

**TITLE IX: GENERAL REGULATIONS**

Chapter

- 90. NUISANCES**
- 91. NOISE**
- 92. PARKS AND RECREATION**
- 93. ANIMALS**
- 94. TREES**
- 95. OPEN BURNING**
- 96. JUNK YARDS**
- 97. STREETS AND SIDEWALKS**
- 98. OUTDOOR WOOD BOILER SYSTEMS**



## CHAPTER 90: NUISANCES

### Section

- 90.01 Definitions
- 90.02 Nuisances; generally
- 90.03 Prohibitions
- 90.04 Disclosure of responsible party
- 90.05 Inspection of unoccupied buildings
- 90.06 Order to cease
- 90.07 Enforcement officer authorized to enter
- 90.08 Authority to abate
- 90.09 Service
- 90.10 Abatement procedure
- 90.11 Substantial abatement procedure
- 90.12 Emergency abatement procedure
  
- 90.99 Penalty

### § 90.01 DEFINITIONS.

For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ABANDONED BUILDING.*** Any building, or portion of building, which has stood with an incomplete exterior shell for longer than 3 years, or any building or portion thereof, which has stood unoccupied for longer than 1 year, and which meets 1 or more of the following criteria:

- (1) Unsecured;
- (2) Boarded; or
- (3) Having multiple exterior Housing Code or Building Code violations.

***ABATEMENT DEADLINE.*** The date before which the nuisance must be abated, as specified in a written order.

**Wanamingo - General Regulations**

***DANGEROUS STRUCTURE.*** Any structure which is potentially dangerous to persons or property including, but not limited to:

- (1) A structure which is in danger of partial or complete collapse;
- (2) A structure which has any exterior parts, including, but not limited to chimney, eaves, porches, siding, railings, or trim, which are loose or in danger of falling; and
- (3) A structure which has any parts, including, but not limited to, porches, stairs, ramps, rails, balconies, or roofs, which are accessible and which are either collapsed, in danger of collapsing, or unable to support a person.

***ENFORCEMENT OFFICER.*** Any person duly authorized by the City Council to act in this capacity.

***EXTERMINATION.*** The eradication of rodents and other vermin by any or all approved methods such as poisoning, fumigation, or trapping.

***HAZARDOUS WASTE.*** Any waste material so defined by M.S. § 116.06, as amended from time to time, or described or listed as hazardous waste in Minn. Rules Chapter 7045, known as Minnesota Pollution Control and Hazardous Waste Division Hazardous Waste Rules.

***INTERESTED PARTY.*** Any owner of record, occupying tenant, or lienholder of record.

***JUNK CARS.*** Any unlicensed, unregistered, or inoperable vehicle stored in the open in a residential area.

***LAST KNOWN ADDRESS.*** Last known address shall mean the address shown on the records of the Goodhue County Department of Property Taxation or a more recent address known to the enforcement officer. In the case of parties not listed in these records, the last known address shall be that address obtained by the officer after a reasonable search.

***MAIL.*** Depositing an item with the United States Postal Service address to the intended recipient at his or her last known address with first class postage prepaid thereon.

***NOXIOUS SUBSTANCES.*** Substances, solid or fluid, which are offensive, detrimental to health, hurtful, or dangerous. Noxious substances shall include but not be limited to, any dead animal, or portion thereof, putrid carcass, decayed animal matter, green hides, or any putrid, spoiled, foul, or stinking beef, pork, fish, offal, hides, skins, fat, grease, liquors, human or animal excrement, or manure.

***OWNER.*** Those shown to be owner or owners on the records of the Goodhue County Department of Property Taxation.

**PERSONAL SERVICE.** Service by personally handing a copy to the intended recipient, or leaving a copy at the intended recipient's residence or place of business, with a person of suitable age and discretion.

**PRIVY.** Any type of non-flush fixture for the receipt and storage of human waste, including fixed units with vaults as well as portable units.

**PROPERTY.** Any parcel of land, whether vacant or not, whether any structure thereon is occupied or not, or whether submerged or not.

**RESPONSIBLE PARTY.** Any 1 or more of the following:

- (1) Agent;
- (2) Assignee or collector of rents;
- (3) Holder of a contract for deed;
- (4) A mortgagee or vendee in possession;
- (5) Receiver or executor or trustee;
- (6) Lessee;
- (7) Those listed as owners; or
- (8) Other person, firm, or corporation exercising apparent control over a property.

**UNOCCUPIED.** A building which is not being used for a legal occupancy, or a building which has been ordered vacated by the city.

**UNSECURED.** Open to entry by unauthorized persons without the use of tools or ladder.

**WEEDS.** Useless and troublesome plants, commonly known as weeds, including noxious weeds like cocklebur, burdock, tumble mustard, wild mustard, wild oats, Canadian thistle, oxeye daisy, quack grass, Frenchweed, and Russian thistle.

(Ord. 79, passed 11-10-1992; Am. Ord. 86, passed 6-10-1996)

## § 90.02 NUISANCES; GENERALLY.

(A) *Nuisance.* Any substance, matter, emission, or thing which creates a dangerous or unhealthy condition or which threatens the public peace, health, safety, or sanitary condition of the city, or which

**Wanamingo - General Regulations**

is offensive or has a blighting influence on the community, and which is found upon, in being discharged or flowing from any street, alley, highway, railroad right-of-way, vehicle, railroad car, water excavation, building, erection, lot, grounds, or other property located within the city. Nuisances shall include, but not be limited to, those set forth in this chapter.

(B) *Refuse, noxious substances, hazardous wastes.* Refuse, noxious substances, or hazardous wastes laying, pooled, accumulated, piled, left, deposited, buried, or discharged upon, in being discharged or flowing from any property, structure, or vehicle; except for:

(1) Refuse deposited at places designated and provided for that purpose by the city;

(2) Refuse stored in accordance with provisions of the city ordinances, or vehicle parts stored in an enclosed structure;

(3) Compost piles established and maintained with written permission from, and in accordance with the regulations of, the Division of Public Health;

(4) Dead animals buried with written permission from, and in accordance with the regulations of, the Division of Public Health; or

(5) Green hides received, stored, dressed, packed, or sold with written permission from, and in accordance with the conditions set by, the Division of Public Health.

(C) *Firewood.* Piles of firewood in excess of 20 cubic feet stored closer than 10 feet to buildings used for human habitation; piles of firewood higher than 6 feet from point of elevation from ground, or piles of firewood stored less than 12 inches off the ground.

(D) *Weeds or grass.* Weeds or grass which have grown upon any property to a height of 8 or more inches, or which have gone to seed.

(E) *Stagnant water.* Stagnant water standing on any property. Any property, container, or material kept in any condition so that water can accumulate and stagnate.

(F) *Vermin harborage.* Conditions which, in the opinion of the enforcement office, are conducive to harborage or breeding of vermin including materials stored less than 12 inches off the ground.

(G) *Vermin infestations.* Infestations of vermin, including, but not limited to, rats, mice, skunks, snakes, bats, grackles, starlings, pigeons, bees, wasps, cockroaches, or flies; except for bees or pigeons kept with written permission from, and in accordance with the regulations of, the division of public health.

(H) *Sanitary structures.* Structures for sanitation, including, but not limited to, privies, vaults, sewers, private drains, septic tanks, cesspools, drain fields, which have failed or do not function

properly or which are overflowing, leaking or emanating odors. Septic tanks, cesspools, or cisterns which are abandoned or no longer in use unless they are emptied and filled with clean fill. Any vault, cesspool, or septic tank which does not meet the following criteria:

- (1) The bottom and sides are cemented to make impervious to water;
- (2) The bottom is at least 6 feet below grade;
- (3) Proper ventilating pipes and covers are provided;
- (4) It is located at least 20 feet from any house, residence, building, or public street;
- (5) It is cleaned at least once a year; and
- (6) The property served is located so that connection to the public sewer is impractical.

(I) *Manure vaults.* Manure vaults which have become offensive. Manure vaults for stables where more than 2 horses are kept which are not cleaned twice in each week.

(J) *Unsecured unoccupied buildings.* Unoccupied buildings or unoccupied portions of buildings which are unsecured.

(K) *Dangerous structures.*

(L) *Abandoned buildings.*

(M) *Hazards.* Any thing or condition on the property which, in the opinion of the enforcement officer, may contribute to injury of a person present on the property. Hazards which shall include, but not be limited to, open holes, open foundations, open wells, dangerous trees or limbs, abandoned refrigerators, or trapping devices.

(N) *Fire hazards.* Any thing or condition on the property which, in the opinion of the enforcement officer, creates a fire hazard, or which is a violation of the Fire Code.

(O) *Health hazards.* Any thing or condition on the property which, in the opinion of the enforcement officer, creates a health hazard, or which is a violation of any health or sanitation law.

(P) *Statute and common law nuisances.* Any thing or condition on property which is known to the common law of the land, the Statutes of Minnesota, or the city ordinance as a nuisance.

