

ORDINANCE NO. 05-01

AN ORDINANCE AMENDING TITLE TWELVE OF THE HEBRON CITY ORDINANCES OF 1971 REGARDING PUBLIC NUISANCES IN THE CITY OF HEBRON, MORTON COUNTY, NORTH DAKOTA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEBRON, MORTON COUNTY, NORTH DAKOTA, AS FOLLOWS:

1. That Title Twelve of the Hebron City Ordinances regarding PUBLIC NUISANCES is hereby revoked and re-enacted as follows:

TITLE TWELVE

PUBLIC NUISANCES

ARTICLE 1 - Sanitary Nuisances

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| 12.0101 | Residence - When Sewer and Water Required |
| 12.0102 | Outhouses - Cesspools - A Nuisance |
| 12.0103 | Outhouses - Cesspools - Exceptions |
| 12.0104 | Outhouses - Cesspools - Offensive Odors |
| 12.0105 | Outhouses - Cesspools - Cleaning of |
| 12.0106 | Dead Animals |
| 12.0107 | Water Pools - Putrid Substances |

ARTICLE 2 - Smoke - Gases

- | | |
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| 12.0201 | Smoke, Dust, Ashes, Cinders, Gases - A Nuisance |
| 12.0202 | Smoke, Dust, Ashes, Cinders, Gases - Prohibited |
| 12.0203 | Dirt, Filth, Etc., in Streets and Property |
| 12.0204 | Stables, Barns, and Sheds |

ARTICLE 3 - Radio Interference and Noise Control

- | | |
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| 12.0301 | Radio Interference Prohibited |
| 12.0302 | Loud, Disturbing, Unnecessary Noises - Prohibited |

ARTICLE 4 - Automobiles - Personal Property

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| 12.0403 | Leaving of junk automobiles, etc. on public streets |
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| 12.0405 | The dismantling of automobiles except on business premises |
| 12.0406 | Blighted structures |
| 12.0407 | The storage of building materials except on business premises |
| 12.0408 | Declaration of Nuisance |
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- 12.0410 Abatement Required - Penalty for Failure
- 12.0411 Removal and impounding of property located on public property
- 12.0412 Removal and impounding of property located on private property
- 12.0413 Removal and Impoundment - When Sold
- 12.0414 Removal and Impoundment Proceeds

ARTICLE 5 - Noxious Weeds

- 12.0501 Definition
- 12.0502 Weeds Prohibited
- 12.0503 Notice to Destroy
- 12.0504 Action Upon Non-Compliance
- 12.0505 Cost Assessed to Property

ARTICLE 6 - Prohibiting Abandonment in Places Accessible to Children.

- 12.0601 Prohibiting Abandonment in Places Accessible to Children.

TITLE TWELVE

ARTICLE 1 – Sanitary Nuisances

12.0101 Residence – When Sewer and Water Required

It shall be unlawful for any person to use or occupy or permit to be used or occupied for residence purposes, any premises or building within the corporate limits of this City without first making or causing to be made proper connections with the City's sewer and water facilities and mains.

The term "proper connections" when used in this section shall be construed to mean connections with the water mains and sanitary sewers which are equipped and furnished with proper valves and fittings so as to enable such water connections to be used at all times. Sanitary toilets and drains and such equipment shall at all times be kept in repair and in a manner so as to make them available for household use and in condition to be used at all seasons of the year.

12.0102 Outhouses – Cesspools – A Nuisance

The use, construction, maintenance, building or erection of any outhouse, privy, vault or cesspool within this City is hereby declared to be a nuisance and a menace to public health, when in violation of Section 12.0101.

12.0103 Outhouses – Cesspools – Exceptions

1. Private sewage system and private water supplies may be constructed to serve new buildings to be built in areas not included in Section 12.0101, providing such lot area complies with the requirements of any zoning requirements.
2. Private sewage systems and private water systems may be installed in existing buildings in areas not included in Section 12.0101.

