated from its original value or structure, it shall be ordered demolished; in all cases where a building cannot be repaired so that it will no longer be in violation of the terms of this Ordinance #93, it shall be demolished.
- 5.4 In all cases where a dilapidated building is a fire hazard existing or erected in violation of the terms of this Ordinance #93 or any ordinance of the City of McVile or statute of the state of North Dakota, it shall be ordered demolished.

Section 6: NUISANCE

Any occurrence of dilapidated dangerous buildings or miscellaneous debris as hereinbefore defined within the exterior boundaries of the City of McVile shall be declared

a public nuisance and a public health and safety hazard which shall subject the property owner/violator to penalties and enforcement hereinafter described.

Section 7: PENALTY

- 7.1** The owner of any dilapidated dangerous building who shall fail to comply with any Notice or Order to repair, vacate or demolish said building given by any person authorized by this Ordinance #93 to give such notice or order shall be guilty of a misdemeanor, and upon conviction thereof shall be fined an amount not exceeding five hundred dollars (\$500.00) for each offense. Every day subsequent to such notice in which the said owner shall fail to comply with any Notice or Order shall be deemed a separate offense.
- 7.2** Any person removing the Notice provided for in this Ordinance #93 concerning dilapidated dangerous buildings shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding one hundred (\$100.00) dollars for each offense.
- 7.3** All Notices or Orders provided for herein shall be sent by registered mail to such owner, occupant, lessee or mortgagee and all other persons having interest in said building to the last known address for each, and a copy of such Notice or Order shall be posted in a conspicuous place on the dilapidated dangerous building to which it relates. Such mailing and posting shall be deemed adequate service.

Section 8: DUTIES OF BOARD OF HEALTH:

The Board of Health shall:

- 8.1** inspect, or cause to be inspected, any building or structure about which a complaint (or complaints) are filed by any person, fire or law enforcement officials of the City of McVille for the purpose of determining whether any conditions exist which render any such places a dilapidated dangerous building and as existing in violation within the terms of this Ordinance #93;
- 8.2** allow, following such inspection, for initial notice to the owner, or person(s) hereafter defined in sub-section 8.3 of this Ordinance, by personal contact or telephone call from the Mayor of the City of McVille, who shall, within twenty-four hours or less thereafter, report the results of such personal contact or telephone call to the Board of Health;

- 8.3 notify in writing the owner, occupant, lessee, mortgagee and all other persons having an interest in said building(s), as shown by records in the Office of Register of Deeds of the County of Nelson, that said building is found to be dilapidated/dangerous within the standards set forth in Section 5 of this Ordinance #93, provided that any person so notified:
- 8.3.1 shall be given such reasonable time, not exceeding sixty (60) days, as may be necessary to accomplish, or have accomplished, the work or act required by the notice provided for herein;
 - 8.3.2 may apply to the City Council for authorization of an extension not to exceed an additional thirty (30) days;
- 8.4 set forth in the notice as provided for in sub-section 8.3:
- 8.4.1 a description and location of the building or structure deemed “dilapidated and dangerous” ,
 - 8.4.2 a statement of particulars which make the building or structure a “dilapidated dangerous” building, and
 - 8.4.3 an order requiring the building or structure to be put in such condition as to comply with this Ordinance #93 within such length of time, not to exceed thirty (30) days, as is reasonable;
- 8.5 report to the City Council any non-compliance with the Notice provided for herein;
- 8.6 appear at all hearings conducted by the City Council and testify as to the condition of the dilapidated dangerous building(s) and/or structures that are the subject of such hearings;
- 8.7 place a notice on the dilapidated dangerous building that reads as follows:
“This building has been found to be a ‘dangerous’ building by the Building Inspector and/or City Health Officer. This Notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the Notice which has been given to the owner, occupant, lessee, mortgagee, and all other persons having an interest in this building as shown by the Register of Deeds of the County of Nelson. It is unlawful to remove this Notice until there is compliance with said Notice.”, and
- 8.8 report to the city attorney the names of any and all persons who are not in compliance with the Order as provided for in this Ordinance #93.