(Q) *Junk cars.* No person shall place, park, permit to remain, store or leave upon an open space area in the city, any motor vehicle unless it conforms with all of the following requirements:

**Wanamingo - General Regulations**

(1) The vehicle must have affixed to it a valid current motor vehicle license (unless you are a registered vehicle dealer);

(2) The vehicle must not lack essential parts that would render it inoperable, including, but not limited to, required lighting, horns, rear-view mirrors, wheels, batteries, engines, mufflers, front and rear bumpers, license plates with current tabs, proper vehicle registration, and required proof of insurance;

(3) The vehicle must not be in a wrecked, partially dismantled or junked condition; and

(4) If a motor vehicle fails to meet any of the above requirements, the owner or possessor of the motor vehicle shall be responsible to remove the motor vehicle to a duly licensed junk yard, or other authorized place of deposit or storage, within 10 working days of a demand by the city. In the event the owner or possessor of the motor vehicle cannot be located, then it shall be the responsibility of the owner of the premises to remove the motor vehicle to a duly licensed junk yard, or other authorized place of deposit or storage, within 10 working days of a demand by the city.

(R) *Open areas.* All open areas and parts of premises in the city shall be maintained and kept in a reasonably clean and neat condition. This requirement shall include the removal of dead trees and brush, the removal of inoperable machines, which include lawn mowers, snowmobiles, all-terrain vehicles, appliances, fixtures and equipment so damaged, deteriorated or obsolete as to have no substantial value and which constitutes junk; the removal of lumber piles and building materials not being used in actual construction on the premises unless those premises are being used by a business dealing in or requiring the use of that lumber and materials; and the removal of tin cans, broken glass, broken furniture, mattresses, box springs, boxes, crates, cardboard, tires, and other debris. (Ord. 79, passed 11-10-1992; Am. Ord. 86, passed 6-10-1996)

**§ 90.03 PROHIBITIONS.**

(A) No person shall, directly or indirectly or by omission, create a nuisance.

(B) No owner or responsible party shall allow a nuisance to remain upon or in any property or structure under his or her control.

(C) No owner of any truck, trailer, railroad car or flat, or other vehicle, shall leave the vehicle standing on or along any street, highway, freeway, or railroad track, or other property within the city carrying or containing any refuse, noxious substance, or hazardous waste, except as otherwise permitted by the city ordinance.

(Ord. 79, passed 11-10-1992; Am. Ord. 86, passed 6-10-1996)

**§ 90.04 DISCLOSURE OF RESPONSIBLE PARTY.**

Upon the request of the enforcement officer or the City Administrator-Clerk/Treasurer, a responsible party or owner shall disclose the name of any other responsible party or owner known to him or her. This shall include, but not be limited to, the persons for whom he or she is acting, from whom he or she is leasing the property, to whom he or she is leasing the property, with whom he or she shares joint ownership, or with whom he or she has any conveyancing contract.

(Ord. 79, passed 11-10-1992; Am. Ord. 86, passed 6-10-1996)

**§ 90.05 INSPECTION OF UNOCCUPIED BUILDINGS.**

An owner or responsible party shall, upon the request of an enforcement officer, provide the officer with access to all interior portions of an unoccupied building in order to permit the officer to make a complete inspection.

(Ord. 79, passed 11-10-1992; Am. Ord. 86, passed 6-10-1996)

**§ 90.06 ORDER TO CEASE.**

In the event that an enforcement officer observes a person creating a nuisance, the officer may, after presenting proper identification, order that the person cease creating a nuisance.

(Ord. 79, passed 11-10-1992; Am. Ord. 86, passed 6-10-1996)

**§ 90.07 ENFORCEMENT OFFICER AUTHORIZED TO ENTER.**

The enforcement officer shall be authorized to enter any property or structure in the city for the purpose of enforcing and assuring compliance with the provisions of this chapter.

(Ord. 79, passed 11-10-1992; Am. Ord. 86, passed 6-10-1996)

**§ 90.08 AUTHORITY TO ABATE.**

(A) The city is authorized to abate nuisances in accordance with the procedures set forth in §§ 90.05 through 90.07. All abatement costs incurred shall be charged against the property as a special assessment to be collected in the manner provided for under the city ordinances, except when a request is filed for a review of an emergency abatement, the assessment hearing shall be replaced by the hearing provided for in § 90.12.

(B) Abatement may include, but shall not be limited to, removal, cleaning, extermination, cutting, mowing, grading, sewer repairs, draining, securing, boarding unoccupied structures, barricading or fencing, removing dangerous portions of structures, and demolition of dangerous structures or abandoned buildings.

(C) Abatement costs shall include the cost of the abatement; the cost of investigation, including, but not limited to, title searches, inspection, and testing; the cost of notification; filing costs; and administrative costs.

(Ord. 79, passed 11-10-1992; Am. Ord. 86, passed 6-10-1996)

#### **§ 90.09 SERVICE.**

(A) When service of an order or notice is required, any 1 or more of the following methods of service shall be adequate:

(1) By personal service;

(2) By mail, unless it is a written order which gives 3 days or less for the completion of any act it requires; or

(3) If the appropriate party or address cannot be determined after reasonable effort, by posting a copy of the order in a conspicuous place on the property.

(B) If a mailed order or notice is returned by the United States Postal Service, a good faith effort shall be made to determine the correct address, unless the order or notice orders abatement and that abatement has been completed.

(Ord. 79, passed 11-10-1992; Am. Ord. 86, passed 6-10-1996)

#### **§ 90.10 ABATEMENT PROCEDURE.**

Unless the nuisance is as described in §§ 90.11 and 90.12, the city may abate the nuisance by the procedure described below.

(A) *Order.* The enforcement officer shall serve a written order upon the owner. The written order shall also be served upon any responsible party known to the officer, and may be served upon any party known to have caused the nuisance. The written order shall contain the following:

(1) A description of the real estate sufficient for identification;

(2) A description and the location of the nuisance and the remedial action required to abate the nuisance;

(3) The abatement deadline, to be determined by the enforcement officer allowing a reasonable time for the performance of any act required;

(4) A statement that the order may be appealed and a hearing before the City Council obtained by filing a written request with the City Administrator-Clerk/Treasurer before the appeal deadline, which shall be the abatement deadline designated in the order, or 7 calendar days after the date of the order, whichever comes first; and

(5) A statement that if the remedial action is not taken, nor a request for a public hearing filed with the City Administrator-Clerk/Treasurer within the time specified, the city will abate the nuisance and charge all costs incurred therein against the real estate as a special assessment to be collected in the same manner as property taxes.

(B) *Setting hearing date.* In the event that an appeal is filed with the City Administrator-Clerk/Treasurer, the City Council shall, within 2 weeks, fix a date for a public hearing.

(C) *Notice.* The City Administrator-Clerk/Treasurer shall mail a notice of the date, time, place, and subject of the hearing to the owner and known responsible parties.

(D) *Hearing.* At the time of the public hearing, the City Council shall hear from the enforcement officer, and any other parties who wish to be heard. After the hearing, the City Council may confirm or modify the order of the enforcement officer. In either case, if the City Council's determination requires abatement, the City Council shall, in the resolution, fix a time within which the nuisance must be abated and shall provide that if corrective action is not taken within the time specified, the city may abate the nuisance. The City Administrator-Clerk/Treasurer shall mail a copy of this resolution to the same parties required to be notified in division (C) herein.

(E) *Abatement.* If the remedial action is not taken nor an appeal filed within the time specified, the city may abate the nuisance.

(Ord. 79, passed 11-10-1992; Am. Ord. 86, passed 6-10-1996)

#### **§ 90.11 SUBSTANTIAL ABATEMENT PROCEDURE.**

(A) When the enforcement officer determines that a nuisance exists on a property, and the cost of abatement of the nuisance is estimated to exceed \$2,000, or the abatement involves demolition of a building other than a structure accessory to a residential building, or the abatement substantially diminishes the value of the property, and except in the case of an emergency as provided for herein, the city shall abate the nuisance by procedure, not the actual cost calculated after the abatement is completed, shall be the basis which determines whether this abatement procedure shall be used.

(B) *Orders.* The enforcement officer shall serve a written order upon the owner, all interested parties, and any responsible party known to the officer. The order shall contain the following:

(1) A description of the real estate which is sufficient for identification and which shall include the legal description;

**Wanamingo - General Regulations**

- (2) The location of the nuisance on the property;
- (3) A description of the nuisance and the basis upon which it is declared to be a nuisance;
- (4) The remedial action required to abate the nuisance;

(5) The abatement deadline, to be determined by the enforcement officer, allowing a reasonable time for the performance of any act required; and

(6) A statement that if the remedial action is not taken before the abatement deadline, the matter will be referred to the City Council who, after public hearing, may order the city to abate the nuisance and charge all costs incurred therein against the real estate as a special assessment to be collected in the same manner as property taxes.

(C) *Notice to public.* When an order requires, exclusively or as an option, the demolition of a building, the public shall be put on notice as follows:

(1) A copy of the order shall be placed on file in the office of the City Administrator-Clerk/Treasurer; and

(2) The enforcement officer shall notify the City Council of each property subject to demolition order as follows. Each month the enforcement officer shall send to the City Council a list of the properties that have become subject to a demolition order. The list shall be in the form of a resolution declaring that an enforcement action has been commenced, and that as a result of the nuisance status of a building on the property, an order has been issued detailing the violations and requiring, exclusively or as an option, that the building be demolished and that a copy of this order is on file in the office of the City Administrator-Clerk/Treasurer. This resolution shall include the legal description of each property and shall authorize and direct the City Administrator-Clerk/Treasurer to file a copy of the resolution with the Goodhue County Recorder.