3. Each private sewage system or private water supply hereafter altered or constructed shall conform to the State Health Department Standards.

12.0104 Outhouses – Cesspools – Offensive Odors

It shall be unlawful for the owner or occupant of any lot or piece of ground within the corporate limits of the City to permit any private sewer system to emit any offensive odors or to become dangerous or injurious to public health or offensive to sense of smell of the people of the City. Any private sewer system emitting such odor is hereby declared to be a nuisance and a menace to the public health of the City.

12.0105 Outhouses – Cesspools – Cleaning of

In the cleaning of private septic tanks and sewage systems the contents thereof shall be removed in containers fitted so as to prevent the escape of odors or materials therefrom and disposed of in a manner approved by the City Council with the assistance of the local health officer and/or county and/or state health officers.

The pumping of a private sewage system on the surface of the ground or hauling contents thereof in such a manner as to allow the material to spill on the ground, street or public ways is hereby declared to be a public nuisance.

12.0106 Dead Animals

Any person who owned or had possession or control of a dead animal prior to its death shall remove or cause the same to be removed within five (5) hours from the time the animal dies and have the same buried or disposed of in some other sanitary way approved by the local health officer. Any dead animal remaining in any street, alley or other public place in the City, or in any private premises within the City, for more than five (5) hours after the animal shall have died, is hereby declared to be a nuisance. Any person allowing any animal which that person controlled or possessed, prior to its death, to remain in any street, alley or public place, or on any private premises within the City for more than five (5) hours after its death shall be guilty of a violation of this article.

12.0107 Water Pools – Putrid Substances

It shall be unlawful for the owner or occupant of any parcel of ground in the City to permit water or any putrid substance, whether animal or vegetable, to accumulate or stand so as to cause an offensive odor to be emitted therefrom or to become injurious or dangerous to the health of the neighborhood. Any pool of water and any putrid substance permitted to become offensive or injurious to the public health is hereby declared to be a public nuisance.

ARTICLE 2 – Smoke – Gases

12.0201 Smoke, Dust, Ashes, Cinders, Gases – A Nuisance

The emission of dense smoke, ash, dust, cinders or noxious gases from any machine, contrivance or from the smoke stack or chimney of any building or premises in such quantities as to cause injury or detriment to any person or persons or to the public, or to endanger the comfort, health or safety of any person or persons, or in such manner as to cause or tend to cause damage or injury to property, is hereby declared to be a public nuisance.

12.0202

Smoke, Dust, Ashes, Cinders, Gases – Prohibited

No person, association or corporation shall cause, permit or allow the escape from any smoke stack or chimney into the open air, such quantities of dense smoke, ash, dust, soot, cinders, acid or other fumes, dirt, or other material, or noxious gases, in such place or manner as to cause injury, detriment or nuisance to any person, or to the public, or to endanger the comfort, health or safety to any such person, or the public, or in such manner as to cause or have a natural tendency to cause injury or damage to business or property.

12.0203

Dirt, Filth, etc., in Streets and property.

It shall be unlawful, for any person, firm or corporation to throw, place, deposit, leave or cause to be thrown, deposited or left in any of the public streets, highways, alleys, parks or thoroughfares, or on any private premises in the City any dirt, filth, sewage, sweepings, rags, dung, garbage, compost, wastepaper, excelsior, straw, hay, leaves, brush, weeds, dry grass, shavings, barrels, boxes, wooden crates, lumber, stable manure, ashes, vegetables, slops or litter of any kind, and any place or property having left or deposited thereon any of the things or substances aforesaid is hereby declared to be a nuisance.

12.0204

Stables, Barns, and Sheds.

It shall be the duty of all persons having stables, barns, or sheds, whether as owners or tenants or as agents having control thereof, to remove or cause to be removed therefrom all manure and refuse of every kind at least once each week between the 15th day of March and the 15th day of December of each and every year.

