

TITLE VI – OFFENSES

CHAPTER 1

OFFENSE AGAINST PUBLIC WELFARE

Section 6.1.1 Intoxication

No person shall become drunk, intoxicated or under the influence of intoxicating liquor in any private house or public or private place to the annoyance of any person. No person shall be or remain in a state of intoxication, drunkenness or under the influence of intoxicating liquor in any public place.

Section 6.1.2 Disorderly Conduct

No person shall conduct himself in any unseemly manner or way or in any manner tending to degrade and unsuited to the promotion of the morals, health or comfort or the inhabitants of the City.

Section 6.1.3 Disturbing the Peace

No person shall disturb the peace of the City or of any person by violent, tumultuous or offensive conduct, or by loud or unusual noises or by profane, obscene, indecent, violent, or threatening language, or by assaulting, striking or attempting to assault or strike another person, or inviting or defying another person to fight or quarrel, or by willfully and maliciously destroying or attempting to destroy or injure any property belonging to another, or by engaging in a fight with another.

Section 6.1.4 Vagrancy

It shall be unlawful for any vagrant to be or remain within the limits of the City. A vagrant is an idle person, having no legitimate means of support, who does not seek or desire lawful employment, and who subsists through charity of others or by unlawful means. Whenever it shall, in a prosecution under this section, be shown that any person who is able to work:

- A. Wanders about in idleness or lives in idleness without property sufficient for his support; or
- B. Leads an idle, immoral or profligate life and does not work; or
- C. Loafs, loiters or idles in the City, upon a public highway, or about any public place without any regular employment and without sufficient property for his support; or
- D. Trades or barter stolen property; or
- E. Unlawfully sells or barter any spirituous, vineous malt or other intoxicating liquors; or
- F. Attends or operates any gambling device or apparatus; or

- G. Engages in practicing any trick or device to procure money or other things of value; or
- H. Engages in any unlawful calling; or
- I. If an able-bodied married man, neglects or refuses, without lawful excuse, to provide support for his family; or
- J. Beggars in any public place or from house to house, or induces children or others to do so; or
- K. Falsely represents himself as a collector of alms for a charitable institution of purpose, it shall constitute a prima facie presumption that such person is a vagrant as defined in this section.

Section 6.1.5 Indecency

No person shall appear in any public place in a state of nudity, in indecent dress or in dress intended to deceive others as to his or her sex, to make any indecent exposure of his or her person.

No person shall sell, distribute, give away, or exhibit to public view any indecent or lewd book or obscene magazine, post card, drawing or representation.

No person shall exhibit, show or perform any indecent, immoral or lewd show, act, play, motion picture or other representation in any theater or place of public resort.

Section 6.1.6 Insulting Individuals

No person shall make an impudent, insulting or licentious advance or salutation to any female person upon any street or in any public place.

Section 6.1.7 Profanity

No person shall use any profane, vulgar or obscene language upon any street or other public place.

Section 6.1.8 Obscene Written and Printed Matter

No person shall exhibit, publish, pass, sell or offer for sale, or have in his possession with such intent, any obscene, lewd, or lascivious books, pamphlets, papers, magazines, writings, advertising, films or other immoral, lewd, or indecent representations or publications.

All such obscene matter is declared to be a nuisance and any police officer is authorized to seize any such obscene matter found in the possession of any person arrested for a violation thereof, and upon conviction of a violation of this section, the court shall order as a part of the judgment in addition to the other penalties prescribed, that the officer having the custody of such obscene matter shall destroy the same.

Section 6.1.9 False Emergency Alarms Prohibited

No person shall knowingly make or give any false alarm of fire or other emergency, by calling or causing to be called the Fire Department, the Police Officers or any authorized emergency vehicle.

Section 6.1.10 Displaying License Unlawfully

No person shall carry or display any city license or permit which has been terminated or revoked or which has not been lawfully procured and issued.

Section 6.1.11 Discharge of Firearms or Air Rifles

It shall be unlawful for any person except a public officer or specifically appointed officer in the discharge of his duty, to discharge or fire any gun, air rifle, sling shot or other dangerous weapon within the limits of the City of Mount Vernon. CL 22.24-1.02 Class One Misdemeanor with a \$500 fine

TITLE VI – OFFENSES

CHAPTER 4

OFFENSES AS TO PUBLIC RIGHTS OF WAY OR PROPERTY

Section 6.4.1 Gathering on Streets Limited

No person shall call or cause the gatherings of any crowd of people or address or exhibit any show or performance to such crowd, in any alley, street, or other public ground of the city, without written permission of the City Council.