(D) *Setting hearing date.* If the remedial action is not taken within the time specified in the written order, the enforcement officer may notify the City Council that substantial abatement is necessary and appropriate. Upon being notified by the department, the City Council shall, within 2 weeks, fix a date for an abatement hearing.

(E) *Notice.* Written notice of the time, date, place and subject of the hearing shall be given as set forth in this chapter.

(1) The City Administrator-Clerk/Treasurer shall immediately notify the enforcement officer;

(2) At least 30 days prior to the hearing, the enforcement officer shall mail a notice to a citizen participation district council for the district where the nuisance is located requesting that it notify the surrounding property owners and occupants;

(3) At least 10 days prior to the hearing, the enforcement officer shall notify the owner and all interested parties by personal service of the notice upon the owner or his or her duly authorized representative, and upon each interested party, or his or her duly authorized representative. If, after reasonable effort, personal service cannot be made, either of the following methods of notice shall be considered adequate:

(a) Confirmed mail service which is either certified mail with signed receipt returned or first class mail confirmed by written response; and

(b) Mailing the notice to the last known address and publishing the notice once a week for 2 weeks in a newspaper of general circulation in the city, and posting the notice in a conspicuous place on the building or property.

(4) At least 10 days prior to the hearing, the enforcement officer shall mail a notice to any responsible party known to the enforcement officer.

(F) *Hearing.* At the time of the public hearing, the City Council shall hear from the enforcement officer and any other parties who wish to be heard. After the hearing, the City Council shall adopt a resolution, describing what abatement action, if any, it deems appropriate. If the resolution calls for abatement action, it may either order the city to take the abatement action, or fix a time within which the nuisance must be abated and provide that if corrective action is not taken within the specified time, the city shall abate the nuisance. The City Administrator-Clerk/Treasurer shall give a copy of this resolution to the department who shall mail copies to any of the parties required to be notified in division (E) herein, for whom the department has a current mailing address.

(Ord. 79, passed 11-10-1992; Am. Ord. 86, passed 6-10-1996)

#### **§ 90.12 EMERGENCY ABATEMENT PROCEDURE.**

(A) When an enforcement officer determines that a nuisance exists on a property, and the nuisance constitutes an immediate danger or hazard which if not immediately abated, will endanger the health or safety of the public, and there does not exist sufficient time to follow the procedures of §§ 90.10 or 90.11, the city may abate the nuisance by the procedure described below.

(B) *Order by Mayor.* The city shall order emergency abatement by an administrative order to be signed by the Mayor. A good faith effort shall be made to inform the owner that the action is being taken.

(C) *Notice of the abatement.* Following an emergency abatement, as soon as the costs incurred are known to the enforcement officer, he or she shall serve written notice upon the owner. The notice shall contain:

- (1) A description of the nuisance;
- (2) The action taken by the city;
- (3) The reasons for immediate action;
- (4) The costs incurred in abating the nuisance; and

(5) A statement that the owner may request, by writing to the City Administrator-Clerk/Treasurer within 10 working days of the date of the notice, a hearing at which the City Council shall review the actions taken by the department.

(D) *Setting hearing date.* In the event that the owner files a request for a review of the action, with the City Administrator-Clerk/Treasurer, the City Council shall, within 2 weeks, fix a date for a public hearing.

(E) *Notice.* The City Administrator-Clerk/Treasurer shall notify the Department and the owner of the date, time, place, and subject of the hearing.

(F) *Hearing.* At the time of the hearing, the City Council shall hear from the enforcement officer and any other parties who wish to be heard. After the hearing, the City Council may adopt a resolution levying an assessment for all or a portion of the costs incurred by the department in abating the nuisance. A copy of the resolution shall be mailed to the owner. A copy shall also be given to the Department.

(Ord. 79, passed 11-10-1992; Am. Ord. 86, passed 6-10-1996)

#### **§ 90.99 PENALTY.**

Any person who violates any provision of this chapter, or fails to comply with a lawful written order issued pursuant to §§ 90.10 or 90.11, or a lawful verbal order issued pursuant to § 90.06, shall be guilty of a misdemeanor.

(Ord. 79, passed 11-10-1992; Am. Ord. 86, passed 6-10-1996)

## CHAPTER 91: NOISE

### Section

- 91.01 Barking dogs
- 91.02 Noises prohibited
- 91.03 Effective date
  
- 91.99 Penalty

### § 91.01 BARKING DOGS.

It is unlawful to keep any animal that unreasonably disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise. For purposes of this section, the phrase “disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise” means any one of the following:

(A) The animal noise occurs at a time between 10:00 p.m. and 7:00 a.m. and can be heard from a location outside the building and premises where the animal is being kept, and the animal has made such noises intermittently for more than three minutes with one minute or less lapse of time between each animal noise during the three minute period; or

(B) The animal noise can be heard from a one block distance from the location of the building and premises where the animal is being kept, and the animal has made such noises intermittently for more than three minutes with one minute or less lapse of time between each animal noise during the three minute period; or

(C) The animal noise can be heard from a location outside the building and premises where the animal is being kept, and the animal has made such noises intermittently for a period of at least five minutes with one minute or less lapse of time between each animal noise during the five minute period. (Ord. 85, passed 5-9-1995; Am. Ord. 160, passed 10-1-2012)

**§ 91.02 NOISES PROHIBITED.**

(A) *Unnecessary noises; generally.* No person shall make, continue, or cause to be made or continued, any loud, unnecessary or unusual noise which unreasonably annoys, disturbs, injures or endangers the comfort, convenience, safety, health, welfare or repose of persons in the vicinity thereof, unless the making, continuing, or causing to be made or continued of that noise cannot be prevented and is necessary for the protection or preservation of property or of the health, safety, life or limb of some person.

(B) *Construction or repair of buildings, or construction work.*

(1) The erection (including excavation), demolition, alteration or repair of any building requiring a building permit or the performance of any construction work occurring between the hours of the following is a violation of this chapter. For purposes of this chapter, **CONSTRUCTION WORK** shall mean any and all activity incidental to the erection of buildings, structures, roads, flood control facilities, or appurtenances thereto, including land clearing, grading, excavating, and filling.

(a) 10:00 p.m. and 7:00 a.m. Monday through Saturday;

(b) 10:00 p.m. Saturday through 12:00 p.m. Sunday; and

(c) 10:00 p.m. Sunday through 7:00 a.m. Monday.

(2) Notwithstanding this chapter, a permit may be obtained to allow construction work to occur during the prohibited hours described in division (B)(1) above in cases of urgent necessity in the interest of public health and safety. The permit shall be granted for a period not to exceed 3 days, shall continue only so long as the necessity continues, and may be extended for periods of 3 days or less, so long as the necessity continues.

(3) Notwithstanding this chapter, a permit may be obtained to allow construction work to occur during the prohibited hours described in division (B)(1) above if it is determined that the public health and safety is not impaired by the erection, demolition, alteration, or repair of any building, or the performance of construction work occurring during those hours, and further determines that loss or inconvenience would result to any party in interest. Application for a permit may be made at the time the permit for the work is awarded or during the progress of the work.

(C) *Parties and gatherings.* No person shall attend or participate in any party or gathering of persons from which noise emanates in sufficient volume to disturb the peace, quiet, comfort or repose of persons in any hospital or office, or in any dwelling, hotel, motel or other type of residence, or any persons in the vicinity thereof; nor shall any person visit or remain in any dwelling, structure or place where a party or gathering is taking place, which is emanating noise as described herein, except persons who have gone to such party or gathering for the purpose of abating or attempting to abate the noise or disturbance.

(Ord. 85, passed 5-9-1995; Am. Ord. 139, passed 8-13-2007)

**§ 91.03 EFFECTIVE DATE.**

(A) This chapter shall be in force and effect from and after its passage and publication.

(B) The amendments to this chapter as contained in the ordinance codified in § 91.02 shall become effective from and after the passage and publication of that ordinance.

(Ord. 85, passed 5-9-1995; Am. Ord. 139, passed 8-13-2007)

**§ 91.99 PENALTY.**

Any person, firm, or corporation who violates any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished in accordance with Minnesota law.

(Ord. 85, passed 5-9-1995; Am. Ord. 139, passed 8-13-2007)



## CHAPTER 92: PARKS AND RECREATION

### Section

#### *Park Lands*

- 92.01 Park land dedication
- 92.02 Scope
- 92.03 Definition
- 92.04 Amount of land required to be dedicated; minimum quantity
- 92.05 Minimum standards of land dedicated; general requirements
- 92.06 Dedication of steep land
- 92.07 Marketability of title
- 92.08 Cash payment in lieu of land dedication
- 92.09 Funds established
- 92.10 Credits
- 92.11 Effective date

#### *Conduct in City Parks*

- 92.25 Disfiguration and removal
- 92.26 Removal of natural resources
- 92.27 Trees; shrubbery; lawns
- 92.28 Sanitation, refuse, trash and ash disposal
- 92.29 Traffic
- 92.30 Recreational activities
- 92.31 Behavior
- 92.32 Park hours
- 92.33 Alcoholic beverages
- 92.34 Effective date
  
- 92.99 Penalty

#### *PARK LANDS*

### § 92.01 PARK LAND DEDICATION.

The City Council finds that as the city continues to increase in population and in the land area, available financial resources to purchase and develop lands for neighborhood park purposes from sources

other than the general tax levy have diminished. Appropriate municipal planning and control is needed to ensure that lands suitable for economical neighborhood park development are identified and preserved for public use during the land subdivision and development process, and not developed for other purposes. The provision by the city of adequate neighborhood park facilities in newly developed residential areas to serve the recreational need of the residents of these areas, is an important factor in the maintenance of a high quality of life in the city; and contributes to the health and safety of citizens, especially those that have children. In addition, adequate open space land should be reserved to retain the character of the city, protect wildlife habitants, cleanse the air and storm water runoff, and provide passive recreational opportunities. It is therefore in the best interest of all the citizens of the city to ensure that when new residential development is hereinafter created or made possible by subdivision of lands, that adequate measures are provided in the subdivision process to permit the city to identify land suitable for development as new neighborhood park facilities, and to obtain and develop those lands for the use of the public at a reasonable cost. It is also in the best interest of all citizens of the city to ensure adequate open space is dedicated and reserved.

