

ORDINANCES
MILES CITY, MONTANA

ORDINANCE NO. 1335

AN ORDINANCE AMENDING CHAPTER 15 OF THE CODE OF ORDINANCES OF MILES CITY, MONTANA, WITH REGARDS TO THE ENFORCEMENT OF NUISANCES.

BE IT ORDAINED, by the City Council of the City of Miles City, Montana, as follows:

Section 1. Section 15-14 shall be amended to read as follows:

Section 15-14. Enforcement procedure and penalty; prosecution in the city court, hearing before city council. The prohibitions in this chapter shall be enforced through appropriate criminal prosecution in the city court as set forth herein; however, at the election of either the code enforcement officer or police officer investigating said matter, or at the election of the mayor, enforcement may proceed as a civil violation before the city council.

(a) Violation of Chapter to be treated as a misdemeanor, and enforced as follows:

- i. If the code enforcement officer or police officer, in the officer's reasonable discretion, determines that the alleged public nuisance presents an emergency, then the officer shall issue a citation and may take immediate action to abate the public nuisance. In such circumstances, the officer shall have the authority to contact city employees and to request their assistance in abating the nuisance. If the code enforcement officer or police officer, in the officer's reasonable discretion, determines that the alleged public nuisance is not an emergency, then the officer shall provide a written notice to the owner and occupying, if any, advising the owner and occupant of the complaint and requesting that the alleged public nuisance be abated within a period of not more than ten days. The officer shall re-inspect at the end of the ten day period. If the owner or occupant has not abated the alleged public nuisance within the time required by the notice, then the officer shall issue a citation and take those actions reasonably necessary to abate the alleged public nuisance, or, the officer or the mayor may refer the matter for hearing before the city council pursuant to part (b) of this section.
- iii. Notice to the owner of the property or, if the owner is not the occupant of the property, then notice to the occupant of the property shall be given by one of the following methods, and such notice shall be deemed to have been given upon completion of any of the following:
 - a. personal service; or,
 - b. certified mail, return receipt requested, addressed to the occupant at the physical address of the property; or
 - c. by posting notice in a conspicuous place upon the property.
- iv. Notice to the owner, if the officer is able to determine that the occupant is not the owner of the property, shall be given by certified mail, return receipt requested, addressed to the owner or owners as named in the most current assessment list for the parcel of property at the address set forth in such assessment list, and shall be deemed complete upon such mailing. Confirmation of actual notice to the owner, if the owner is not the occupant, shall not be required in order to proceed with enforcement of this chapter as to the occupant, however, cost of abatement may not be assessed to the property owner's taxes if notice was not provided to the property owner as set forth herein.
- v. Violation of this chapter shall be a misdemeanor, and shall be punishable by a fine not to exceed \$500.00 and not more than 6 months in jail. The city court may further order that the violations be abated at the direction of the public works director, and that all costs associated with such abatement be assessed against the property as a special assessment.

(b) Enforcement as civil violation before the city council, at the election of the investigating officer or the mayor, may be enforced as follows:

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- i. The notice provisions set forth in (a)(i)-(iv) shall be followed. After notice has been given, however, the officer shall request that the city clerk set a hearing on the matter before the city council.
- ii. Upon receipt of notice from the code enforcement officer or police officer, the city clerk shall set a date and time for a hearing on the matter before the city council, and send notice to the occupant, as well as to the owner if not the occupant, by certified mail, return receipt requested.
- iii. At the time fixed on the notice, the city council shall proceed to hear the testimony of the city personnel and the testimony of any other interested party who may be present and desire to testify respecting the condition of the property or thing, the estimated cost of abatement, or other appropriate action.
- iv. Upon the conclusion of the hearing, the city council shall by resolution, declare its findings and in the event it so concludes, it may declare the property or thing to be a nuisance and direct the owner to obtain the proper permits and physically commence abatement of the nuisance within ten (10) days, and to complete said abatement within thirty (30) days by having the property repaired, demolished, removed or other appropriate act necessary to cure the nuisance.
- v. Such resolution shall further notify the owner of the property that if the nuisance is not abated, the property will be the subject of repair, demolition, removal, or other appropriate act, as the case may be, by the city and the expenses thereof shall remain a lien on the property.
- vi. In the event the owner does not commence the abatement of the nuisance located on the real property within ten (10) days prescribed, the violations shall be abated at the direction of the public works director, and that all costs associated with such abatement be assessed against the property as a special assessment.
- vii. Assessment as a special assessment shall be approved by a resolution of the city council, and delivered to the county treasurer for collection.
- viii. The city council shall not have the ability to assess fines or impose jail time in matters which proceed before the council.

Section 2. This Ordinance shall become effective thirty (30) days after its final passage.

Said Ordinance read and put on its passage this 11th day of June, 2019.

ATTEST:

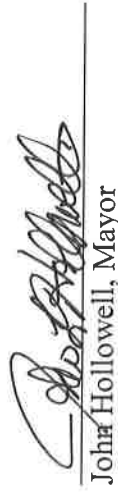

Lorrie Pearce, City Clerk


John Hollowell, Mayor

FINALLY PASSED AND ADOPTED this 25th day of June, 2019.

ATTEST:


Lorrie Pearce, City Clerk


John Hollowell, Mayor

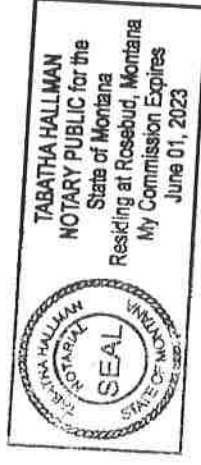
Affidavit of Publication

STATE OF MONTANA }
County of Custer } ss.

Mary Rose Bovee, being duly sworn on her oath, says that she has been the principal clerk of the printer of the MILES CITY STAR, a daily newspaper of general circulation, printed and published at Miles City, in said County and State. **City of Miles City. Legal Notice, Ordinance Number 1335.** A printed and true copy which, cut from the columns of said newspaper, is hereto attached, and made a part hereof, was printed and published in said newspaper, in the regular and entire issue of every number of the paper during the period and time of publication, on the following dates June 14, and 21, 2019.

Signed Mary Rose Bovee
Subscribed and sworn to before me this 21st
day of June, 2019
Tabatha Hallman

Tabatha Hallman, Notary Public for the State of Montana, residing at Rosebud. My Commission Expires June 1, 2023.



LEGAL NOTICE
NOTICE IS HEREBY GIVEN that the City Council of the City of Miles City at a Regular Council Meeting held on Tuesday, June 11, 2019 at 6:00 p.m., passed on first reading the following Ordinance:
Ordinance No. 1335- An Ordinance Amending Chapter 15 of the Code of Ordinances of Miles

City, Montana, With Regards to the Enforcement of Nuisances

The above Ordinance is on file and available for public inspection at the City Clerk's Office at City Hall, 17 S. 8th Street, Miles City, Montana. You are further notified that objections to the final adoption of the Ordinance will be heard by the City Council at its regularly scheduled meeting in the Council Chambers at City Hall, 17 S. 8th Street, Miles City, Montana, on Tuesday, June 25, 2019 at 6:00 p.m.

For information or questions you may contact the City Clerk at 234-3462.

BY ORDER OF THE CITY COUNCIL

Lorrie Pearce
City Clerk
(Published June 14, and June 21, 2019)
MNAXLP