Section 6.4.2 Crowds Obstructing Streets

It shall be unlawful for persons to gather in crowds or groups or for any person to stand on any public street or sidewalk in such a manner as to obstruct free passage thereon, or to annoy other persons passing along the same, and any policeman is authorized to disperse any crowd or group or to cause the removal of any person violating the provisions of this section and to summarily arrest any person in case of refusal to obey any reasonable direction given by such officer for the purpose of clearing the way or preventing annoyance to any passerby on any public street or sidewalk. (CL 60-10-11, Class 2 Misdemeanor)

Section 6.4.3 Hindering or Molesting Passersby

No person shall upon any street or at the entrance of any building on any such street, alley or sidewalk, wrongfully hinder, impede or molest any passerby, or use any rude, obscene, vulgar, indecent or threatening language to any passerby, or by any indecent act, gesture, or noise molest, annoy, or insult or put in fear any person passing or attempting to pass on such street, alley or sidewalk or through the entrance to such building.

Section 6.4.4 Certain Advertising Methods Prohibited

No person shall put up, erect, hang, post or suffer to remain so placed, any sign, poster, notice or other advertising matter, upon any telephone, telegraph, or electric light pole in the city.

Section 6.4.5 Goods on Sidewalk

No person shall place any goods, or merchandise for sale or exhibition upon any sidewalk, except that for the purpose of loading or unloading, such articles may be placed upon the outer side of the sidewalk for such time as may be necessary to load or unload the same, but in no instance shall any such articles be left upon the sidewalk in the night time or in such a way as to obstruct the sidewalk.

Section 6.4.6 Injuring Signs

No person shall deface, remove, change, mar or in any way interfere with or obliterate either wholly or in part any sign, signboard, or card placed, posted, extended or erected by the City.

Section 6.4.7 Traffic Signs. Injuring or Placing Unauthorized Prohibited

No person shall deface, injure, move, obstruct or interfere with any official traffic sign or signal, or street sign, or parking meter. No person shall place, maintain, or display upon or in view of any street any unofficial sign, signal or device which purports to be or is an imitation of or resembles an official traffic sign or signal, or which attempts to direct the movement of traffic. Every such prohibited sign, signal, or device is hereby declared to be a public nuisance, and the Sheriff's Department and/or Chief of Police is hereby empowered to remove the same or cause the same to be removed without notice.

Section 6.4.8 Destroying Trees and Plants

No person shall willfully injure, destroy or deface any tree, shrub, plant or grass in any parking lot or park.

No person shall willfully injure or destroy any cultivated fruits or vegetables, ornamental trees, shrubs, hedges, vines or flowers, nor injure or carry off any of the products thereof which are the property of another.

Section 6.4.9 Interference with Electric Light Posts and Apparatus

No person shall interfere, break or jar any electric light, telephone, telegraph or fire alarm system, post or pole or apparatus in any manner, or climb any telegraph, telephone, electric light, or fire alarm pole without being properly authorized to do so.

Section 6.4.10 Unauthorized Connection with Gas, Water, or Electrical Pipe or Wire

No person shall, without lawful authority, connect or cause to be connected with any main service pipe, wire or other conductor of any gas, water or electrical energy, any pipe, wire or other device for the purpose of obtaining gas, water or electrical current therefrom; nor shall with intent to defraud, connect, or cause to be connected with any meter installed for the purpose of registering the amount of gas, water or electricity supplied to any customer, any pipe, wire, or other device or disconnect, change or in any manner so interfere with any such meter or any pipe, wire, or appliance connected therewith, that such meter will not measure or register the full amount of gas, water, or electricity supplied to any customer.

Section 6.4.11 Interference with City Engineer, Instruments, Stakes

No person shall interfere with the City Engineer, or engineer employed by the City, while engaged in his official duties in any manner or by driving any vehicle of any kind against the person, surveying instruments or apparatus of said Engineer or any of his assistants, or by moving or displacing any stake, monument, or benchmark fixed or located by him or his assistants.

Section 6.4.12 Interference with City Property

No person shall climb or in any manner interfere with any building, water tower, bridge, or structure belonging to the city, without being authorized so to do by the city; and no person shall in any manner injure or deface any such structure.

Section 6.4.13 Destroying Property

No person shall willfully damage, deface, break, destroy or interfere with the property of the city or of another person.