(Ord. 120, passed 12-8-2003)

#### **§ 92.02 SCOPE.**

The provisions of this subchapter shall apply to a person who applies for a subdivision or re-subdivision (where the re-subdivision causes an increased demand for parks) of lands that are classified pursuant to the code as being located in a residential zoning district; or, for a subdivision of lands that are classified as being in a nonresidential district at the time of the application, but are intended to be developed following their subdivision in a manner requiring their designation as a residential zoning district.

(Ord. 120, passed 12-8-2003)

#### **§ 92.03 DEFINITION.**

For purposes of this subchapter, the term *NEIGHBORHOOD PARK* shall mean a public recreation facility designed to give residents of nearby residential areas the opportunity for the enjoyment of open space, and which may also provide for the use of residents, playground equipment, picnic area and areas suitable for use as ball fields, tennis and basketball courts and skating rinks, but not including lighted baseball or softball diamonds. Trail corridors providing access from residential area to neighborhood park facilities may be considered part of the neighborhood park.

(Ord. 120, passed 12-8-2003)

#### **§ 92.04 AMOUNT OF LAND REQUIRED TO BE DEDICATED; MINIMUM QUANTITY.**

A person requesting a subdivision or re-subdivision (where subdivision causes an increased demand on parks) of lands shall be required, as a precondition of approval request, to dedicate to the use of the

public for neighborhood park purposes, 8 acres per 1,000 projected residents within the subdivision after full development, which is 0.008 multiplied by the number of persons per dwelling unit, multiplied by the number of dwelling units allowed in the subdivision. The number of persons per dwelling unit shall be based on the following table. The City Council shall periodically review and adjust these assumptions as necessary.

---

<i>Population Density</i>	
<i>Density in Dwelling Units per Gross Acre of Residential Land Acres (Dwelling Units per Acre)</i>	<i>Estimated Number of Persons per Dwelling Unit</i>
0 to 5.99	3.05
6 to 11.99	2.2
Over 12	1.98

**§ 92.05 MINIMUM STANDARDS OF LAND DEDICATED; GENERAL REQUIREMENTS.**

At least 50% of the gross area of the land required to be dedicated pursuant to § 92.04, shall have a natural slope of 4% or less, be largely clear of forest vegetation, and shall not be located in an existing watercourse, a 100-year floodway, drainage easement or water ponding area. In addition, that portion of the land must have a cover of 6 inches or more of topsoil suitable for the seeding and cultivation of grass.

(Ord. 120, passed 12-8-2003)

**§ 92.06 DEDICATION OF STEEP LAND.**

If land proposed to be dedicated has a natural slope in excess of that required by § 92.05, but may be engineered to provide for a slope that meets the requirements imposed therein, the City Council may, upon favorable recommendation of the Superintendent of the Public Works Department, permit the land to be dedicated to satisfy the requirements of § 92.04.

(Ord. 120, passed 12-8-2003)

**§ 92.07 MARKETABILITY OF TITLE.**

Prior to any dedication, a person proposing to subdivide the land shall deliver to the City Attorney for examination, an up to date abstract of title or registered property certificate for examination, or the City Attorney may require a title opinion by a person licensed to practice law in Minnesota. If examination of title by the City Attorney, or the title opinion indicates that title is not marketable, no

subdivision of the land shall occur until steps are taken by the sub-divider to permit marketable title to be conveyed to the city by dedication upon the land's subdivision or by a subsequent separate conveyance.

(Ord. 120, passed 12-8-2003)

#### **§ 92.08 CASH PAYMENT IN LIEU OF LAND DEDICATION.**

(A) If in the judgment of the City Council the quantity of land to be subdivided is a size or configuration that dedicated of a portion thereof:

(1) Is not feasible or practical;

(2) Will not create a parcel suitable for neighborhood park development or for usable open space or trail thoroughfares; or

(3) The land is adjacent or readily accessible to already existing public park and recreation facilities, or publicly maintained open space.

(B) The requirements of dedication imposed by the above § 92.04 may be satisfied by a payment of cash by the subdivider to the city or suitable provisions in a development agreement, which may include fees for land acquisition, preparation, and all other purposes and uses defined in § 92.03. The payment shall be made prior to recording the final plat of the subdivision in an amount equivalent to the fair market value of land which would otherwise be required to be dedicated. The calculation of the amount of the cash payment required shall be computed on the following basis. The city's engineer shall determine the fair market value per acre of the undeveloped residential land proposed to be subdivided at the time the preliminary plat is proposed, giving due consideration to the value assigned to similar situated land by the county assessor following its subdivision. The required payment shall be computed by multiplying the value per acre of land by the number of acres required to be dedicated.

(Ord. 120, passed 12-8-2003)

#### **§ 92.09 FUNDS ESTABLISHED.**

All payments collected pursuant to § 92.08, shall be placed in a neighborhood park acquisition and development fund established for the city, and may only be disbursed for purposes consistent with the acquisition and development of neighborhood parks as the City Council may, from time to time, direct.

(Ord. 120, passed 12-8-2003)

**§ 92.10 CREDITS.**

In the event that subsequent to the effective date of this subchapter, a landlord has dedicated lands to the city meeting the standards set forth in this subchapter for park purposes, or made available to the city, at a price less than fair market value, land for that purpose, the City Council may permit the owner to apply lands previously dedicated or sold to be applied as a credit against any requirements imposed by this subchapter; provided that the credit shall be available with respect to lands sold, only in the amount equal to the difference between the purchase price and the fair market value.

(Ord. 120, passed 12-8-2003)

**§ 92.11 EFFECTIVE DATE.**

This subchapter shall be effective upon its passage and publication as provided by law.

(Ord. 120, passed 12-8-2003)

***CONDUCT IN CITY PARKS***

**§ 92.25 DISFIGURATION AND REMOVAL.**

No person in a park shall willfully mark, deface, disfigure, injure, tamper with, or displace or remove any buildings, bridges, tables, benches, fireplaces, railings, paving or paved materials, water lines or other public utilities or parts or appurtenances thereof, signs, notices, or place cards, whether temporary or permanent, monuments, stakes, posts, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(Ord. 76, passed 6-12-1989) Penalty, see § 10.99

**§ 92.26 REMOVAL OF NATURAL RESOURCES.**

No person in a park shall dig, remove or carry away beach sand, whether submerged or not, or any soil, rock, stones, trees, shrubs or plants, down-timber or other wood materials, or make any excavation by tool, equipment, blasting or other means or agency, without permission of the City Administrator-Clerk/Treasurer, or representative of the City Council.

(Ord. 76, passed 6-12-1989) Penalty, see § 10.99

**§ 92.27 TREES, SHRUBBERY, LAWNS.**

No person in a park shall damage, cut, carve, transplant, or remove any tree or plant, or pick the flowers or seeds, or any tree or plant. Nor shall any person attach any rope, wire, or other contrivance to any plant or tree. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.

(Ord. 76, passed 6-12-1989) Penalty, see § 10.99

**§ 92.28 SANITATION, REFUSE, TRASH AND ASH DISPOSAL.**

No person in a park shall have brought in or shall dump, deposit or leave any bottles, broken glass, paper, boxes, cans, dirt, rubbish, waste garbage, or refuse or other trash. No refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

(Ord. 76, passed 6-12-1989) Penalty, see § 10.99

**§ 92.29 TRAFFIC.**

(A) *Operation confined to roads.* No person in a park shall drive any vehicle on any area except the park roads or parking areas, or any other areas as may on occasion be specifically designated by the city.

(B) *Parking in designated areas.* No person in a park shall park a vehicle in, other than an established or designated, parking area.

(Ord. 76, passed 6-12-1989) Penalty, see § 10.99

**§ 92.30 RECREATIONAL ACTIVITIES.**

(A) *Firearms.* No person in a park shall possess or use firearms of any description, or air-rifles, spring-guns, bow and arrows, slings or any other forms of weapons potentially inimical to wild life and dangerous to human safety, or any instrument that can be loaded with and for blank cartridges, or any kind of trapping device. Shooting into park areas from beyond park boundaries is forbidden. This subchapter shall not apply to peace officers in performance of their duties.

(B) *Picnic facilities and use; availability.* Use of the clubhouse is by reservation only. No person shall attempt to use more facilities than are necessary, to the detriment of other potential users. The City Administrator-Clerk/Treasurer, or authorized representative, shall have the authority to regulate the

activities in those areas when necessary to prevent congestion and to secure maximum use for the comfort and convenience of all visitors. Visitors shall comply with any directions given to achieve this end.

