



CITY OF GRAND FORKS


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OFFICE OF CITY ATTORNEY

E-MEMORANDUM

TO: Mayor Michael R. Brown mbrown@grandforksgov.com
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CC: Maureen Storstad, Finance Dir. mstorstad@grandforksgov.com
Debbie Swanson, Public Health Dir. dswanson@grandforksgov.com
Javen Bedard, Public Health Dept. jbedard@grandforksgov.com

FROM: Howard D. Swanson, City Attorney  hswanson@swlawltd.com

RE: Public Hearing - 610 South 9th Street

DATE: July 12, 2019

I have attached proposed Findings and Conclusions for the City Council to consider following the public hearing which is scheduled to be held at the City Council meeting of July 15, 2019. I have prepared the draft document based upon previous action taken by the City Council and further based upon the information provided by the Public Health Department. This document, of course, is subject to modifications as may be necessary dependent upon the information presented at the public hearing.

Should you have any questions or concerns regarding this matter, please do not hesitate to contact me.

HDS/gkf

Attachment: Draft Findings and Conclusions

BEFORE THE CITY OF GRAND FORKS CITY COUNCIL,
GRAND FORKS, NORTH DAKOTA

_____)
In the Matter of the property located at:)
_____)
610 South 9th Street)
_____)

FINDINGS, CONCLUSIONS AND ORDER

The City of Grand Forks City Council met on the 15th day of July, 2019. A quorum was present. The City Council considered the matter of the property located at 610 South 9th Street and, after due consideration of the testimony and evidence presented to the City Council, hereby adopts the following Findings and Conclusions:

1. The City of Grand Forks, a North Dakota municipality, is a Home Rule city created pursuant to N.D.C.C. Chapter 40-05.1 and has jurisdiction to exercise its judgment, authority and discretion in the determination of the condition of the above referenced property.
2. That the City of Grand Forks has enacted Ordinances, including the provisions set forth in Grand Forks City Code Section 13-0702, 13-0703 and 10-0108 regarding nuisances and accumulation of junk.
3. That at all times the Grand Forks City Council and all employees, officers and agents have acted in good faith and with due diligence in carrying out its responsibilities under the provisions of the Grand Forks City Code and North Dakota law.
4. The above referenced property is located within the City of Grand Forks, County of Grand Forks, State of North Dakota and is a residence located at 610 South 9th Street.
5. The Grand Forks Public Health Department has received complaints from adjacent property owners regarding the condition of the above referenced property.
6. The City Council received testimony, reviewed inspection reports and viewed photographs regarding the condition of the above referenced property. The testimony, reports and photographs illustrate the condition of the property.
7. The property was inspected on or about June 25, 2019.

8. The outdoor area of the property described herein is adversely affected by the presence and accumulation of an extreme quantity of objects resulting in a harborage for vermin, origination of foul odors, an eyesore, and detraction of an expected quality of life in the neighborhood. There is an excessive accumulation of large quantities of personal property, junk, debris and objects covering the yard and causing impairment of the typical and intended use and activities; entrances and exits to the structure are obstructed by accumulation of personal property on steps leading to the entrances of the residence. The overall accumulation of objects, debris and junk on the property is unusually excessive and causes an unsanitary condition interfering with the health, safety and welfare of the resident of the property and the residents of neighboring properties. Further, the electrical service line to the home is inadequately secured and poses a hazard.

9. The excessive accumulation of objects, debris, junk and personal property creates a potential fire hazard, and a safety hazard for all emergency personnel attempting to enter the residence. Such conditions not only limit the occupant's means of escape during an emergency but also adversely impacts the ability of public safety personnel to get inside during times of emergency.

10. The excessive accumulation of these objects, items and personal property, as well as the inadequately secured electrical service line, increases the potential for fire and/or encourages rodent and insect infestation for the health, safety and welfare of the resident of the property, the residents of neighboring properties, and the residents of the City.

11. The continued existence of the conditions of the property described herein pose an immediate threat to the public health, safety and well-being of the resident of the premises, residents of adjoining property, and the public.

12. The condition of the property described herein has not been abated or remedied despite the property owner having received notice and being aware of the conditions.

13. That by action of the Grand Forks Health Officer, Dr. Joel Walz, on the 25th day of June, 2019, the property owner was ordered to abate the nuisance within ten (10) days of the date of service. The property owner has wholly failed, neglected or refused to undertake such abatement in violation of the Order.