Section 6.4.14 Fences

No person, firm or corporation shall hereafter construct, erect, or maintain or cause to be constructed, erected, or maintained in the City of Mount Vernon, any fence of any character or material, exceeding seven feet in height, above the sidewalk or the surface of any lot or parcel of land, provided, that any such fence so constructed, erected, or maintained, shall not exceed five feet in height when the same is within forty feet of the street line; and provided further that no fence or any part thereof shall be constructed of barbed wire.

Section 6.4.15 Discarded Refrigerators

No person shall permit or allow a discarded refrigerator or one not in use, to remain in any place accessible to children, unless the latch or locking mechanism on the door or doors have been removed or locked or bolted so that it cannot be opened by use of the hands and any person who shall violate this section shall be punishable by a fine not to exceed \$50.00 or up to ten days in jail, or both such fine and imprisonment.

Section 6.4.16 Cisterns, Wells

No person, whether owner or person in possession, shall maintain or permit any cistern, well, or like excavation, accessible to children, to remain in an open or unprotected condition, and any violation shall be punishable by a fine not to exceed \$250.00 or up to ten days in jail, or both such fine and imprisonment.

Section 6.4.17 Penalties

Any person violating above mentioned will be fined \$250 per offense.

TITLE VI – OFFENSES
CHAPTER 5
MINORS

Section 6.5.1 Minors, Loitering Prohibited

It shall be unlawful for any minor person under the age of sixteen years to loiter idle, wander, stroll, or play, ride or be in any motor vehicle in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places, or to be or remain in any dance hall, restaurant, cafe, theater, or other public place between the hours of 11 p.m. and 5 a.m. of the following day, official city time. Provided, however, that the provisions of this section do not apply to a minor accompanied by his or her parents, guardian or other adult person having the care and custody or where the minor is upon an emergency errand or legitimate business, directed by his or her parent or guardian or other adult person having the care or custody of the minor; and provided further, that this section does not in any way apply to any minor after he or she shall have reached his or her seventeenth birthday.

Section 6.5.2 Minors, Responsibility of Parents

It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of sixteen to knowingly permit such minor to loiter, idle, wander, stroll or play, or ride or be in any motor vehicle upon the public streets, highways, road, alleys, playgrounds, or other public grounds, public places or public buildings, places of amusement, vacant lots, or other unsupervised places, or to be or remain in any dance hall, restaurant, cafe, theater, or other public place between the hours of 11 p.m. and 5 a.m. of the following day, official city time; provided, however, that the provisions of this section do not apply when the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor, or when the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor.

Section 6.5.3 Responsibility of Others

It shall be unlawful for any person, firm or corporation operating the places of amusement and entertainment, restaurants, cafes, theaters or other public places to permit minors to enter or remain in such places or amusement and entertainment, restaurant, cafe, theater, or other public places during the hours prohibited under this chapter, or owner or operator of any motor vehicle to permit or allow any minor to be in or ride in such motor vehicle during the hours prohibited by the chapter; provided, however, that the provisions of this section do not apply when the minor is accompanied by his or her parents, guardian, or other adult person having the care and custody of the minor.

Section 6.5.4 Penalties

Any minor violating the provisions of this chapter shall be taken into custody by the Chief of Police and/or Sheriff's Department for the first offense shall be immediately delivered into the custody of the parent, guardian, or other legal custodian of such minor; upon a subsequent violation, said minor shall be taken by such officer before the City State's Attorney and charged with the violation of this chapter; or may be brought before the County Court of Davison County and dealt with in accordance with the Juvenile Court Law and Procedure. Any parent, guardian or person having the care and custody of a minor or any other person violating the provisions of Sections 7.0702 and 7.0703 shall be fined in a sum not exceeding Two Hundred Fifty Dollars (\$250.00) or confined in jail not more than thirty (30) days or punished by both such fine and imprisonment for each offense.

TITLE VI – OFFENSES

CHAPTER 6

ALCOHOLIC BEVERAGES

Section 6.6.1 License Required

No person shall sell, offer for sale, keep for sale, exchange, distill, manufacture, produce, bottle, blend or otherwise concoct within the city or within one mile of its territorial limits, any alcoholic beverages as defined by statute without having a license therefore as required by Title 5 of the South Dakota Code of 1939 as amended or as authorized by such title as amended.

Section 6.6.2 Package with Broken Seal

It shall be unlawful for any person to have in his possession in a public place within the city any intoxicating liquor, except that contained in a sealed original package with United States Government and State of South Dakota stamp tax unbroken; provided, however, that this shall not apply to an "on-sale" dealer.

Section 6.6.3 Sale or Gift to Minors

No person shall sell or give any intoxicating liquor to any person under the age of twenty-one years; nor shall any person sell or give any non-alcoholic beer or wine to any person under the age of eighteen years.

