This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).

STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1880

City of St. Cloud,
Respondent,

vs.

Matthew H Schaefer,
Relator,

Amanda L. Clemens,
Defendant.

Filed October 28, 2024
Affirmed
Ede, Judge

City of St. Cloud
File No. HHCE23-0322

Renee N. Courtney, St. Cloud City Attorney, Kirsten A. Lucken, Assistant City Attorney, St. Cloud, Minnesota (for respondent)

Matthew Schaefer, St. Cloud, Minnesota (pro se relator)

Considered and decided by Ede, Presiding Judge; Ross, Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

EDE, Judge

In this certiorari appeal, relator challenges an administrative hearing officer's decision to uphold a $300 citation issued by respondent-city for violating a nuisance-accumulation ordinance. Relator asserts that the hearing officer erroneously interpreted the nuisance-accumulation ordinance, that the hearing officer's decision was arbitrary, and that

the city's enforcement of the ordinance was an unreasonable exercise of municipal police powers. Because we conclude (1) that the hearing officer correctly applied the plain language of the nuisance-accumulation ordinance, (2) that the decision was not arbitrary, and (3) that the city's application of the nuisance-accumulation ordinance was a reasonable use of its police power, we affirm.

FACTS

As summarized here, the relevant facts are undisputed on appeal.

Relator Matthew H. Schaefer lives in a single-family home in St. Cloud. On May 18, 2023, a code-compliance specialist (CCS) from respondent City of St. Cloud's health and inspections department went to Schaefer's property after receiving a "complaint from the public." The CCS "observed nuisance accumulation, unlicensed vehicles, a boat, setback issues, and a parking issue," and the CCS documented his observations, including by taking photographs outside of Schaefer's garage. The images show metal file cabinets that appear to be rusting and wooden cabinets stacked on their side in a manner apparently inconsistent with regular use.

The next day, the CCS mailed Schaefer a notice of the nuisance accumulation and other ordinance violations. The notice explained that the following conditions of Schaefer's property violated St. Cloud, Minnesota, Code of Ordinances section 1005:40, subdivision 1 (2017) (the nuisance-accumulation ordinance): "an accumulation of items around the exterior of [the] property," including "multiple metal rusting office file cabinets, plastic containers, wooden cabinets, futon bed frame, pallets/wood framing, cardboard boxes, metal racks, indoor wooden furniture on the deck, [and a] snowblower with a broken

handle." The CCS also noted "a leather chair, carpet, lumber, a broken baby playpen and other items sitting in a trailer located on the property." The notice advised that Schaefer had until May 29 to take corrective action or be "subject to a fine of up to $750.00 per Ordinance, Section 1100."

Schaefer called the CCS on May 31 and requested an extension to remedy the violations. The CCS agreed to a ten-day extension. Schaefer called the CCS again on June 12 to request another extension. The CCS granted Schaefer's request, extending the deadline to June 19 and scheduling a reinspection appointment for June 20. When the CCS returned to Schaefer's residence on June 20, the CCS noted that "most items were in compliance," except for "the file cabinets and wooden cabinets." The CCS again documented the violations by taking photographs outside of Schaefer's garage. The images show metal file cabinets with signs of rust and wooden cabinets stacked without a top.

On June 21, the CCS mailed Schaefer a second notice of the violations. In response, Schaefer administratively appealed the notice. The city's health director reviewed the matter, "upheld the reasons for the notice, . . . and instructed Mr. Schaefer to remove all the items or . . . provide proof the items were intended for outdoor use."

A July 13 reinspection of Schaefer's residence revealed that the file cabinets and wooden cabinets remained, which the CCS documented with photographs showing the cabinets in apparent disrepair. Also on July 13, the CCS mailed Schaefer an administrative citation stating that he still had "an accumulation of items around the exterior of [his] property that constitute a nuisance." The citation provided that Schaefer needed to "properly remove and dispose of or store in an enclosed building" the contested items and

that he owed payment of $300 to the city by August 2. On that date, Schaefer submitted an appeal and a hearing request to the city's health and inspections department.

