

MISCELLANEOUS DEBRIS AND  
DILAPIDATED BUILDINGS ORDINANCE

BE IT HEREBY ORDAINED:

Section 1:

NAME

This Ordinance shall be known and cited as the McVille Miscellaneous Debris and Dilapidated Buildings Ordinance.

Section 2:

PURPOSE

The purpose of this Ordinance to prevent, reduce, or eliminate the accumulation of miscellaneous debris or the occurrence of dilapidated buildings 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 intended and as they are defined below, or dilapidated buildings as they are defined below, in order to prevent injury or the threat of injury to residents or others throughout the City, or the de-valuation of property values of owners' of property and nearby owners of property throughout the City.

Section 3:

DEFINITIONS

A. The term "person" as used in the Ordinance shall mean and include one or more persons of either sex, corporations, associations, clubs, partnerships or entities of any other kind.

B. 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 were 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, machinery, furniture, building materials, concrete, plastics and farming implements.

C. The term "dilapidated building" shall be defined as follows:

a) any structure, or part of a structure which, because of fire, wind, other natural occurrence or physical deterioration is no longer habitable nor useful for any other purpose for which it may have been intended; or

b) whenever the building or structure, or any portion thereof 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; or

c) whenever the building or structure, or any portion or member or appurtenance thereof is likely to fail, or become detached or dislodged, or to collapse and thereby injure persons or damage property; or

d) any vacant dwelling, garage or other outbuilding, unless such buildings are kept secure against unauthorized entry; or

e) any 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.

Section 4:

#### REGULATIONS

No person shall store, place, park or otherwise allow "miscellaneous debris" or "dilapidated buildings" on any property within the City of McVile for a continuous period of 30 days or more.

When a building is removed, the land shall be restored to its preconstruction condition. More specifically no foundation shall be left or buried in the ground.

Section 5:

#### NUISANCE

Any parking, storage, placement of materials, or buildings upon properties within the exterior boundaries of the City of McVile in violation of the regulation and definitions as set forth above, is hereby declared to be a public nuisance which may be enjoined or which may subject the violator to penalties as described below.

## Section 6:

### ENFORCEMENT

Any person who violates any of the provisions of this Ordinance shall be subject to the following provisions for enforcement:

A. This Ordinance shall be enforced by the person or persons as designated by the McVille City Council.

B. Any person who is found to have violated the provisions of this Ordinance shall be advised of such violation by written notice and such person shall be given 30 days from receipt of 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 County Recorder, a mortgagee by way of example.

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 a written request for hearing before the City Council by delivering such written request to the City Auditor within 15 days of the receipt of the written Notice.

C. 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 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 so ordered repaired, vacated, or demolished, a copy of its Order or such Notice to be served upon such owner, occupant, mortgagee, or lessee within ten (10) days after the issuance of such an Order. Such owner, occupant, mortgagee or lessee shall thereafter have thirty (30) days from the date of the service of such Order upon such person in which to appeal from 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.

D. Should said owner or occupant fail to conform with the provisions of this ordinance and the provisions of the Notice 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, deteriorated buildings or any other causes set forth in this ordinance to be removed from said land.

The City Auditor and 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.

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 or dates when such miscellaneous debris and all other nuisances were removed, and name and last known address of the owner and description of the lands involved and the costs 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 County Auditor. All expenditures represented by said accounts shall be levied on the lands in which such expenditures were made and collected as an assessment in the same manner as other taxes and paid 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 debris or other nuisances from the premises described in the Notice to the owner referred to above.

Section 7:

#### PENALTY

A. The owner of any substandard building or structure who shall fail to comply with any Notice or Order to repair, vacate, or demolish said building given by any person authorized by this article 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 as above stated shall be deemed a separate offense

B. The occupant or lessee in possession who fails to comply with any Notice to vacate and/or who fails to repair said building in accordance with any Notice given as provided for in this article shall be guilty of 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 for failure to comply with any Notice or Order as above stated shall be deemed a separate offense.

Section 8:

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 of this article. 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 article shall be defended by the city attorney until the final determination of the proceedings therein.

Section 9:

SAVINGS CLAUSE

The provisions of the Ordinance are hereby declared to be severable and if any clause, word, 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 10:

REPEALER

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

ATTEST:

APPROVED:

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Renaë Arneson, City Auditor

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Cindy Bjornstad, Mayor

First Reading: February 3, 2003

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Final Reading and Passage: March 10, 2003