Section 9: ENFORCEMENT

- 9.1** This Ordinance #93 shall be enforced by the City Council of the City of McVille, North Dakota.
- 9.2** Any person found to have violated the provisions of this Ordinance shall be advised of such violation by written notice and such person shall be given thirty (30) days from receipt of the notice to remove or cure such violation. Notice shall be considered to have been validly effected by delivery of such written statement by first class mail to the owner or occupant of the property upon which the violation is stated to have occurred. Notice shall also be given in similar fashion to any party holding an interest in the property as may be reflected in the records of the Register of Deeds of the County of Nelson.

Said notice, in addition to advising the owner or occupant of the nature of the violation, shall state that the owner or occupant may make written request for hearing before the City Council by delivering such written request to the City Auditor within fifteen (15) days of receipt of the written notice of violation.

- 9.3** If any person who receives such notice of violation makes a written request for hearing and delivers such written request to the City Auditor within fifteen (15) days of the receipt of such notice, they shall be granted a hearing by the City Council to hear such appeal. At such hearing, the City Council shall consider the arguments presented by the person requesting the appeal in defense of the notice of violation. A majority of the City Council may affirm, modify, or reverse, in whole or in part, such notice of violation or issue a written order for action.

The City Council shall serve upon the owner, occupant, mortgagee, lessee, and all other persons having an interest in any such building heretofore ordered repaired, vacated, or demolished, a copy of its Order or such Notice to be served upon such owner, occupant, mortgagee, lessee within ten (10) days after the issuance of such order. Such owner, occupant, mortgagee or lessee shall thereafter have thirty (30) days from the date of service of such Order upon such person in which to appeal such Order to the District Court of Nelson County, North Dakota, or to take such other legal steps to enjoin the enforcement of such Order as the owner, occupant, mortgagee or lessee may deem proper.

- 9.4** Should said owner or occupant fail to comply with the provisions of this Ordinance and the provisions of the Notice of violation or within the time limit

therein or in such further timeframe as may be provided by the City Council through the issuance of its Order, it shall be the duty of the City Auditor and Mayor to cause all of the said miscellaneous debris, dilapidated dangerous buildings or any other causes set forth in this Ordinance #93 to be removed from said land.

The City Auditor and the Mayor shall keep an accurate account of the expenses incurred in so doing with respect to each parcel of land entered upon and shall make a sworn statement of said account and deliver same to the City Council. The City Auditor shall also, by first class mail, serve a copy thereof upon the owner and/or occupant of the premises.

- 9.5** Upon receipt of the account, the City Council shall audit said account and, if correct, all such account shall be paid from the General Fund of the City. The sworn statement shall give the date(s) when such miscellaneous debris and/or all other nuisances were removed, and the name and last known address of the owner, and description of the property(ies) involved and the cost of such labor.

When such accounts shall be audited, allowed, and paid as above provided, it shall be the duty of the City Auditor to certify them forthwith to the Nelson County Auditor. All expenditures represented by said accounts shall be levied on the lands in which the expenditures were made, and collected as an assessment in the same manner as other taxes and deposited into the General Fund.

In carrying out the above functions, the City Council may do so either through City personnel or by means of employing an independent contractor. Said Independent contractor shall not be an employee of the City, but shall be authorized by order of the City Council to remove the miscellaneous debris or other nuisances from the premises described in the Notice to the owner referred to above.

Section 10: IMMUNITY

No officer, agent, or employee of the City of McVile shall be rendered personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of the duties described hereabove. Any suit brought against any officer, agent or employee of the City of McVile as a result of any act required or permitted in the discharge of said person's duties under this Ordinance shall be defended by City Attorney until the final determination of the proceedings therein.

Section 11: SAVINGS CLAUSE

The provisions of this Ordinance #93 are hereby declared to be severable, and if any word, clause section or provision is declared void or unenforceable for any reason by any competent jurisdiction, it shall not affect any portion of the Ordinance other than said part or portion thereof.

Section 12: REPEALER

All ordinances or parts of ordinances in conflict herewith be and same are hereby repealed.

ATTEST:

APPROVED:

Rena Arneson
City Auditor

Paul Aaser
Mayor

First Reading: May 5, 2014
Publication Date: May 5, 2014
Final Reading & Passage: June 7, 2014