ARTICLE 3 – Radio Interference and Noise Control

12.0301

Radio Interference Prohibited

It shall be unlawful for any person knowingly to maintain, use, operate or cause to be operated within the City, any machine, device, appliance, equipment or apparatus of any kind whatsoever, the operation of which shall cause reasonably preventable electrical interference with radio reception within said municipal limits. The maintenance, use or operation within the City of any machine, device, appliance, equipment or apparatus of any kind so as to interfere with radio reception in violation hereof is hereby declared a public nuisance.

12.0302

Loud, Disturbing, Unnecessary Noises – Prohibited

The making, creating or maintenance of loud, unnatural or unusual and disturbing noises are a detriment to public health, comfort, convenience, safety and welfare, and are hereby declared to be unlawful and a public nuisance. The following acts, among others, are declared to be prohibited noises in violation of this section, but such enumeration is not exclusive:

1. The sounding of horns or signaling devices on any motor vehicle or motorcycle on any street or public place except as a danger warning.
2. Radios, phonographs, etc. The using, operating or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine

or device is operated, and who are voluntary listeners thereto. The operations of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

3. Loudspeakers, amplifiers for advertising. The using, operating or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, loudspeaker, amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
4. Yelling, shouting, etc. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 PM and 7:00 AM, or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.
5. Schools, courts, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed indicating that a school, hospital, or court is in the vicinity.

ARTICLE 4 – Automobiles – Personal Property

12.0401 Definitions

The following words or terms when used herein shall be deemed to have the meaning set forth below:

- (A) The term “junk” shall include, without limitation, parts of machinery or motor vehicles, unused furniture, stoves, refrigerator, or other appliances, remnants of wood, metal, or any other castoff material of any kind, whether or not the same could be put to any reasonable use.
- (B) The term “junk automobiles” shall include, without limitation, any motor vehicle which is not licensed for use upon the highways of the State of North Dakota for a period in excess of sixty (60) days, and shall also include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of sixty (60) days; provided that there is excepted from this definition unlicensed, but operative, vehicles which are kept as the stock in trade of a regularly licensed and established new and used automobile dealer.
- (C) The term “abandoned vehicle” shall include, without limitation, any vehicle which has remained on private property for a period of forty-eight (48) continuous hours, or more, without the consent of the owner or occupant of the property, or for a period of forty-eight (48) continuous hours or more after the consent of the owner or occupant has been revoked.
- (D) The term “blighted structure” shall include, without limitation, any dwelling, garage, or outbuilding, or any factory, shop, store, warehouse, or any other structure or part of a structure which, because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended.

- (E) The term "building materials" shall include, without limitation, lumber, bricks, concrete or cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, or cement, nails, screws, or any other materials used in constructing any structure.
- (F) The term "person" shall include all natural persons, firms, co-partnerships, corporations, limited liability companies and all associations of natural persons, incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this ordinance, whether as owner, occupant, lessee, agent, servant or employee shall, except as herein otherwise provided, be equally liable as principals.
- (G) The terms "trash" and "rubbish" shall include any and all forms of debris not herein otherwise classified.
- (H) The term "personal property" shall include all property other than real property.
- (I) The term "abandoned personal property" shall include all personal property left upon the streets, alleys, or other public ways in the City which shall be deemed to be unclaimed or abandoned within the meaning of this article when the same is permitted to remain in any one place upon said streets, alleys, or other public ways for a period of ten (10) days or more.

12.0402 Abandonment of vehicles

The abandonment of any vehicle within the City or the leaving of any vehicle within the City for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned is hereby declared to be a nuisance and shall be abated in the manner prescribed in this article.

12.0403 Leaving of junk automobiles, etc. on public streets

The leaving of any junk, junk automobiles, trash, rubbish, abandoned vehicles, or building materials on any street, highway, or public area within the City is hereby declared to be a nuisance and shall be abated in the manner prescribed in this article.