(Ord. 76, passed 6-12-1989) Penalty, see § 10.99

**§ 92.31 BEHAVIOR.**

(A) *Fires.* No person in a park shall start or maintain any fire, except in barbeque pits, charcoal grills, fireplaces, or any other location designated by the city. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper, or other inflammable material, within any park area or any highway, road or street abutting or continuous thereto.

(B) *Disorderly conduct.* No person in a park shall engage in boisterous, threatening, abusive, insulting or indecent language, or engage in brawling or fighting or in any disorderly conduct or behavior tending reason to arouse alarm, anger, or resentment in others, knowing or having reasonable grounds to know that the language or behavior will, or will tend to, alarm, anger or disturb others, or provoke an assault or breach of peace.

(C) *Dogs leashed or other-restrained.* No person in a park shall permit a dog in a park, unless at all times the dog is on a leash, or similar type of restraining device, not greater than 6 feet in length. (Ord. 76, passed 6-12-1989)

**§ 92.32 PARK HOURS.**

No person shall be present in, occupy or use any park except during the hours that the park is open for use by the public, as hereinafter set forth.

(A) The Log House Park shall be open from sunrise to sunset each day.

(B) The North Park shall be open from sunrise to 11:00 p.m. of each day.

(C) The City Council may extend the hour of closing upon written request and upon so doing, shall notify the Police Department of the extension.

(Ord. 76, passed 6-12-1989)

**§ 92.33 ALCOHOLIC BEVERAGES.**

No person in a city park between the hours of 2:00 a.m. and 6:00 a.m. shall consume alcoholic beverages, or have in his or her possession an unsealed container containing an alcoholic beverage. (Ord. 76, passed 6-12-1989; Am. Ord. 146, passed 4-13-2009) Penalty, see § 92.99

**§ 92.34 EFFECTIVE DATE.**

This subchapter shall take effect and be in force from and after its passage and publication. (Ord. 76, passed 6-12-1989)

**§ 92.99 PENALTY.**

Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall be subject to the penalties imposed by § 10.99. (Ord. 146, passed 10-13-2008)

## CHAPTER 93: ANIMALS

### Section

- 93.01 Definitions
- 93.02 Dogs and cats
- 93.03 Non-domestic animals
- 93.04 Farm animals
- 93.05 Impounding
- 93.06 Kennels
- 93.07 Nuisances
- 93.08 Seizure of animals
- 93.09 Animals presenting a danger to health and safety of city
- 93.10 Diseased animals
- 93.11 Dangerous animals
- 93.12 Dangerous animal requirements
- 93.13 Basic care
- 93.14 Breeding moratorium
- 93.15 Enforcing officer
- 93.16 Pound
- 93.17 Interference with officers
  
- 93.99 Penalty

### § 93.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ANIMAL.** Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:

(1) **DOMESTIC ANIMALS.** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

(2) **FARM ANIMALS.** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, farm animals shall include members of the equine

family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stable.

(3) **NON-DOMESTIC ANIMALS.** Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:

(a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(d) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.

(e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.

**AT LARGE.** Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

**CAT.** Both the male and female of the felidae species commonly accepted as domesticated household pets.

**CONTROL.** Any dog or cat shall be deemed to be under control when on the premises of its owner, or on leash accompanied by and under the immediate control of its owner person charged with its care.

**DANGEROUS DOG.** The following breeds of dogs are designated as dangerous dogs: Pit Bull, Doberman, Rottweiler, Sharpei or any dogs whose heredity includes any part of those breeds.

**DOG.** Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

**OWNER.** Any person owning, keeping, maintaining or harboring a dog or cat.

**RELEASE PERMIT.** A permit issued by the Animal Control Officer or other person in charge of the pound for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee to the Administrator-Clerk/Treasurer in accordance with the regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established by City Council from time to time.

**RUNNING AT LARGE.** Any dog or cat not under control as defined by this chapter.  
(Am. Ord. 127, passed 8-24-2005)

### § 93.02 DOGS AND CATS.

(A) *Running at large prohibited.* No dog or cat shall be permitted to run at large within the limits of the city. However, this restriction shall not prohibit the appearance of any dog or cat upon streets or public property when such dog or cat is on a leash and is kept under the immediate control of the accompanying person.

(B) *Dog and cat licenses required; application; fee; rabies certificate.* No person shall keep any dog or cat over 6 months of age within the city without securing a license from the City Clerk, who shall keep a record of all licenses issued and shall issue a metal tag for each license. Each application for a dog or cat license must be accompanied by the license fee specified below and by certificate from a qualified veterinarian showing that the dog or cat to be licensed has been vaccinated for rabies in compliance with division (C). The annual fee shall be \$10 for each spayed or neutered dog or cat and \$15 for each non-spayed or non-neutered dog or cat. Licenses shall expire on the June 30 next following their issuance.

(C) *Rabies vaccination, certificate and tag required.*

(1) Every dog or cat over the age of 6 months which is kept, harbored or maintained by its owner in the city shall be vaccinated at least every 24 months against rabies. Vaccination shall be performed only by a doctor qualified to practice veterinary medicine in the state in which the dog or cat is vaccinated.

(2) No dog or cat shall be licensed by a City Clerk which has not been vaccinated against rabies as provided in this section during the 24 month period immediately preceding the date application for license is made.

(3) A veterinarian who vaccinates against rabies a dog or cat to be kept, harbored or maintained in the city shall prepare and deliver to the owner a certificate of vaccination, in duplicate, setting forth the name and address of the owner, sufficient information to identify the dog or cat vaccinated, the date of vaccination and the type and lot of vaccine used.

(4) A veterinarian vaccinating a dog or cat against rabies shall issue to the owner of each dog or cat so vaccinated a distinctive metal tag, to be supplied by such veterinarian, which shall set forth the

year of vaccination; and the owner shall forthwith cause such dog or cat to wear this tag on a collar during the 24 months following vaccination.

(D) *Affixing and replacement of tags.* The owner shall cause all tags issued pursuant to this chapter to be affixed by a permanent metal fastening to the collar of the dog or cat so licensed in such a manner that the tags may be easily seen. In case any dog or cat tag is lost, a duplicate may be issued by the City Clerk upon presentation of a receipt showing the payment of the license fee for the current year. A charge of \$2 shall be made for each such duplicate tag.

(Ord. 127, passed 8-24-2005; Am. Ord. 136, passed 1-8-2007; Am. Ord. 156, passed 1-3-2012)  
Penalty, see § 93.99

### **§ 93.03 NON-DOMESTIC ANIMALS.**

It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the city. Any owner of a non-domestic animal at the time of adoption of this code shall have 30 days in which to remove the animal from the city after which time the city may impound the animal as provided for in this section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

Penalty, see § 93.99

**§ 93.04 FARM ANIMALS.**

Farm animals shall only be kept in an agricultural district of the city, or on a residential lot of at least 10 acres in size provided that no animal shelter shall be within 300 feet of an adjoining piece of property. An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

**§ 93.05 IMPOUNDING.**

(A) Every law enforcement officer or any animal control officer appointed by the City Council shall impound any dog or cat found unlicensed and/or running at large. Impounded dogs or cats shall be taken forthwith to the Kenyon Veterinary Clinic or any successor kennel or veterinarian appointed by the City Council, and such dog or cat shall be impounded in the facility as provided below. The law enforcement officer or animal control officer impounding any dog or cat shall give notice of the impounding to the owner of the dog or cat, if known. In case the owner is unknown, such officer shall post notice in the City Clerk's office and, if the dog or cat is not claimed within 5 days of the posting of this notice, the dog or cat may be destroyed.

(B) The owner of an impounded licensed dog or cat shall pay to the City Clerk's office a pick-up fee of \$20 and the owner of an unlicensed dog or cat shall pay to the City Clerk's office a pickup fee of \$30. In addition thereto, the owner of any impounded dog or cat shall pay to the City Clerk's office the current impounding fee and daily boarding fee charged to the City by Kenyon Veterinary Clinic or any successor kennel or veterinarian appointed by the City Council, together with the cost of a current rabies vaccination, which shall be ordered by the city unless the owner of such dog or cat provides to the City Clerk's office a certificate from a qualified veterinarian showing that the dog or cat has been vaccinated for rabies in compliance with § 93.02(C). Before any impounded unlicensed dog or cat is released to its owner, the owner must also pay the annual licenses fee as provided in § 93.02(B).

(C) If a dog or cat is not claimed within the time specified hereinabove, and all fees and charges paid, the city or its authorized agent may euthanize such dog or cat and dispose of its carcass, unless a request for such dog or cat is made by a licensed educational or scientific institution as provided in M.S. § 35.71. The city may also, at its option, contract with a private kennel or veterinarian to allow for the adoption of any dog or cat not claimed within the time specified hereinabove.

(Ord. 127, passed 8-24-2005) Penalty, see § 93.99

**§ 93.06 KENNELS.**

(A) *Definition of kennel.* The keeping of 3 or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a “kennel;” except that a fresh litter of pups may be kept for a period of 3 months before that keeping shall be deemed to be a “kennel.”

(B) *Kennel as a nuisance.* Because the keeping of 3 or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of 3 or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the city.

Penalty, see § 93.99

**§ 93.07 NUISANCES.**

(A) *Damage to property.* It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.

(B) *Cleaning up litter.* The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of the feces in a sanitary manner whether on their own property, on the property of others or on public property.

(C) *Warrant required.* The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, to search for and seize the animal.