An administrative hearing officer heard the matter in October 2023. Schaefer represented himself. The hearing officer received testimony from Schaefer, the CCS who issued the citation, a code compliance coordinator, and the city's health director. The hearing officer also admitted several exhibits, including the first notice of the violations, the inspection photographs, and the administrative citation.

Later, the hearing officer issued findings of fact and a decision upholding the citation. In the decision, the hearing officer noted that Schaefer had not disputed the facts and that "the issue . . . [was] that Mr. Schaefer disagree[d] with the ordinance and believe[d] that it [was] being enforced in an arbitrary manner." Construing the definition of "rubbish" set forth in the nuisance-accumulation ordinance, the hearing officer observed that "[t]he wooden cabinets appear[ed] to be construction/remodeling material, indoor furniture or trash," and the hearing officer determined that the "rusted metal office file cabinets [were] clearly *furniture* intended for indoor use" and "appear[ed] to be trash." Moreover, the hearing officer did not credit Schaefer's testimony that the cabinets were intended for outdoor use. Thus, the hearing officer determined that, "by clear and convincing evidence," Schaefer was "in violation of the notice of violation[s] dated June 21, 2023." The hearing officer ordered Schaefer to pay the "$300 fine within 14 days of the date of [the] decision."

This certiorari appeal follows.

DECISION

In challenging the hearing officer's decision to uphold the $300 citation, Schaefer advances three arguments. First, Schaefer asserts that the hearing officer erroneously interpreted the term "rubbish," as used in the nuisance-accumulation ordinance. Next, Schaefer contends that the hearing officer's decision was arbitrary, claiming that subjectivity is inherent in the determination of whether a violation of the nuisance-accumulation ordinance has occurred. Last, Schaefer maintains that the application of the nuisance-accumulation ordinance here was an unreasonable exercise of the city's municipal police powers.

"An aggrieved party may obtain judicial review of the decision of the hearing officer by petitioning the Minnesota Court of Appeals for a writ of certiorari pursuant to Minn. Stat. § 606.01." St. Cloud, Minn., Code of Ordinances § 1100, subd. 13 (2016). The hearing officer's determination that Schaefer violated the nuisance-accumulation ordinance is a quasi-judicial decision. *See Naegele Outdoor Advert., Inc. v. Minneapolis Cmty. Dev. Agency*, 551 N.W.2d 235, 236 (Minn. App. 1996) (citing *Oakman v. City of Eveleth*, 203 N.W. 514, 517 (Minn. 1925) (stating that a quasi-judicial decision requires the performance of a discretionary act, which depends on the ascertainment, consideration, and determination of evidentiary facts)); *see also Staeheli v. City of St. Paul*, 732 N.W.2d 298, 303 (Minn. App. 2007) ("City council action is quasi-judicial and subject to certiorari review if it is the product or result of discretionary investigation, consideration, and evaluation of evidentiary facts." (quotation omitted)). We therefore do not review the hearing officer's decision under the Minnesota Administrative Procedure Act, Minnesota

Statutes sections 14.63–.69 (2022). *See Anderson v. Comm'r of Health*, 811 N.W.2d 162, 165 (Minn. App. 2012), *rev. denied* (Minn. Apr. 17, 2012). Instead,

> [o]n certiorari appeal from a quasi-judicial . . . decision not subject to the [Minnesota] Administrative Procedure Act, we examine the record to review questions affecting the jurisdiction of the [hearing officer], the regularity of [their] proceedings, and, as to the merits of the controversy, whether the order or determination in a particular case was arbitrary, oppressive, unreasonable, fraudulent, under an erroneous theory of law, or without any evidence to support it.

Id. (quotation omitted).

Below, we address each of Schaefer's arguments in sequence.