✓ 12.0404 Storage or accumulation of junk, junk automobiles, etc

It shall be unlawful and is hereby declared a nuisance for any person to store or to permit the storage of or accumulation of trash, rubbish, junk, junk automobiles or abandoned vehicles on any private property in the City of Hebron except as follows:

- (A) within a completely enclosed building;
- (B) Upon the business premises of junk dealer, junk buyer, dealer in used auto parts, or dealer in secondhand goods having a place of business within an area zoned therefore. However, any junk dealer, junk buyer, dealer in used parts or dealer in secondhand goods shall store said items in a completely enclosed building or located behind a site fence which shall be constructed in such a manner as to completely block the public view of such items stored behind it, such fence to be approved by and constructed as specified by the City Council of Hebron.

- (C) Vehicles which are covered by a secured automobile cover, specifically designed to cover the individual vehicles in question, when the vehicles are not being used or worked on. Said vehicles shall be located in such an area on the property and in a manner so as not to create an unsightly mess, deterioration of the neighborhood, increased criminal activities, spread of vermin and disease, or in any other way as to create a situation contrary to the public peace, health, safety, or general welfare of the community. Where practicable storage should be out of sight or as near out of sight as possible from street or neighbor's property. This exception is limited to two vehicles upon total of the owner's properties.

12.0405 The dismantling of automobiles except on business premises

It shall be unlawful and is hereby declared a nuisance for any person to dismantle, cut up, remove parts from, or otherwise disassemble any automobile, whether or not the same be a junk automobile, abandoned vehicle, or otherwise, or any appliance or machinery, except in a completely enclosed building, or upon the business premises and behind a sight fence of a duly licensed junk dealer, junk buyer, dealer in used parts or dealer in secondhand goods. Such sight fence shall be constructed in such a manner as to completely block the public view of such vehicles stored behind it, such fence to be approved by and constructed as specified by the City Council of Hebron..

12.0406 Blighted structures

It is hereby declared a nuisance for any person to keep or maintain any blighted or vacant structure, dwelling, garage, outbuilding, factory, shop, store, or warehouse unless the same is kept securely locked, the windows kept glazed or neatly boarded up, and otherwise protected to prevent entrance thereto by unauthorized persons or unless such structure is in the course of construction in accordance with a valid building permit issued by the City of Hebron, and unless such construction is completed within a reasonable time. Such nuisance shall be abated in the manner prescribed in this article.

12.0407 The storage of building materials except on business premises

It is hereby declared a nuisance for any person to store or permit the storage or accumulation of building materials on any private property, except when such materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the City of Hebron, and unless such construction is completed within a reasonable time. Such nuisance shall be abated in the manner prescribed in this article.

12.0408 Declaration of Nuisance

Any trash, rubbish, junk, junk automobile, abandoned vehicle, building material or blighted structure located within the City, the use, condition or status of which is in violation of any provision of this Ordinance or law of the State, or which constitutes an obstruction, hazard, or detriment to public traffic, snow removal, operations, public safety, or public health or morals, or which may be damaged, disabled, or otherwise involved in an accident or in the commission of any violations of any provision of this Ordinance or any law of the state; or any vehicle or any other article of personal property abandoned or unclaimed within the City is hereby declared to be a nuisance and shall be abated in the manner provided in this article. It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk automobiles, abandoned vehicles, building materials and the remains of blighted structures upon any private property within the City tends to result in blighted and deteriorated neighborhoods, the increase of criminal activity, the spread of vermin and disease and is contrary to the public peace, health, safety and general welfare of the community.

12.0409

Abatement Required by Owners

The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits of the City upon which such storage is made, and also the owner(s) and/or lessee(s) of the property involved in such storage (all of whom are hereinafter referred to collectively as "owners"), shall jointly and severally abate the nuisance by the prompt removal of the personal property into completely enclosed buildings authorized to be used for storage purposes, if within the corporate limits of the City, or otherwise to remove it to a location outside of corporate limits.