(D) *Other.* Any animals kept contrary to this section are subject to impoundment as provided in § 93.05.

(Am. Ord. 160, passed 10-1-2012) Penalty, see § 93.99

### **§ 93.08 SEIZURE OF ANIMALS.**

Any police officer or Animal Control Officer may enter upon private property and seize any animal with the permission of the owner of the property, if that person is also the owner of the animal, provided that the following exist:

(A) There is an identified complainant other than the police officer or Animal Control Officer making a contemporaneous complaint about the animal;

(B) The officer reasonably believes that the animal meets either the barking dog criteria set out in § 93.07(A); the criteria for cruelty set out in § 93.13; or the criteria for an at large animal set out in § 93.01(E);

(C) The officer can demonstrate that there has been at least 1 previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;

(D) The officer has made a reasonable attempt to contact the owner of the animal and the property to be entered and those attempts have either failed or have been ignored;

(E) The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal. If the officer has the permission of the owner, a property manager, landlord, innkeeper, or other authorized person to enter the property or has obtained a pass key from a property manager, landlord, innkeeper, or other authorized person to have that key shall not be considered unauthorized entry, and a warrant to search for and seize the animal need not be obtained; and

(F) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.

**§ 93.09 ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY.**

If, in the reasonable belief of any person or the Animal Control Officer or police officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner whether or not the animal is on the property of its owner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under § 93.05. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with § 93.05(C).

**§ 93.10 DISEASED ANIMALS.**

(A) *Running at large.* No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of the city, even though the animal be properly licensed under this section, and a warrant to search for and seize the animal is not required.

(B) *Confinement.* Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person, the Animal Control Officer or a police officer. The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

(C) *Release.* If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.

Penalty, see § 93.99

**§ 93.11 DANGEROUS ANIMALS.**

(A) *Attack by an animal.* It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

(B) *Destruction of dangerous animal.* The Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

(C) *Definitions.* For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) ***DANGEROUS ANIMAL.*** An animal which has:

- (a) Caused bodily injury or disfigurement to any person on public or private property;
- (b) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;
- (c) Exhibited unusually aggressive behavior, such as an attack on another animal;
- (d) Bitten 1 or more persons on 2 or more occasions; or
- (e) Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(2) ***POTENTIALLY DANGEROUS ANIMAL.*** An animal which has:

- (a) Bitten a human or a domestic animal on public or private property;
- (b) When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
- (c) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

(3) ***PROPER ENCLOSURE.*** Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

- (a) Have a minimum overall floor size of 32 square feet.
- (b) Sidewalls shall have a minimum height of 5 feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed 2 inches, support posts shall be 1 ¼-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.

**Wanamingo - General Regulations**

(c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than 2 inches.

(d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than 2 inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

(4) **UNPROVOKED.** The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

(D) *Designation as potentially dangerous animal.* The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in division (C)(2). When an animal is declared potentially dangerous, the Animal Control Officer shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

(E) *Evidence justifying designation.* The Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

(1) That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(2) That the animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(F) *Authority to order destruction.* The Animal Control Officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:

(1) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or

(2) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

(G) *Procedure.* The Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner: The Animal Control Officer shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing before the City Council for a review of this determination.

(1) If no appeal is filed, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction, unless the animal is already in custody or the owner consents to the seizure and destruction of the animal.

(2) If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than 3 weeks after demand for the hearing. The records of the Animal Control or City Clerk's office shall be admissible for consideration by the Animal Control Officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the Animal Control Officer take the animal into custody for destruction, if the animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Animal Control Officer. If the owner does not immediately make the animal available, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction.

(3) No person shall harbor an animal after it has been found by to be dangerous and ordered into custody for destruction.

(H) *Stopping an attack.* If any police officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

(I) *Notification of new address.* The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Animal Control Officer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification shall be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any.  
Penalty, see § 93.99

### **§ 93.12 DANGEROUS ANIMAL REQUIREMENTS.**

(A) *Requirements.* If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:

(1) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in § 93.11(C)(3);

(2) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in M.S. § 347.51 as may be amended from time to time;

(3) Provide and show proof annually of public liability insurance in the minimum amount of \$300,000;

(4) If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;

(5) If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. § 347.51 as it may be amended from time to time, and shall have a microchip implant as provided by M.S. § 347.151, as it may be amended from time to time;

(6) All animals deemed dangerous by the Animal Control Officer shall be registered with the county in which this city is located within 14 days after the date the animal was so deemed and provide satisfactory proof thereof to the Animal Control Officer.

(7) If the animal is a dog, the dog must be licensed and up to date on rabies vaccination. If the animal is a cat or ferret, it must be up to date with rabies vaccination.

(B) *Seizure.* As authorized by M.S. § 347.54, as it may be amended from time to time, the Animal Control Officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

(C) *Reclaiming animals.* A dangerous animal seized under § 93.12(B), may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to animal control that each of the requirements under § 93.12(B), is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under § 93.11(F), and the owner is liable to the city for costs incurred in confining and impounding the animal.

(D) *Subsequent offenses.* If an owner of an animal has subsequently violated the provisions under § 93.11 with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in § 93.11(F). If the owner is found to have violated the provisions for which the animal was seized, the Animal Control Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of § 93.12(C). If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under § 93.11(F) and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

**§ 93.13 BASIC CARE.**

All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in a humane manner will be subject to the penalties provided in this section.

**§ 93.14 BREEDING MORATORIUM.**

Every female dog or female cat in heat shall be confined in a building or other enclosure in a manner that it cannot come in contact with another dog or cat except for planned breeding. Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new owner.

**§ 93.15 ENFORCING OFFICER.**

The Council is hereby authorized to appoint an animal control officer(s) to enforce the provisions of this section. In the officer's duty of enforcing the provisions of this section, he or she may from time to time, with the consent of the City Council, designate assistants.

**§ 93.16 POUND.**

Every year the Council shall designate an official pound to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary, for destruction.

**§ 93.17 INTERFERENCE WITH OFFICERS.**

No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs, cats or other animals and convey them to the pound while engaged in that operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this chapter, or in any other manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter.

Penalty, see § 93.99

**§ 93.99 PENALTY.**

(A) *Separate offenses.* Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable under this section.

(B) *Misdemeanor*. Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable as provided in § 10.99.

(C) *Petty misdemeanor*. Violations of §§ 93.02, 93.07, 93.13 and 93.14 are petty misdemeanors punishable as provided in § 10.99.

(D) Except as otherwise provided herein, any owner who violates any provision of §§ 93.02 and 93.05 shall be guilty of a petty misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$300 or such other amount permitted by Minnesota law. Any owner permitting a dangerous dog to run at large shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$700 or such other amount as permitted by Minnesota law.

(Am. Ord. 127, passed 8-24-2005)

## CHAPTER 94: TREES

Section

### *General Provisions*

94.01 Shade Tree Program

### *Regulations*

- 94.15 Purpose
- 94.16 Authority and power
- 94.17 Definitions
- 94.18 Homeowners' ordinary care
- 94.19 Rights of utilities
- 94.20 Rights of the city
- 94.21 Insurance
- 94.22 Tree topping
- 94.23 Stump removal
- 94.24 Claims and appeals
- 94.25 Permits
- 94.26 Public nuisances
- 94.27 Effective date
  
- 94.99 Penalty

### **GENERAL PROVISIONS**

#### **§ 94.01 SHADE TREE PROGRAM.**

(A) *Regulations adopted by reference.* Minn. Rules Ch. 1505, together with amendments thereof to date, are hereby adopted by reference and made a part of this subchapter as if set out in full, except as hereinafter provided. A copy of the agency rules herewith incorporated is on file in the City Administrator-Clerk/Treasurer's office.

(B) *Stockpiling.* The stockpiling of bark bearing elm wood within the city limits shall be permitted during the period from September 15 through April 1 of any given year. Any wood not utilized by April

1 of any year must then be removed and disposed of as provided by this subchapter, and the regulations incorporated thereby.

(C) *Effective date.* This subchapter shall become effective upon its due passage and enactment and publication according to law.

(Ord. 60, passed 1-12-1981)

### ***REGULATIONS***

#### **§ 94.15 PURPOSE.**

It is the purpose of this subchapter to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs and other plants within the city.

(Ord. 92, passed 6-14-1999)

#### **§ 94.16 AUTHORITY AND POWER.**

(A) There is hereby created and established a city tree board for the city (hereinafter referred to as the Tree Committee), which shall consist of at least 3 city residents and 1 City Council member who shall be appointed annually by the City Council. Members of the board shall serve without compensation. Appointments for the new year shall be made in the month of January each year.

(B) This subchapter provides the Tree Committee full power and authority over all trees, plants and shrubs located within the boulevard (street right-of-way), parks and public places of the city; and to trees, plants and shrubs located on private property that constitute a hazard or threat as described herein.

(Ord. 92, passed 6-14-1999)

#### **§ 94.17 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***BOULEVARD TREES.*** Any tree or shrub, or portion of tree or shrub, that falls within the city street right-of-way.

***PUBLIC TREES AND SHRUBBERY.*** Any tree or shrub that is wholly or partially within the street right-of-way, henceforth to be called, ***BOULEVARD TREES.***

***TREE COMMITTEE.*** At least 3 residents and 1 City Council member will be appointed annually by the City Council for the purpose of conducting the planning and carrying out the action assigned by this subchapter.