Section 6.6.4 Consumption, Sale, or Service

It shall be unlawful for any person or business to consume, sell or service any alcoholic beverages upon any public street or sidewalk within the corporate limits of the City or in any vehicle upon any public street in the city.

TITLE VI – OFFENSES

CHAPTER 7

NUISANCES

PURPOSE: The purpose of this chapter is to protect the community from unsightly, hazardous or blighting conditions that contribute to the deterioration of neighborhoods, and to provide for the abatement of such conditions.

Section 6.7.1: DEFINITIONS:

Words and phrases used in this chapter shall be defined as follows:

AGRICULTURAL PURPOSES: The lawful use of land for the purpose of crop production or the raising of livestock.

ALLEY: A narrow highway intended chiefly to give access to the rear of buildings and parcels of land.

BOARD: The City Council will be the Board.

CITY: The City of Mount Vernon, a municipal corporation.

CONSTRUCTION MATERIAL: All construction and demolition material or supplies accumulated on premises while constructing, altering, repairing, or demolishing any building or structure and includes, but is not limited to, earth, vegetation, or rock during such construction, alteration or repair.

DANGEROUS TO HUMAN HEALTH: Whatever renders the ground, the water, the air or food a hazard or an injury to human health.

DOMESTIC WASTE: Includes:

- A. Refuse, debris, junk, or effluent belonging to, or associated with, a house or household;
- B. Accumulations of leaves, grass cuttings, or garden remains that are not kept in a compost container;
- C. Refrigerators, freezers, stoves or other appliances or any part of them, if the appliance is not being used for the purpose for which it was manufactured;
- D. Furnaces, furnace parts, pipes, unused metal, wire, fittings or tanks of any kind when not in use;
- E. Inoperative vehicles, vehicle parts or accessories;
- F. Old or decayed lumber, paper, ashes, glass, cardboard, plastics, sewage, or dilapidated furniture, clothing or fencing;
- G. Construction materials that are not being actively used in a construction project.

EXTERIOR PROPERTY AREA: The lot excluding any buildings or structure.

GRAFFITI: An inscription, symbol, or drawing by means of paint, chalk, ink or other substance, or by chisel, hammer or other device, that disfigures or defaces a property or object, but does not include a sign, public notice, or traffic control mark authorized by the city or by state or federal legislation.

HIGHWAY: Includes a street, avenue, alley, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for passage of persons and vehicles, and includes a sidewalk.

INDUSTRIAL WASTE: Includes:

- A. Refuse, debris, junk or effluent belonging to, associated with, or resulting from, any industry, trade or business;
- B. The following materials or things, if they are not being actively used by the industry, trade or business:
 - 1. Agricultural, animal or vegetable products.
 - 2. Mineral, metal, or chemical products.
 - 3. Inoperative vehicles, vehicle parts, appliances, mechanical equipment, mechanical parts, or accessories to any of them.
 - 4. Lumber or wood products, piping, tubing, conduit, cable, fittings or accessories to any of them.
 - 5. Containers of any size or type.
 - 6. Bones, feathers, hides, ashes or sewage.
 - 7. Construction materials that are not being actively used in a construction project.

INOPERATIVE VEHICLE: A vehicle located on private land having missing, damaged or deteriorated parts or in a rusted, wrecked or other condition that may prevent its mechanical function, including any vehicle that does not display a vehicle permit number plate with evidence of current validation of the permit affixed to it, issued by any state, tribal or national government; and not located within a structure erected in accordance with any law respecting the erection of structures enforced within the city and which vehicle does not form part of a business enterprise lawfully operated on that land.

OCCUPANT: Includes a person that is in possession of or residing on the premises, and includes:

- A. The agent of any such person; and
- B. A person controlling a property during construction.

OFFICER: Any employee or agent of the city whose duties include the enforcement of this chapter.

ORDER: An order issued pursuant to this chapter and includes a confirmation or amendment made to any order made following an appeal.

OWNER: Includes any person who:

- A. Is registered owner as shown on the records maintained by the register of deeds of Davison County;
- B. Is shown by the records of the director of equalization of Davison County;
- C. Has purchased or otherwise acquired the property and has not yet become the registered owner thereof;
- D. Is a trustee, an executor, an administrator, a personal representative, a guardian or a mortgagee in possession, or the person having the care and control of any land or building in case of the absence or disability of the person having title thereto.

PERSON: Includes a corporation, partnership, LLC, government body or other party, and the personal or other legal representative of a person.