14. That Notice of Determination of Nuisance, Order of Abatement and Notice of Public Hearing was served by mail upon Donald Masse, the owner of the property located at 610 South 9th Street. That all notices required by law have been provided.

15. That the condition of the property violates Section 10-0108 and 13-0703 of the Grand Forks City Code because of the storage or accumulation of trash, rubbish, junk, building materials and other items which tend to result in blighted and deteriorated neighborhoods, an increase in criminal activity, the spread of vermin and disease, and is contrary to public peace, health, safety and general welfare of the community, all as prohibited by Grand Forks City Code Section 10-0108 and 13-0703.

CONCLUSIONS

From the foregoing Findings, the Grand Forks City Council makes the following conclusions:

1. That the property described herein constitutes a nuisance because of the presence and accumulation of an extreme and unreasonable quantity of personal property, junk, debris, trash, rubbish, building materials, objects and other items posing a threat to the public health, safety and well being and creates unsanitary conditions interfering or potentially interfering with the health, safety and welfare of the residents of the property, residents of neighboring properties, and the residents of the City, among other adverse conditions set forth above.
2. The property described herein is an attractive location for rodents, vermin, insects and other public health threats.
3. That the electrical service line to the home located on the property is inadequately secured and poses a threat to the public health, safety and welfare.
4. The property described herein is a nuisance, source of filth and/or cause of sickness and is dangerous and detrimental to the life, safety, and general health and welfare to the resident, adjacent property owners and to the public in general.
5. The property is a site of storage and/or accumulation of trash, rubbish, junk, building materials and other items which tend to result in blight and deteriorated neighborhoods, an increase in criminal activity, the spread of vermin and disease, and is contrary to the public peace, health, safety and general welfare of the community as prohibited by Grand Forks City Code Section 13-0702, 13-0703 and/or 10-0108.
6. The conditions as described and determined herein are an immediate threat to public health, safety and welfare. As a result, it is in the public's best interest to abate these conditions and nuisance without further delay. Abatement is necessary to protect the public health, safety and welfare.
7. The conditions referenced and determined herein pose a serious and imminent danger and threat to the public health, safety and welfare warranting an expedited abatement process.
8. The Grand Forks City Council reaffirms that in order to protect the public health, safety and welfare it is necessary to exercise the authority granted to it by law and to enter onto the private property to abate the declared nuisance by the removal of junk, filth and debris, including the extreme accumulation of objects and personal property.
9. The Director of the Grand Forks Public Health Department and/or the Grand Forks Inspections Department are hereby authorized to undertake and exercise such authority and action as is reasonably necessary for the abatement of the threat to public health, safety and welfare as

described herein.

10. The Director of the Grand Forks Public Health Department and/or the Grand Forks Inspections Department is hereby authorized to proceed to enforce the provisions of the Findings and Conclusions set forth herein and any orders issued by the Public Health Officer.

Based upon the foregoing Findings and Conclusions, IT IS HEREBY ORDERED as follows:

ORDER

1. The outdoor areas of property located at 610 South 9th Street shall be, and hereby is, declared to be an imminent threat to public health, safety and welfare as a nuisance, source of filth and/or cause of sickness, and further being dangerous and detrimental to the life, safety, general health and welfare to its resident, adjacent property owners, and to the general public.

2. Such conditions shall be abated and removed within 30 days of the date thereof.

3. The Director of the Grand Forks Public Health Department and/or the Grand Forks Inspections Department is authorized to take such steps as may be reasonably necessary and/or appropriate to enforce the action of the Grand Forks City Council including but not limited to the removal and destruction of the nuisance, source of filth, junk, cause of sickness and threats to public health, safety and welfare.

4. The City Auditor is hereby directed and authorized to levy the costs of abatement against the property as a special assessment as provided by N.D.C.C. § 23-35-09 and/or Grand Forks City Code Section 10-0108.

The foregoing Findings, Conclusions and Order are hereby approved and unanimously adopted on this 15th day of July, 2019.

GRAND FORKS CITY COUNCIL

MICHAEL R. BROWN, Mayor

Attest:

MAUREEN STORSTAD, Dir. of Finance

NOTICE OF APPEAL RIGHTS

YOU ARE HEREBY NOTIFIED that you may appeal the order issued herein to District Court pursuant to North Dakota Century Code § 28-34-01 provided such notice of appeal is filed with the Clerk of District Court within thirty (30) days of the date hereof.