***UTILITY AND SEWER.*** Water lines, telephones, electric, and cable television.  
(Ord. 92, passed 6-14-1999)

#### **§ 94.18 HOMEOWNERS' ORDINARY CARE.**

(A) The abutting property owners are expected to give ordinary care and protection to trees growing in the boulevard. This will involve seeding, sodding, watering when necessary, and mowing the boulevard area and protecting the trees from injury.

(B) Tree limb pruning of low hanging or broken limbs or removal for power and telephone lines included in "ordinary care." Sidewalks, streets, street and fire hydrants must be kept free from obstructions caused by boulevard trees. Specified limits that constitute a hazard are as follows:

(1) Clearance distances free from obstruction:

(a) Tree limbs no longer than 15 feet in driving lanes of all roads and 7 feet above sidewalks; and

(b) No trees or shrubbery shall be grown closer than 15 feet from a fire hydrant or street corner at the curb.

(2) Lot owners will be given at least 30 days' notice to correct any of the above-listed safety hazards. If no corrective action is taken, the city has the right to take corrective actions at the owners' expense.

(Ord. 92, passed 6-14-1999)

#### **§ 94.19 RIGHTS OF UTILITIES.**

(A) In the event that "ordinary care" is not provided by the property owner, public utilities have the right to trim or remove trees, tree branches or shrubbery that interfere with overhead or underground lines.

(B) State law requires that utilities must be located before any digging takes place to plant trees and shrubbery. Call Gopher State One-Call to locate all utilities giving 48-hours notice before digging begins.

(Ord. 92, passed 6-14-1999)

**§ 94.20 RIGHTS OF THE CITY.**

(A) In the event that "ordinary care" is not provided for boulevard trees, the city has the right to remove trees, tree limbs and shrubbery that pose a hazard or interfere with sidewalk or street traffic, at the expense of the owner.

(B) (1) The city has the right to limit the tree species planted within the boulevard. Trees not listed are subject to approval upon individual request.

(a) *Approved trees (except where grown under utility lines)*. Crimson King Maple, Hard Maple, Linden (Basswood), Hackberry, Ash, Mountain Ash, Thornless Locust species, Flowering Crabapple, River Birch and Oak.

(b) *Undesirable trees*. Soft (silver) Maple, Box Elder, Catalpa, Evergreens, Willows, or trees with large fruit. These tree species have major faults when grown in the boulevard.

(2) No new plantings of trees included in the "undesirable" list will be allowed to plant in the city boulevards in 1992 or thereafter. Existing trees may remain unless there is a safety risk to the public.

(C) (1) Lot owners that have oak or elm trees infected with Dutch Elm or Oak Wilt diseases will be given 30 days' notice for the total elimination of the diseased trees. Tree stumps must be eliminated if in the boulevard, or at least debarked, if on private property, to prevent the spread to healthy trees.

(2) Diseased wood cannot be sold, or stockpiled for later use as firewood, unless debarked. The diseased wood may be taken to the city yard waste dump.  
(Ord. 92, passed 6-14-1999)

**§ 94.21 INSURANCE.**

It shall be unlawful for any person who is not properly insured to engage in the business of tree removal or trimming trees within the city limits. Any person wishing to engage in these actions must first file evidence with City Hall of possession of liability insurance in the minimum of \$300,000 for bodily injury or death, and \$100,000 property damage, indemnifying the city or any person injured or damaged resulting from the pursuit of the endeavor as herein described.

(Ord. 92, passed 6-14-1999)

**§ 94.22 TREE TOPPING.**

It shall be unlawful as normal practice to top any boulevard or park tree. Topping is defined as severe cutting back of limbs to shorter than 3 inches in diameter within the crown to a degree so as to

remove normal canopy and disfigure the trees. Trees that are highly desirable to keep, but severely damaged by storms, existing under utility wires or other obstructions, are exempted from these rules. (Ord. 92, passed 6-14-1999)

#### **§ 94.23 STUMP REMOVAL.**

All stumps of boulevard trees shall be removed below the surface of the ground. The owner is responsible for removal expenses and filling the void with soil and provide for a grass or similar vegetative cover.

(Ord. 92, passed 6-14-1999)

#### **§ 94.24 PENALTIES, CLAIMS AND APPEALS.**

(A) *Costs a lien.* Cost of all tree, shrub and other plant removal service and changes shall be the primary responsibility of the owner of the premises served, and paid by him or her unless otherwise contracted for, and authorized in writing by the owner and tenant, as agent for the owner, and consented to by the city. The city may collect the same in a civil action, or, in the alternative and the option of the city, as otherwise provided in this subchapter.

(B) *Appeals.* Any person aggrieved by any ruling may appeal to the City Council. The appeal must be in writing and presented to the City Hall prior to the date action to abate the nuisance, or other contested ruling, is to take place. The City Council shall review any decisions of the Tree Committee. The City Council will modify, affirm, or reverse any determination made by the parties. A decision will be rendered within 30 days.

(C) *Hardship assessment.* An appeal for a hardship assessment may be made to the City Council for review and consideration. Decision will be made with consideration of financial or other hardship, according to § 30.01.

(Ord. 92, passed 6-14-1999)

#### **§ 94.25 PERMITS.**

(A) No person except the city crew shall perform any of the following acts within city parks or boulevards without first obtaining a permit from City Hall. There shall be no fee for obtaining this permit.

- (1) Plant or remove trees or shrubbery in the city parks;

(2) Only the lot owner adjacent to the boulevard can plant trees from the approved species list, prune, trim or review undesirable trees without a permit. Permits are not needed to give "ordinary care"; or

(3) Attaching any rope, wire, nail, sign, poster or any other man-made object to any tree in city parks or boulevards is prohibited.

(B) Exemption of city tree-trimming employee is granted with the understanding that he or she act according to the guidelines in this subchapter.

(C) (1) This subchapter challenges any property owner or developer to protect and maintain present tree growth and to prevent loss of desirable and healthy trees.

(2) A permit for developing will include this provision.  
(Ord. 92, passed 6-14-1999)

#### § 94.26 PUBLIC NUISANCES.

(A) The following are declared public nuisances under this subchapter. Any tree declared a public nuisance on city-owned or private property must be removed at the owner's expense within 90 days, or a time agreed to as reasonable by the City Council.

(1) Any dead or dying tree, shrub;

(2) Any tree, shrub or plant which, by reason of location or condition, constitutes an imminent danger to the health, safety, or welfare of the general public;

(3) Any tree, shrub or plant which obstructs the free passage of pedestrian or vehicular traffic, or which obstructs a street sign; and

(4) Any tree, shrub or plant material, which dangerously obstructs the view at street, driveway, and/or alley intersections, may be determined as a public nuisance by the city engineer.

(B) The officers, agents, city council and city employees have the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance.

(Ord. 92, passed 6-14-1999)

**§ 94.27 EFFECTIVE DATE.**

This subchapter shall take effect upon its publication.  
(Ord. 92, passed 6-14-1999)

**§ 94.99 PENALTY.**

Any person who violates any provision of this chapter shall, upon conviction thereof, be deemed guilty of a misdemeanor. If, as the result of the violation of any provision of this chapter, the injury, mutilation, or death of a tree, shrub, or other plant located on city-owned property is caused, the cost of repair or replacement of the tree, shrub or other plant shall be borne by the party in violation.  
(Ord. 60, passed 1-12-1981; Ord. 92, passed 6-14-1999)



## CHAPTER 95: OPEN BURNING

### Section

- 95.01 Adoption of state law by reference
  - 95.02 City may be more restrictive than state law
  - 95.03 Purpose
  - 95.04 Definitions
  - 95.05 Prohibited materials
  - 95.06 Open burning prohibited except by permit
  - 95.07 Permitted open burning; special circumstances
  - 95.08 Permit application and fees
  - 95.09 Permit process
  - 95.10 Denial of permit
  - 95.11 Permit holder responsibility
  - 95.12 Revocation of permit
  - 95.13 Burning ban or air quality alert
- 
- 95.99 Penalty

### ***Cross-reference:***

*Fires in streets prohibited, see § 97.02*

### **§ 95.01 ADOPTION OF STATE LAW BY REFERENCE.**

The provisions of M.S. Ch. 88, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, permits, and all other matters pertaining to open burning are hereby adopted by reference and are made a part of this chapter as if set out in full. It is the intention of the City Council that all future amendments of M.S. Ch. 88, are hereby adopted by reference or referenced as if they had been in existence at the time this chapter was adopted.

(Ord. 169, passed 4-13-2015)

### **§ 95.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.**

The Council is authorized to impose, and has imposed in this chapter, additional restrictions on open burning within its limits beyond those contained in M.S. Ch. 88, as it may be amended from time to time.

(Ord. 169, passed 4-13-2015)

**§ 95.03 PURPOSE.**

The purpose of this chapter is to regulate open burning within the city, to protect the public health, safety and welfare. Through passage of this chapter, the designated fire official is hereby authorized to adopt and impose burning restrictions to aid in the prevention of wildfire and to consult with the Department of Natural Resources (DNR), Division of Forestry to develop any restrictions or other criteria.

(Ord. 169, passed 4-13-2015)

**§ 95.04 DEFINITIONS.**

For purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

***DESIGNATED FIRE OFFICIAL.*** The Fire Chief, Fire Marshal, City Fire Warden, or other designee who provides fire protection or public safety services to the city.