PREMISES OR PROPERTY: Include:

- A. Buildings or structures, or part thereof;
- B. The land appurtenant thereto;
- C. All mobile homes, mobile buildings, mobile structures or outbuildings;
- D. Fences, scaffolding and similar erections; and
- E. Vacant land.

STRUCTURE: Anything erected or constructed, the use of which requires temporary or permanent location on, or support of, the soil, or attached to something having a permanent location on the ground or soil, but not including pavement, curbs, walks, or open air surfaced areas.

UNSIGHTLY: Property characterized by visual evidence of any one or more of the following:

- A. Accumulation of waste, unless the waste is contained within a closed waste receptacle, or a closed building or structure, such that the waste is not visible from another parcel or a public place;
- B. Fences characterized by holes, breaks, rot, crumbling, peeling or rusting;
- C. Landscaping that is dead, characterized by uncontrolled growth or lack of maintenance, or is damaged;
- D. A lowering in quality of the condition or appearance of a building or structure or parts thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or missing portions of a building or structure, or other evidence of physical decay or neglect or excessive use or lack of maintenance;
- E. The accumulation of graffiti;
- F. The infestation of vermin, insects or other pests;
- G. That is dangerous to human health; or
- H. Any other similar conditions of disrepair and deterioration regardless of the condition of the other properties in the neighborhood.

VEHICLE: Includes a motor vehicle, trailer, boat, motorized snow vehicle, farm tractor, self-propelled implement of husbandry, mechanical equipment and any vehicle drawn, propelled or driven by any kind of power, including muscular power.

WASTE: Includes:

- A. Domestic waste;
- B. Industrial waste; and
- C. Any other unused or unusable material that by reason of its state, condition or excessive accumulation:
 - 1. Appears to have been cast aside, discarded or abandoned;
 - 2. Appears to be worthless, useless or of no particular value; or
 - 3. Appears to be used up, expended or worn out, in whole or part.

YARD: The open space of a property between any building and the adjacent lot lines, not occupied by a building or structure, extending across the width of the lot and open from the ground to the sky.

NUISANCES GENERALLY:

Section 6.7.2 : UNSIGHTLY PROPERTY PROHIBITED:

- A. No owner or occupant of premises shall cause or allow the premises of which he or she is the owner or occupant to become unsightly.
- B. Exterior property areas shall be maintained in a neat, tidy, and safe condition, and, without restricting the generality of the foregoing, such maintenance shall include the removal of:
 - 1. Waste;
 - 2. Vermin, insects, and other pests and of conditions which may encourage infestation by pests;
 - 3. Dilapidated, collapsed, or unfinished buildings, structures or fences, which are currently not under construction;
 - 4. Accumulated graffiti; or
 - 5. Decayed, dead, or diseased trees, bushes or hedges.

Section 6.7.3 OUTDOOR FURNITURE RESTRICTIONS:

- A. No person shall keep, store, or maintain any upholstered furniture not manufactured for outdoor use, including, without limitation, upholstered chairs, upholstered couches, and mattresses, in any exterior property areas located adjacent to a highway.
- B. The following shall constitute specific defenses to any alleged violation of this section:
 - 1. Such furniture was placed in an outside location in order to allow it to be moved during a move of an occupant or removed as part of a waste removal or recycling program on a day scheduled for such moving or removal;
 - 2. Such furniture was located in an exterior property area in such a manner that it could not be seen from the ground level from another parcel or public place and that it was not visible to a person without taking extraordinary steps, such as climbing a ladder or peering over a screening fence, in order to achieve a point of vantage;
 - 3. Such furniture was temporarily placed in an outside location in order that it be offered for sale at a yard sale or garage sale provided each of the following conditions exist:
 - a. The furniture was located in an outside location only for a period of the yard sale or garage sale;
 - b. The person attempting to sell the furniture, or that person's agent, was outside during the period of the yard sale or garage sale in order to monitor the sale;
 - c. A sign was placed on or near the furniture indicating that it was for sale;
 - d. The furniture was located in an outside location for no longer than two (2) days in any one month period.

Section 6.7.4 COMPOST:

A compost pile is permitted on residential property, provided that the compost pile is not unsightly to neighbors and the discretion of the City Council.