I. The hearing officer correctly applied the nuisance-accumulation ordinance based on its plain language.

Schaefer contends that the language of the nuisance-accumulation ordinance is ambiguous and that the hearing officer erroneously interpreted the ordinance's use of the term "rubbish." From this premise, Schaefer challenges the hearing officer's determination that the "rusted metal office file cabinets [were] clearly *furniture* intended for indoor use" and "appear[ed] to be trash," and that the wooden cabinets appeared to be "construction/remodeling material, indoor furniture or trash." Schaefer's position is that the wooden cabinets were "high pressure laminate . . . cabinets," which he was using as a "workbench" for "working on vehicles." And Schaefer maintains that the wooden cabinets were "custom manufactured specifically for outdoor use" and "had been previously used in an outdoor . . . kitchen setup for . . . a vendor." We are not persuaded.

Schaefer's argument requires that we interpret the nuisance-accumulation ordinance. "The interpretation of an existing ordinance is a question of law for the court." *RDNT, LLC v. City of Bloomington*, 861 N.W.2d 71, 75 (Minn. 2015) (quotation omitted). We review questions of law de novo. *Id.*; *see also City of Morris v. Sax Invs., Inc.*, 749 N.W.2d 1, 5 (Minn. 2008) ("The application of statutes, administrative regulations, and local ordinances to undisputed facts is a legal conclusion and is reviewed de novo."). "Ordinances are construed according to the recognized principles of statutory construction." *Eagle Lake of Becker Cnty. Lake Ass'n v. Becker Cnty. Bd. of Comm'rs*, 738 N.W.2d 788, 792 (Minn. App. 2007) (quoting *Chanhassen Ests. Residents Ass'n v. City of Chanhassen*, 342 N.W.2d 335, 339 n.3 (Minn. 1984)). "[W]hen construing an ordinance, we first determine whether the language is reasonably subject to more than one interpretation." *Cannon v. Minneapolis Police Dep't*, 783 N.W.2d 182, 193 (Minn. App. 2010). "If the language is unambiguous, [this court] must give effect to the unambiguous text because the letter of the law shall not be disregarded under the pretext of pursuing the spirit." *Id.* (quotation omitted); *see also* Minn. Stat. § 645.16 (2022).

In general, the nuisance-accumulation ordinance applies to "nuisances [that] are inappropriate for residential uses and are therefore likely to have a negative impact upon residential property values." St. Cloud, Minn., Code of Ordinances § 1005:00 (2017). Upon reasonable belief that a nuisance-accumulation violation has occurred, city officials "shall serve on the violator an order to correct the violation." St. Cloud, Minn., Code of Ordinances § 1100, subd. 4 (2016). "If compliance is not achieved by virtue of an order to correct, the official is authorized to issue an administrative citation." *Id.*

"The following are declared to be nuisances affecting health, safety, peace and general welfare and are prohibited: . . . [a]ccumulations of manure, rubbish and garbage which might constitute a nuisance by reason of appearance, odor, sanitation, possible littering of neighboring properties or a fire hazard." St. Cloud, Minn., Code of Ordinances § 1005:40, subd. 1. "Rubbish," in turn, is defined as "[a]ny wastes which are not garbage and . . . include[s], but [is] not . . . limited to the following":

> (a) Yard waste which includes grass clippings, leaves and garden waste, tree branches and brush; or
> (b) Furniture, appliances, trash and similar materials; or
> (c) Old machinery and debris which includes old-machinery, motor vehicle components parts, including but not limited to engines, transmissions, wheels, tires and doors, cut or uncut timber, pipes, or other junk or debris; or
> (d) Material that is no longer of value for its original purpose; or
> (e) Construction and/or remodeling materials on residential property which are not being currently utilized.

St. Cloud, Minn., Code of Ordinances § 1005:10, subd. 16 (2017).

Schaefer has not shown that the nuisance-accumulation ordinance is ambiguous. And because the ordinance—including its definition of "rubbish"—is not reasonably subject to more than one interpretation, we conclude that it is unambiguous. We must therefore give effect to the ordinance's plain meaning: that, as relevant here, accumulations of furniture, trash, material that is no longer of value for its original purpose, and construction and/or remodeling materials on residential property that are not being currently utilized and that might constitute a nuisance by reason of appearance are prohibited. *See* St. Cloud, Minn., Code of Ordinances §§ 1005:10, subd. 16, :40, subd. 1; *see also* Minn. Stat. § 645.16; *Cannon*, 783 N.W.2d at 193.