12.0410

Abatement Required – Penalty for Failure

If the owners allow a nuisance to exist or fail to abate a nuisance they, and each of them upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00) for each violation of this Ordinance and a separate violation shall be deemed committed on each day during or on which the nuisance is permitted to exist.

12.0411

Removal and impounding of property located on public property

The Police Department of the City, or Sheriff's Department if providing contracted police services to the City, may remove or cause to be removed to the City Hall, or any other place within the City, selected for the purpose, any junk automobiles, abandoned automobiles, or parts of either, as well as any personal property described in 12.0401 above, and which may be located on any street, alley or other public property, and the same may be impounded and retained until the expense of removal, storage and impounding is paid together with the amount of any fine, costs, bail or other claims, of the City against the owner, or any other person lawfully entitled to possession of said property. If the property is unclaimed it may be disposed of in accordance with the provisions of this article.

12.0412

Removal and impounding of property located on private property

The Police Department of the City, or Sheriff's Department if providing contracted police services to the City, may remove or cause to be removed any junk automobile or abandoned vehicle, or parts of either, from any unenclosed private property as well as any personal property described in 12.0401 above, after having notified, in writing, the owner or occupant of such property of its intention to do so at least ten (10) days prior to such removal. Such notice shall be served personally upon the owner or occupant of the property, if occupied, or may be posted in a conspicuous place upon vacant or unoccupied property. Such junk automobiles or abandoned vehicles, or personal property described in 12.0401, shall be removed to the City Hall, or any other place within the City selected for storage purposes and retained until the expense of such removal, storage and impounding is paid, together with the amount of any fine, costs, bail or other claims of the City against the owner, or any other person lawfully entitled to the possession thereof. Such removal shall not excuse or relieve any person of the obligation imposed by this Ordinance to keep his property free from storage or accumulation of junk automobiles or abandoned vehicles, or parts of junk automobiles or abandoned vehicles, or parts of either, nor from the penalties for violation thereof.

12.0413 Removal and Impoundment – When Sold

If not reclaimed and redeemed by the true owner or the person lawfully entitled to the possession thereof within a period of thirty (30) days after impounding, any article of personal property described in 12.0401 may be sold and disposed of by the City Police Department, or the Sheriff's Department if providing contracted police services to the City, in the manner hereinafter provided. Notice that such property will be sold shall be

published once, at least (6) days prior to the sale, in the official newspaper. Such notice shall specify a description of the property to be sold and the time and place of sale. Any sale may be postponed or discontinued by public announcement at the time of the sale where there are not bidders or when the amount offered is grossly inadequate, or for other reasonable cause. The City may become a purchaser of any or all property at the sale. The purchaser shall receive from the City a certificate of purchase of such property.

12.0414 Removal and Impoundment Proceeds

Within thirty (30) days after a sale, the person making the sale shall make out, in writing, and file with the City a full report of the sale, specifying the property sold, the amount received therefore, the amount of costs and expenses and the disposition of the proceeds of the sale. The proceeds arising from the sale shall be delivered to the City Auditor and credited to the general fund. If the proceeds arising from the sale are not sufficient to fully reimburse the City for its expenses incurred as a result of the abatement, the resulting deficiency, if not paid by the owner prior thereto, shall be charged and assessed against the property of the owner. An assessment list showing the lots or tracts to be assessed with the cost against each lot or tract shall be prepared as are other special assessment lists and shall be approved by the governing body. Such assessments shall be subject to the same procedure for certification to the County Auditor, payment and collection as are other special assessments under state law.

ARTICLE 5 – Noxious Weeds

12.0501 Definition

Whenever used in this Ordinance, the term “noxious weeds” shall mean and include all weeds of the kind known as Canada Thistle, sow thistle, quack grass, leafy spurge (*Euphorbia esula* or *Ruphrobia virgata*), field bindweed, Russian knapweed, (*Centaurea picris*), hoary cress (*Lepidium draba*, *Lepidium reoebs*, abd *Humenophysa pubescens*), dodder, or any similar unwanted vegetation over eight inches in height.