Section 6.7.5 FIREWOOD:

- A. For the purposes of this section, unless apparent from the context, certain words and phrases used in this section shall be defined as follows: CORD OF WOOD: A unit of quantity for cut fuel wood, equal to one hundred twenty eight (128) cubic feet in a stack measuring four feet by four feet by eight feet (4' x 4' x 8'). FIREWOOD: Neatly stacked burnable wood cut into lengths of approximately one to two feet (2') that require no further cutting of the wood prior to placing it in a wood burner or fireplace.
- B. No person shall store firewood on residentially zoned property, except for use on the premises and in conformance with the following:
1. No more than three (3) cords of firewood shall be stored at any time, without the written approval of the fire department.
 2. The firewood must be cut and neatly stacked and may not be stacked closer than five feet (5') to any property line and not higher than six feet (6') from grade.
 - a. Exception: Firewood may be cut and neatly stacked on or near the lot line or against a fence, provided that it is no higher than the fence and that it is located a minimum of six feet (6') from any structure on adjacent property.
 3. All brush, debris and refuse from processing of firewood shall be promptly removed from the premises.

Section 6.7.6 GRAFFITI:

No owner or occupant shall place graffiti, or cause graffiti to be placed, or allow graffiti to remain on the exterior or exposed surface of any wall, fence, building, or structure located on property and adjacent to a highway or other public place.

Section 6.7.7 GRASS AND VEGETATION:

No owner or occupant shall allow or permit grass, weeds, shrubs, bushes, trees or vegetation to grow, or to grow and die, into a state such that it constitutes a fire hazard, a harborage for insects, vermin or pests, or to otherwise be a hazard to public health, safety or welfare.

Section 6.7.8 STAGNANT WATER:

- A. All bodies of water (except storm management ponds), excavations, ditches and other depressions on premises shall be kept free of stagnant water.
- B. Containers, tires or materials located on exterior property areas shall be kept in such a condition that water cannot accumulate and stagnate in or on the containers or materials.

Section 6.7.9 GARBAGE AND REFUSE:

Waste receptacles located on exterior property areas shall be provided with covers so that the materials within shall not be exposed to view or to rodents or other pests. Such receptacles shall be kept covered except when the containers are being filled or emptied. Garbage should be placed in bags within the receptacle and receptacle should be no greater than 35 gallons.

Section 6.7.10

EXCEPTIONS: -- Reserved for future use.

Section 6.7.11 CONSTRUCTION OF VISUAL BARRIERS:

Any condition upon property otherwise deemed a nuisance under the provisions of this chapter shall not be relieved or excused from being a nuisance for the reason that such nuisance condition is screened from public view by means of a fence, wall or other visual barrier.

Section 6.7.12 INSPECTIONS:

An officer shall have the right to enter upon the property of any person at reasonable times and in a reasonable manner for purposes of inspecting the property and declaring whether the property is unsightly or otherwise not in compliance with the provisions of this chapter.

- A. An officer making an inspection may, without limiting the generality of the foregoing:
 - 1. Make photographs or videotapes;
 - 2. Examine documents; and
 - 3. Require the productions of documents and property for the purposes of examination or making copies.
- B. When entering onto property pursuant to this chapter, the officer may:
 - 1. Enter with any equipment, machinery, apparatus, vehicle or materials that the officer considers necessary for the purpose of the entry;
 - 2. Take any person or thing that the officer considers necessary to assist in the inspection.
- C. Before entering onto any property, the officer shall notify the owner or occupant, if the owner or occupant is present at the time of the entry, of the purpose of the entry.
- D. While an officer/inspector is conducting an inspection pursuant to this section, no person shall:
 - 1. Fail to comply with any reasonable request of the officer;
 - 2. Knowingly make any false or misleading statement to the officer;
 - 3. Unless authorized by the officer, remove, alter, or interfere in any way with anything seized, detained, or removed by the officer; or
 - 4. Obstruct or interfere with the officer or a person assisting the officer.
- E. If, in the opinion of the officer, there is a violation of this chapter, the City Council may issue to the owner or occupant a written order which states that the property is in violation of this chapter.

Section 6.7.13: WRITTEN ORDER:

- A. Contents: An order issued shall:
 - 1. Specify the municipal address or legal description of the property;
 - 2. Give reasonable particulars of the activity or thing the owner or occupant is required to do, or is required to cease doing or change the way in which it is done, in order to remedy the violation;
 - 3. State the time within which the violation is to be remedied, except that in such cases where the officer determines that the nuisance constitutes a health or safety hazard, the notice may require abatement of the nuisance to be immediate;
 - 4. State that it is an offense to fail to comply with the order;
 - 5. State that if compliance with the order is not affected as specified, the city may take the actions or measures specified to remedy the violation at the expense of the owner or