Schaefer, however, requests that we "disregard the literal meaning" of the ordinance because the definition of "rubbish," "if strictly interpreted, . . . could potentially lead to absurd outcomes due to the broad and inclusive definition of waste." According to Schaefer, "considering all furniture and appliances as rubbish, regardless of their condition or utility, . . . could create unreasonable burdens for individuals who own or manage such items, as it may imply that they must dispose of perfectly usable or valuable furniture and appliances as rubbish."

But "[a]ppellate courts 'generally do not consider whether an interpretation of a[n] [ordinance] creates absurd results unless that [ordinance] is ambiguous.'" *Laliberte v. Dollar Tree, Inc.*, 987 N.W.2d 590, 595 (Minn. App. 2023) (quoting *Greene v. Minn. Bureau of Mediation Servs.*, 948 N.W.2d 675, 681 (Minn. 2020)). Instead, "[w]e consider whether an unambiguous [ordinance] creates absurd results only in the exceedingly rare cases in which the plain meaning of the [ordinance] utterly confounds the clear legislative purpose of the [ordinance]." *Greene*, 948 N.W.2d at 681 (quotation omitted). That is not the case here.

The stated purpose of the nuisance-accumulation ordinance is "to protect the safety, health, peace[,] and general welfare of the public." St. Cloud, Minn., Code of Ordinances § 1005. The ordinance also describes its aim as follows:

> It is specifically found that the property conditions regulated in this section negatively impact upon the aesthetics, the residential quality and the visual peace and quiet of our neighborhoods. The maintenance of these nuisances are inappropriate for residential uses and are therefore likely to have a negative impact upon residential property values.

Id. We conclude that, rather than confounding the ordinance's clear purpose, enforcement of the ordinance's plain meaning aligns with that purpose. In particular, the ordinance effectuates its express aim of regulating property conditions that impair the aesthetics and residential quality of the city's neighborhoods by prohibiting residents from accumulating waste items, including rusting file cabinets and wooden cabinets that were not intended for outdoor use. Thus, we decline to consider whether the unambiguous ordinance creates absurd results. *See Greene*, 948 N.W.2d at 681.

We are likewise unconvinced by Schaefer's contention that we should apply the rule of lenity to overturn his citation. "The rule of lenity . . . vindicates the fundamental principle that no citizen should be held accountable for a violation of a statute whose commands are uncertain, or subjected to punishment that is not clearly prescribed[.]" *State v. Thonesavanh*, 904 N.W.2d 432, 440 (Minn. 2017) (quotation and citation omitted). "The canon, as its name would imply, directs courts to favor a more lenient interpretation of a criminal statute." *Id.* (quotation omitted). For the following three reasons, we decline to apply the rule of lenity here.

First, "the rule of lenity applies only after the other canons of construction have been exhausted and what remains is a grievously ambiguous [ordinance]." *Id.* The nuisance-accumulation ordinance, however, is unambiguous. Second, this matter concerns a municipal ordinance, not a criminal statute. And third, Schaefer knew that the metal office file cabinets and wooden cabinets stacked outside his home violated the city's nuisance-accumulation ordinance. Before issuing the administrative citation, the CCS sent two notices to Schaefer. Each letter specified what conditions violated the ordinance and

instructed Schaefer that the city would fine him if he did not remedy the violations. The city also afforded Schaefer ample time to remove the items from his property. After receiving the first notice, Schaefer called the CCS twice, requesting more time for remediation. The CCS granted both requests. Thus, we conclude that the city clearly prescribed the punishment for Schaefer's conduct.