12.0502 Weeds Prohibited

No owner of any lot, place or area within the City or the agent of such owner, shall permit on such lot, place or area and the one-half of any road or street lying next to the lands or boulevards abutting thereon, noxious weeds or other deleterious, unhealthful growths.

12.0503 Notice to Destroy

The City Auditor at the direction of the City Council or the local health officer is hereby authorized and empowered to notify in writing the owner of any lot, place, or area within the City or the agent of such owner, to cut, destroy, and /or remove any noxious weeds found growing, lying, or located on such owner’s property or upon the one-half of any road or street lying next to the lands or boulevards abutting thereon. The notice shall be by registered or certified mail addressed to said owner or agent of said owner at their last known address and shall give such owner or agent a minimum of five days to cut or destroy the noxious weeds.

12.0504 Action Upon Non-Compliance

Upon the failure, neglect, or refusal of any owner or agent to cut, destroy and/or remove noxious weeds growing, lying or located upon the owner’s property or upon the one-half of any road or street lying next to the lands or boulevards abutting thereon, after receipt of the written notice provided for in 12.0503 or within five days after the date of such notice in the event the same is returned to the City because of inability to make

delivery thereof, provided the same was properly addressed to the last known address of such owner or agent, the City Auditor is hereby authorized and empowered to pay for the cutting, destroying, and/or removal of such noxious weeds or to order their removal by the City.

12.0505 Cost Assessed to Property

When the City has effected the removal of such noxious weeds or has paid for their removal, the actual cost thereof, if not paid by the owner prior thereto, shall be charged and assessed against the property upon which the noxious weeds were cut or destroyed. An assessment list showing the lots or tracts to be assessed with the cost against each lot or tract shall be prepared as are other special assessment lists and shall be approved by the City Council. Such assessments shall be subject to the same procedure for certification to the County Auditor, payment and collection as are other special assessments under state law.

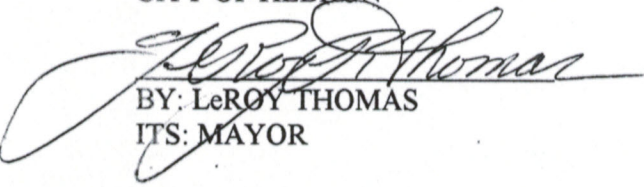
ARTICLE 6 - Prohibiting Abandonment in Places Accessible to Children.

12.0601 Prohibiting Abandonment in Places Accessible to Children.

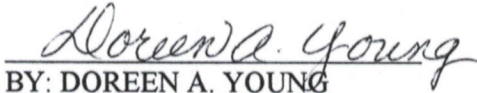
It shall be unlawful for any person, firm, or corporation to leave or permit to remain outside of any dwelling, building, or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his or its control, in a place accessible to children. Any abandoned, unattended or discarded ice box, refrigerator or other container which has an air-tight door or lid, snaplock or other locking device which may not be released from the inside, without first removing said door or lid, snaplock, or other locking from said ice box, refrigerator or container. Any person violating this section shall be guilty of a Class B Misdemeanor and subject to a fine of not more than \$1,000.00 and incarceration of not more than thirty (30) days, or both such fine and incarceration.

2. SEVERABILITY. All ordinances or parts of ordinances in conflict herewith are hereby repealed and rescinded.
3. CLAUSE. If any provision of this ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.
4. EFFECTIVE DATE. This ordinance shall remain in full force and effect from and after its final passage and approval and upon publication of its title and penalty clause.

CITY OF HEBRON


BY: LEROY THOMAS
ITS: MAYOR

ATTEST:


BY: DOREEN A. YOUNG
ITS: CITY AUDITOR

Introduction and First Reading: December 6, 2004

Second Reading and Final Passage: January 3, 2005

Publication Date: _____

Effective Date: _____