- occupant, and if such person does not pay the costs, the costs shall be charged against the property concerned as a debt due to the city and recovered as taxes or assessments due and owing in respect to that property;
6. State that if the city remedies the violation, any material being removed to effect compliance with the order can be destroyed or, if in the opinion of the officer, it has sufficient commercial value, sold and the proceeds used to offset the costs of the removal and sale, and
 7. State that an appeal lies from the issuance of the order if an appeal is lodged in writing within fourteen (14) days.
- B. Construction of Fence: An order under this section may, without limiting the generality of the foregoing, direct that the owner construct a fence, wall, screen or similar structure to prevent unsightly premises from being viewed from any highway or other public place.
- C. Service Of Order:
1. An order issued pursuant to this chapter must be served on the owner or occupant of the property.
 2. Service may be affected by the order being:
 - a. Delivered personally to the person who is intended to be served,
 - b. Left with a person apparently over the age of eighteen (18) years at the dwelling place or place of business of the person who is intended to be served, or
 - c. Sent by registered or certified mail to the last known address of the person who is intended to be served as shown on the assessment roles.
 3. If an order is served by mail, the service shall be deemed to have been made on the fifth day after the day of mailing of the order.
 4. If, in the opinion of the officer, service under subsection C2 of this section cannot reasonably be effected, the officer may place the order on the front door of the property or in a receptacle for messages, if any, on the property described in the order, or post the order in a conspicuous place on the property, and such delivery or posting of the order shall be deemed to be sufficient service of the notice on the owner as of the day of delivery or posting.
- D. Extension of Time: The City Council may, in writing, extend the time for compliance with an order issued pursuant to this chapter, provided there is, in the opinion of the City Council, evidence of intent to comply with any such order, and reasonable cause exists to prevent compliance as required in the order.
- E. Enforcement: Where the owner or occupant of property upon whom an order has been served does not comply with the requirement of such order and fails to appeal as provided for in this chapter or has exhausted his or her right of appeal, the officer shall immediately notify council, who may authorize an City Council, by resolution, to enter the property to carry out any and all work as stated in the order and bring the property into compliance with the requirements of this chapter. A resolution passed by council shall be in effect for six (6) months from the date of passing and authorize the officer to reenter at any time to remedy a recurring condition.

Section 6.7.14

EMERGENCY ACTION WITHOUT NOTICE:

When the City Council believes that there is an immediate danger to any person or persons he or she may take emergency action to abate the nuisance immediately without the necessity to give notice as set forth in this chapter.

Section 6.7.15 APPEALS:

- A. Nuisance Appeal Board: Will be a quorum of the City Council of the City of Mount Vernon at a regular or special meeting.
- B. Appeal Process:
 - 1. A person wishing to appeal an order must submit notice of the appeal in writing to the city finance officer within fourteen (14) days of the date on which the order was served.
 - 2. Each notice of appeal shall:
 - a. State with reasonable exactness the grounds of the appeal;
 - b. State the appellant's name, address, telephone number and the interest of the appellant in the property;
 - c. Be dated and signed by the appellant or an agent on his or her behalf and, if signed by an agent, shall state the name, address and telephone number of the agent.
 - 3. Following the receipt of a notice of appeal, the city finance officer shall, in writing, notify the appellant of the date, time and place at which the board will consider the matter. If the appellant is not the person registered as the owner of the land as shown on a current certificate of title, the city finance officer must also send a copy of the written notice to that owner.
 - 4. The appellant may appear before the board in person or by representative.
 - 5. The board shall consider each appeal having regard to the circumstances and merits of the case and the applicable provisions of this chapter.
 - 6. When hearing an appeal, the board:
 - a. Shall not be bound by the technical rules of evidence; and
 - b. Shall afford to every person concerned the opportunity to be heard, submit evidence, and to hear the evidence of others.
 - 7. The board may confirm, vary, or revoke the order or may substitute its decision in place of the order which was issued.
 - 8. The board may extend the time within which anything required to be done by the order is to be performed.
 - 9. The board may direct that anything to be done that an officer may direct to be done, either in addition to, or in substitution for, the direction in the order appealed from.
 - 10. Following the appeal, the city finance officer shall forthwith serve a copy of the board's decision on the appellant.
- C. Effect Of Appeal, Prosecution:
 - 1. The person to whom an order is directed shall comply with the directions set out in the order, as may be confirmed, varied or amended by any decision of the appeal board.
 - 2. When an order is appealed, the order appealed from is stayed pending a final decision on the merits of the appeal.
 - 3. Prosecution of a person under this chapter does not exempt the person from the remediation requirements as set forth in section [5-3-10](#), "Failure To Comply; Remediation", of this chapter.