Having decided that the nuisance-accumulation ordinance is unambiguous and having rejected Schaefer's absurdity and lenity arguments, we also conclude that the record evidence supports the hearing officer's determination that the metal and wooden cabinets were "rubbish" for purposes of the ordinance. The record confirms that the metal and wooden cabinets fall within the purview of the ordinance because they were rubbish, i.e., furniture, trash, material that is no longer of value for its original purpose, and construction and/or remodeling materials on residential property that are not being currently utilized and that might constitute a nuisance by reason of appearance. *See* St. Cloud, Minn., Code of Ordinances §§ 1005:10, subd. 16, :40, subd. 1. Schaefer did not keep the cabinets inside his home or office. Instead, as Schaefer acknowledges in his appellate brief, the items were "located in the rear exterior of the property, on the apron [of] the garage[,] and along the driveway that is accessed from the alley." Although Schaefer claims that he selected the cabinets "for their durability to resist weathering and the ability to secure various tools and automotive supplies and fluids[,]" the undisputed evidence reflects that Schaefer's property was not a commercial automotive business. It was a single-family residence with a garage. And given the rust and disrepair that had befallen the cabinets, as apparent in the

inspection-photograph exhibits, the cabinets were not resistant to weathering and were no longer of value for their original purpose.

Thus, based on our careful review of the record, we conclude that the hearing officer correctly applied the nuisance-accumulation ordinance based on its plain language.

II. The hearing officer's decision was not arbitrary.

Schaefer asserts that "[t]he perceptual basis of waste is a matter of threshold and personal opinion, and the decision to base judgment on aesthetic qualities alone is objectively arbitrary and capricious." In Schaefer's view, the hearing officer's "reasoning was made upon a whim, and not based upon the prosecutorial accusation and argument." We disagree.

The hearing officer's decision was not arbitrary. The hearing officer heard testimony from Schaefer, the CCS who issued the citation, a code compliance coordinator, and the city's health director. In addition, the hearing officer received several exhibits, including the inspection photographs. Based on the record evidence, the hearing officer determined that "the rusted metal office file cabinets [were] clearly *furniture* intended for indoor use" because "[t]hey [were] stacked, rusting, and unkempt [sic]," and because "they appear[ed] to be trash." The hearing officer also decided that "[t]he wooden cabinets appear[ed] to be construction/remodeling material, indoor furniture or trash." This determination was based on the hearing officer's findings that the wooden cabinets had been "stacked on their side like trash or building materials," placed "upright, without a top" with "a door . . . askew or damaged" while "not generally in good shape," such that they, "from all appearances look[ed] like construction trash" and "overwhelmingly look[ed] like

they [were] being stored . . . in a transitory manner for disposal." And the hearing officer determined that the wooden cabinets "were designed for indoor use in a kitchen or garage," "their . . . use [was] not . . . [consistent with their] original purpose," "there was no information that Mr. Schaefer was engaged in remodeling," and Schaefer's testimony that the cabinets were intended for outdoor use was not credible.

Based on the above, we conclude that the hearing officer's decision was not arbitrary. Indeed, the record—including the testimonial and photographic evidence—thoroughly supports the hearing officer's determination that the metal and wooden cabinets stacked outside Schaefer's residence were an accumulation of rubbish. This is because the plain meaning of the nuisance-accumulation ordinance prohibits accumulations of furniture, trash, material that is no longer of value for its original purpose, and construction and/or remodeling materials on residential property that are not being currently utilized and that might constitute a nuisance by reason of appearance. *See* St. Cloud, Minn., Code of Ordinances §§ 1005:10, subd. 16, :40, subd. 1. The evidence shows that the metal and wooden cabinets, as Schaefer kept them on the property, qualified as such an accumulation. Thus, the hearing officer's decision to uphold the $300 citation was not arbitrary.

Schaefer nevertheless contends that "the ordinance, as enforced, was never supported by testimony as a threat to public health and/or safety, and [that] the evidence does not support this theory either." In support of this contention, Schaefer cites our nonprecedential opinion in *In re North Mankato City Council*, No. A21-0143, 2021 WL

4517273 (Minn. App. Oct. 4, 2021).[1] Schaefer's reliance on *In re North Mankato City Council* is unavailing.

