

CITY OF ORONOCO RESOLUTION 2019-20

**FINDINGS, CONCLUSIONS, AND ORDER
OF ORONOCO CITY COUNCIL REGARDING ALLEGED CITY
CODE VIOLATIONS AND NUISANCE CONDITIONS AT 115 2nd AVENUE NW,
ORONOCO, MN 55960**

WHEREAS, pursuant to Oronoco City Code (“City Code”) 90.23, notice of the hearing before the City Council (“City Council”) of the City of Oronoco, Minnesota (“City”), to consider the alleged code violations and nuisance conditions at 115 2nd Avenue NW, Oronoco, Minnesota (the “Property”), was duly given to Mr. Richard Nelson and Mrs. Rita Nelson by Certified US Mail on June 12, and subsequent updated notice was served on the property owners of record of the Property (“Owners”) by U.S. Mail and email on July 10, 2019; and

WHEREAS, a hearing was held on August 20, 2019, before the City Council to consider the alleged City Code violations and nuisance conditions present on the Property and to consider declaring those conditions, specifically the existence of the gate running across 115 2nd Ave NW, which is public right of way, to be a public nuisance.

NOW, THEREFORE, the Oronoco City Council, based upon the record and evidence presented at said hearing, makes the following:

FINDINGS

1. That the gate located at 115 2nd Avenue NW is encroaching over the public right of way, is preventing vehicular access over and through 2nd Avenue NW [going from the west side of the road across to the east side of the road], including emergency vehicles, and also prohibits access to the fire hydrant adjacent thereto.
2. That the location of the gate on the Property described in paragraph 1 of these findings constitutes a violation of the following City Code Sections (Code language in *Italics*):

§ 90.15 PUBLIC NUISANCE.

A person must not act, or fail to act in a manner that is or causes a public nuisance. For the purpose of this chapter, a person who does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

(A) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;

(B) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or

§ 90.18 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following are declared to be nuisances affecting public peace and safety:

...

(K) All hanging signs, awnings and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;

3. That photographs taken on October 30th, 2018 documenting the gate and its location at the Property are attached hereto and incorporated herein as Exhibit A.
4. That the gate on the Property is located so that it blocks the public right-of-way as is depicted on the GIS map attached hereto and incorporated herein as Exhibit B, and
5. The location of the gate on the Property endangers the public in that it prevents vehicular access to the public right of way and access to a fire hydrant adjacent to the gate.

NOW, THEREFORE, the Oronoco City Council makes the following:

CONCLUSIONS AND ORDER

- A. That the location of the gate on the Property, as depicted in the photos in Exhibit A, constitutes a public nuisance and violations of the Oronoco City Code.

And

- B. That the property Owners are hereby ordered to take the following actions to abate the nuisance conditions and remedy the City Code violations existing on the Property:

1. Remove the gate at the Property entirely, OR
2. Move the gate to a different location so as not to obstruct the public right of way and not prevent vehicular traffic to all areas of public right of way and access to the adjacent fire hydrant, and obtain prior approval of the new location from City Council prior to moving the gate to a new location.

And

- C. That the property Owners shall have until 5 p.m. on August 27, 2019, to abate the nuisance conditions and remedy the City Code violations existing on the Property as provided above herein.

And

- D. That if the property Owners shall fail to remove the nuisance conditions from the Property and comply with the City Code provisions on or before the time specified in Paragraph C,

Oronoco City Council or their designee or agent shall immediately abate the nuisance by entering onto the Property and removing the gate from the Property.

AND

- E. That if the property Owners remove and then subsequently replace the gate in the same general location as it currently exists, and in a manner that either obstructs the public right of way or access to the adjacent fire hydrant, Oronoco City Council or their designee or agent shall immediately abate the nuisance by entering onto the Property and removing the gate from the Property.

AND

- F. Any costs incurred by the City in abating the nuisance conditions and correcting the City Code violations shall be paid by the Owners within Thirty (30) days of the date of the invoice to the Owners.

AND

- G. In the event the Owners fail to pay the costs incurred by the City pursuant to this Order, the amount shall constitute a lien against the real property and shall be specially assessed against the above-referenced real property to be collected in like manner as property taxes.

Dated this 20 day of August, 2019


Ryland Eichhorst
Mayor


Sandra Jessen
City Clerk

EXHIBIT A

Photographs of the Property taken on October 30th, 2018 attached behind this cover page.





Exhibit B
GIS Map of Property and Gate Location

Nelson's No Gate Area 4/12/2006



Nelson's Gate 4/7/2007



04/07/2007