Section 6.7.16

FAILURE TO COMPLY; REMEDIATION:

- A. Subject to any appeal or stay of an order, the city may direct that the act or thing required to be done by an order be carried out under the direction of an officer:
 - 1. In default of its being done by the person directed or required to do it within the time specified;
 - 2. If the act or thing required is not done as specified in the order; or
 - 3. If, after reasonable inquiry, the whereabouts of the owner or occupant of the property that is the subject of the order cannot be determined.
- B. If an order is carried out by the city under subsection A of this section, all costs and expenses reasonably related to carrying out the order are a debt due to the city and may be recovered from the owner or occupant of the property.
- C. Waste and other material removed to effect compliance with an order may be disposed of by the city where the officer is of the opinion that the material removed is of insignificant or no value. If any of the material being removed appears, in the opinion of the officer, to have commercial value, he or she may cause it to be sold and the net proceeds applied to the city's costs and expenses related to the carrying out of the order.
- D. The costs and expenses of the city, to include attorney fees expended in the prosecution of the nuisance, shall be paid by the owner or occupant of the property within thirty (30) days from the date of a written statement of account from the city.

- E. The amount of any costs not paid to the city within the thirty (30) day period for the removal and disposition of the nuisance, or for correcting the nuisance, to include any attorney fees expended in the prosecution of the nuisance, shall be assessed, levied and collected as a special assessment payable in one sum or by up to five (5) equal annual installments as the council may provide, against the premises from which it was removed, in the manner provided by law for levy and collection of other special assessments.
- F. The cost of the work done pursuant to this section is separate and independent from any fines or penalties that may be imposed for a violation of this chapter.

Section 6.7.17 OFFENSES; PENALTY

- A. Every person is guilty of an offense under this chapter who:
 - 1. Violated any of the provisions of this chapter;
 - 2. Suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this chapter;
 - 3. Neglects to do or refrains from doing anything required to be done by the provisions of this chapter;
 - 4. Does any act which violates any provision of this chapter;
 - 5. Fails to comply with any order, direction or notice given under this chapter; or
 - 6. Willfully interferes with, resists, or obstructs any person authorized to carry out any duty pursuant to the provisions of this chapter; and a violation of this subsection A shall be subject to the general penalty provisions as contained in section [1-4-1](#) of this code.
- B. Each day that a violation is permitted to exist shall constitute a separate offense.
- C. A conviction for an offense for failing to comply with an order does not relieve the person convicted from complying with the order, and the judge may in addition to any fine and or jail sentence imposed, order the person to do any act or work, within a specified time, to comply with the order with respect to which the person was convicted.
- D. The imposition of a penalty under this chapter shall not be a bar to further prosecution under this chapter and shall not be construed so as to exclude any other remedies or sanctions, either criminal or civil, elsewhere provided in this code.

Section 6.7.18 LIABILITY:

The city, an officer or any other person who carries out any duties or performs work on behalf of the city in administering or enforcing this chapter is not liable for any damages caused by the inspection, the duties or work, or the sale of disposing of anything to carry out the requirements (Adopted April 2012)

TITLE VI - OFFENSES
CHAPTER 8
SALE AND STORAGE OF VEHICLES

Section 6.8.1 Storage of wrecked, junked or discarded vehicle

It shall be unlawful for any person in charge or in control of any property within the City of Mount Vernon to allow any partially dismantled, non-operating, wrecked, junked or discarded vehicle, including any part thereof or therefrom, to remain on any private property for any period longer than seventy-two (72) hours unless within an enclosed building.

Section 6.8.2 Sale of Vehicles

Only two vehicles shall be permitted for sale at a time per parcel. The sale of vehicles on vacant parcels is prohibited.

Section 6.8.3 Exceptions

The provisions of 6.8.1 shall not apply to non-operating vehicles displayed for ornamental purposes. The provisions of 6.8.2 shall not apply to those properties for which a conditional use permit has been granted by the City of Mount Vernon. (Amended May 2018)

Section 6.8.4 Enforcement

The Davison County Sheriff's Department shall be the appropriate persons to enforce this ordinance.

Section 6.8.5 Penalties

Any person who is convicted of violating this ordinance shall be guilty of a civil infraction and shall pay a fine of;

First Offense - Warning,

Second Offense - \$100 plus the costs of prosecution,

Third or More Continuing Violations - \$250 plus the costs of prosecution.

Each day that a violation exists shall constitute a separate offense.

First Reading: Jan. 10, 2018
Second Reading: Feb. 12, 2018
Publication Date: Feb. 19, 2018
Effective Date: Mar. 11, 2018