In re North Mankato City Council concerned a city council's resolution declaring that the relator's property was a public nuisance after neighbors complained about the relator's "unconventional approach to lawn care, allowing trees, shrubs, and vegetation to grow freely in their yard." 2021 WL 4517273, at *1. "The nuisance resolution was based on the determination that [the relator's] property contained a 'rank growth of vegetation' that 'unreasonably annoy[ed] a considerable number of members of the public.'" *Id.* at *4. "The resolution concluded that [the relator's] conduct violated two city ordinances[,]" one "declar[ing] that public nuisances include[d] all noxious weeds and other rank growths of vegetation upon public or private property[,]" and another "provid[ing] that a person maintain[ed] a public nuisance if he maintain[ed] or permit[ted] a condition [that] unreasonably annoy[ed], injure[d], or endanger[ed] the safety, health, morals, comfort or repose of any considerable number of members of the public." *Id.* (quotation omitted). In a certiorari appeal from the resolution, we reversed. *Id.* at *2–6.

After "not[ing] that some findings in the resolution [were] not supported by the record"—including that there was "no evidence about adverse health effects" and no record support for "the finding that rodents or animals remained a problem when the city council passed the resolution"—"we conclude[d] that the record [also did] not adequately support

[1] "Nonprecedential opinions . . . are not binding authority except as law of the case, res judicata or collateral estoppel, but nonprecedential opinions may be cited as persuasive authority." Minn. R. Civ. App. P. 136.01, subd. 1(c).

the city council's determination that [the relator's] property contained a rank growth of vegetation[,]" which "we interpret[ed] . . . to mean vegetation that [grew] excessively in a way harmful to public health." *Id.* We also concluded that "[t]he record [did] not show that, when the city council passed the resolution, [the relator's] property contained a 'rank growth' that threatened public health" and "that the record [did] not adequately support the determination that the rank growth of vegetation unreasonably annoy[ed] members of the public in violation of [one of the city ordinances,]" which "we interpret[ed] . . . as requiring that . . . the condition . . . substantially affect[ed] other people's ability to enjoy life or property." *Id.* at *5. It was within this context that we recognized that the particular nuisance ordinances at issue in *In re North Mankato City Council* "allow[ed] the city council to order the abatement of conditions that substantially interfere[d] with neighbors' property rights," but did not "allow the city to declare a nuisance based on little more than neighbors' displeasure with the property's appearance." *Id.* That said, as the city points out, we did not conclude that a municipality may never conduct nuisance enforcement based on aesthetic considerations.

In re North Mankato City Council is distinguishable from the facts before us. Unlike *In re North Mankato City Council*, the record here amply supports the hearing officer's decision upholding the $300 citation. And the facts before us are distinct from *In re North Mankato City Council* because the duly enacted nuisance-accumulation ordinance "declare[s accumulations of rubbish] to be nuisances affecting health, safety, peace[,] and general welfare." St. Cloud, Minn., Code of Ordinances § 1005:40, subd. 1. We therefore

agree with the hearing officer's observation that, if Schaefer "wishe[d] to see a change in the ordinance, the city council is the proper venue."

For all these reasons, we conclude that the hearing officer's decision to uphold the citation was not arbitrary.

III. The city's enforcement of the nuisance-accumulation ordinance was a reasonable exercise of its police power.

Finally, Schaefer questions whether the nuisance-accumulation ordinance's "stated purpose of dictating aesthetics and protecting property values" is a "valid and reasonable use of municipal police powers."[2] The city responds that the ordinance is a "proper use of a municipality's police power to protect the general welfare, health, peace[,] and safety of the public." We agree with the city.

"Generally, municipalities have no inherent powers and possess only such powers as are expressly conferred by statute or implied as necessary in aid of those powers which have been expressly conferred." *City of Morris*, 749 N.W.2d at 6 (quotation omitted). "A municipal ordinance is presumed constitutional; the burden is on the party attacking the ordinance's validity to prove an ordinance is unreasonable or that the requisite public interest is not involved, and consequently that the ordinance does not come within the police power of the city." *N. States Power Co. v. City of Oakdale*, 588 N.W.2d 534, 541

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[2] Schaefer also seems to challenge the ordinance on the ground that its language is too vague, questioning whether "the prohibition [is] clear and easy [for the] average person to understand[.]" But "[a] party challenging an ordinance on vagueness grounds must show that it lacks specificity as to his own behavior and not some hypothetical situation." *Press v. City of Minneapolis*, 553 N.W.2d 80, 84 (Minn. App. 1996). On the record before us, we conclude that Schaefer has not made such a showing.

(Minn. App. 1999) (citing *City of St. Paul v. Dalsin*, 71 N.W.2d 855, 858 (Minn. 1955)). "To prove an ordinance is unreasonable, a complaining party must show that it has no substantial relationship to the public health, safety, morals or general welfare." *Id.* (quotation omitted). "If the reasonableness of an ordinance is debatable, the courts will not interfere with the legislative discretion." *Id.* (quotation omitted).

Minnesota Statutes section 412.221, subdivision 24 (2022), provides that "[t]he [city] council shall have power by ordinance to regulate and prevent noise or other disorder." The city council also has the "power to provide for the government and good order of the city . . . and the promotion of health, safety, order, convenience, and the general welfare by such ordinances not inconsistent with the Constitution and laws of the United States or of this state." Minn. Stat. § 412.221, subd. 32 (2022). "The regulation and abatement of nuisances is one of the ordinary functions of the police power of the state." *State v. Chicago, M. & St. P. Ry. Co.*, 130 N.W. 545, 548 (Minn. 1911). "Both the state and its municipalities have a wide discretion in resorting to that police power for the purpose of preserving public health, safety, and morals, or abating public nuisances." *C & R Stacy, LLC v. County of Chisago*, 742 N.W.2d 447, 453 (Minn. App. 2007) (quoting *State v. The Crabtree Co.*, 15 N.W.2d 98, 100 (Minn. 1944)).

We are not convinced by Schaefer's assertion that enforcement of the city's nuisance-accumulation ordinance might be an unreasonable use of the city's police power. The ordinance requires that, upon reasonable belief that a violation has occurred, city officials may "serve on the violator an order to correct the violation." St. Cloud, Minn., Code of Ordinances § 1100, subd. 4. And if compliance is not achieved through an order

to correct, city officials may issue an administrative citation. *Id.* Thus, city officials had express authority to issue the administrative citation after Schaefer refused to take corrective action.

Schaefer has not overcome the presumption that the nuisance-accumulation ordinance is constitutional because he has failed to carry his burden of proving the ordinance does not come within the police power of the city by showing that the ordinance is unreasonable or that the requisite public interest is not involved. *See N. States Power Co.*, 588 N.W.2d at 541. Nor has Schaefer demonstrated that the nuisance-accumulation ordinance "has no substantial relationship to the public health, safety, morals or general welfare[,]" as he must to prove that the ordinance is unreasonable. *Id.* (quotation omitted). And even if Schaefer could persuade us that the reasonableness of the nuisance-accumulation ordinance is debatable, we would still be bound to forbear from interfering with the hearing officer's decision. *See id.*

Schaefer again relies on *In re North Mankato City Council* as supporting authority. But, as discussed above, that case is distinguishable from the facts before us. And "[a]n assignment of error on mere assertion, unsupported by argument or authority, is forfeited and need not be considered unless prejudicial error is obvious on mere inspection." *Scheffler v. City of Anoka*, 890 N.W.2d 437, 451 (Minn. App. 2017) *rev. denied* (Minn. Apr. 26, 2017). In the absence of other supporting authority aside from our inapposite and nonprecedential opinion in *In re North Mankato City Council*, we conclude that no

prejudicial error is obvious upon mere inspection of this record and that the city's enforcement of the nuisance-accumulation ordinance falls within its police powers.

Affirmed.