***OPEN BURNING.*** The burning of any matter if the resulting combustion products are emitted directly into the atmosphere without passing through a stack, duct or chimney, except a recreational or camp fire as defined herein. Mobile cooking devices such as charcoal grills, wood smokers, manufactured hibachis, and propane or natural gas devices are not considered open burning devices.

***RECREATIONAL/CAMPFIRE.*** A fire set with an approved starter fuel no more than 3 feet in height contained within a recreational fire site: using dry, clean wood, producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, or social food preparation; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality requirements so that nuisance, health or safety hazards will not be created. No more than one recreational fire is allowed on any property at one time.

***RECREATIONAL/CAMPFIRE SITE.*** An area of no more than a 3 foot diameter circle (as measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either natural rock, cement, brick, tile, blocks or ferrous metal. Burning barrels are not a recreational fire site as defined herein. ***RECREATIONAL FIRE SITES*** shall not be located closer than 25 feet to any structure or combustible material.

***RUNNING FIRE.*** An attended fire allowed to spread through surface vegetative matter under controlled conditions for the purpose of vegetative management, forest management, game habitat management, or agricultural improvement.

***STARTER FUELS.*** Dry, untreated, or unpainted kindling, branches, or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution may be used to start an open burn.

**VEGETATIVE MATERIALS.** Dry leaves, dry grass clippings, twigs, branches, tree limbs, untreated or unpainted wood that contains no glues or resins, and other similar materials. Paper and cardboard are not considered **VEGETATIVE MATERIALS**.

**WOOD.** Dry, clean fuels, such as twigs, branches, limbs, manufactured fireplace logs, charcoal, cord wood, or untreated dimensional lumber. **WOOD** does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into less than 3 foot lengths.

(Ord. 169, passed 4-13-2015)

**§ 95.05 PROHIBITED MATERIALS.**

(A) No person shall conduct, cause or permit the open burning of oils, petroleum fuels, rubber, plastic, chemically treated materials, or other materials that produce excessive or noxious smoke such as, but not limited to: tires; railroad ties; treated, painted or glued wood composite shingles; tar paper; insulation; composition board; sheet rock; wiring; or paint and paint filters.

(B) No person shall conduct, cause or permit the open burning of: hazardous waste or materials from salvage operations; solid waste generated from an industrial or manufactured process; materials from a service or commercial establishment; or building materials generated from demolition of commercial or institutional structures.

(C) No person shall conduct, cause or permit the open burning of discarded materials resulting from the handling, processing, storage, preparation, serving or consumption of food.

(D) No person shall conduct, cause or permit the open burning of any leaves or grass clippings.

(E) No person shall conduct, cause or permit the open burning of any wood or other vegetative materials through the use of a burner, as described in M.S. § 88.16, within the city's jurisdiction.

(Ord. 169, passed 4-13-2015)

**§ 95.06 OPEN BURNING PROHIBITED EXCEPT BY PERMIT.**

No person shall start or allow any open burning on any property in the city without first having obtained an open burning permit. A permit is not required for any fire which is a recreational/campfire as defined in § 95.04.

(Ord. 169, passed 4-13-2015)

**§ 95.07 PERMITTED OPEN BURNING; SPECIAL CIRCUMSTANCES.**

(A) Under special or extraordinary circumstances, open burning permits may be issued by the city or by a DNR forestry official for:

(1) Elimination of health hazard that cannot be abated by other practical means, as determined by the commissioner of health or the local health authority;

(2) Ground thawing for utility repair and construction;

(3) Running fires;

(4) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, land-spreading or other alternative methods are not practical;

(5) Disposal of diseased trees generated on-site, diseased or infected nursery stock, or diseased bee hives; and

(6) Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical.

(B) Fire training permits may only be issued by the Minnesota Department of Natural Resources (DNR).

(C) Permits for the operation of a permanent tree and brush burning sites may only be issued by the Minnesota Department of Natural Resources (DNR).  
(Ord. 169, passed 4-13-2015)

#### **§ 95.08 PERMIT APPLICATION AND FEES.**

(A) Open burning permits shall be obtained by making application on a form prescribed by the DNR and adopted by the Fire Department. The permit application shall be presented to the designated fire official for review.

(B) An open burning permit shall require the payment of a fee. Permit fees shall be in an amount established by the Council.  
(Ord. 169, passed 4-13-2015)

#### **§ 95.09 PERMIT PROCESS.**

(A) The applicant shall demonstrate to the designated fire official the ability to comply with the applicable state statutes, this chapter, or any additional guidelines as may be adopted.

(B) Upon receipt of the completed open burning permit application and fee, the designated fire official may, if he or she believes necessary, require a preliminary site inspection to locate the proposed burn site, note special conditions, and set dates and times of permitted burn and review fire safety considerations, including the preparation of a detailed burn event safety plan with the designated fire official, when conditions require.

(Ord. 169, passed 4-13-2015)

**§ 95.10 DENIAL OF PERMIT.**

(A) If the established criteria for the issuance of an open burning permit are not met, the application will be denied.

(B) Even if the established criteria for the issuance of an open burning permit are met, if it is determined that a practical alternative method for disposal exists, a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the designated fire official, the application may be denied.

(Ord. 169, passed 4-13-2015)

**§ 95.11 PERMIT HOLDER RESPONSIBILITY.**

(A) Prior to starting an open burning, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect.

(B) The open burning site shall have appropriate communication and fire suppression equipment available.

(C) The open burn shall be attended to at all times. No fire may ever be allowed to smolder. The fire shall be completely extinguished before the permit holder or his or her representative leaves the site. It is the responsibility of the permit holder to have a valid permit, as required by this chapter, available for inspection on site by law enforcement, the Fire Department, a Minnesota Pollution Control Agency (MPCA) representative or DNR officer.

(D) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and guidelines as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees.

(Ord. 169, passed 4-13-2015)

**§ 95.12 REVOCATION OF PERMIT.**

An open burning permit is subject to revocation at the discretion of a DNR officer or the designated fire official. Reasons for revocation include but are not limited to: a fire hazard existing or developing during the course of the burn; any permit conditions being violated during the course of the burn; pollution or nuisance conditions developing during the course of the burn; or a fire smoldering with no flame, or attendant, present.

(Ord. 169, passed 4-13-2015)

**§ 95.13 BURNING BAN OR AIR QUALITY ALERT.**

(A) The designated fire official is authorized to determine when conditions make open burning potentially hazardous and declare a burning ban within the city.

(B) No recreational fire or open burn will be permitted when the city or the DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an air quality alert.

(Ord. 169, passed 4-13-2015)

**§ 95.99 PENALTY.**

Any person convicted of violating any provision of this chapter is guilty of a misdemeanor and shall be punished by a fine not to exceed \$1,000 or imprisonment for not more than 90 days.

(Ord. 169, passed 4-13-2015)

## CHAPTER 96: JUNK YARDS

### Section

- 96.01 Permit required
- 96.02 Application for permit
- 96.03 Effective date
  
- 96.99 Penalty

### § 96.01 PERMIT REQUIRED.

No junk yard or automobile grave yard shall be established or maintained within the city limits without a special permit therefore granted by the City Council, and unless it complies with the regulations as the City Council may impose. The permit shall be granted for a period not to exceed 1 year, shall be personal to the applicant, and shall be non-transferable without the written consent of the City Council first being obtained.

(Ord. 32, passed 9-18-1961)

### § 96.02 APPLICATION FOR PERMIT.

(A) All applications for permits hereunder shall be in writing to the City Council.

(B) The applications shall set forth the following information:

- (1) The full name and address of the applicant and applicants;
- (2) The present or last occupation of the applicant at the time of the filing of the application;
- (3) A legal description of the site or tract of land upon which it is proposed to operate a junk yard or automobile grave yard;
- (4) A brief description of the proposed operation including the quantities of junk which may reasonably be anticipated to accumulate on the premises at any given time, the height to which piles of junk are not anticipated to exceed. The proposed means of transporting junk to and from the premises and any other related data which would facilitate the City Council's understanding of the physical qualities of the proposed operation; and

(5) Plans and drawings of the proposed use of the premises with references to adjoining property lines and public streets, including the location of any proposed or existing buildings, fences, or any other permanent structure.

(Ord. 32, passed 9-18-1961)

### **§ 96.03 EFFECTIVE DATE.**

This chapter shall take effect and be in force from and after its passage and publication thereof.

(Ord. 32, passed 9-18-1961)

### **§ 96.99 PENALTY.**

Any owner, contract purchaser, general agent, contractor, tenant or lessee of any premises, which does not conform to this chapter, shall be deemed to have violated this chapter, and any person, firm or corporation who shall violate any provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, be punished by a fine of not to exceed \$100 and costs, or by imprisonment in the county jail for a term not to exceed 90 days. If any person, firm or corporation shall continue any violation of this chapter after having been served with a valid order to remove, cease and desist therefrom, each day of the existence of the violation shall constitute a separate offense.

(Ord. 32, passed 9-18-1961)

## CHAPTER 97: STREETS AND SIDEWALKS

### Section

- 97.01 Construction and reconstruction of roadway surfacing, sidewalk curb, and gutter
- 97.02 Obstructions in streets
- 97.03 Street openings or excavations
- 97.04 Regulation of grass, weeds, and trees
- 97.05 Load limits
- 97.06 Sidewalk maintenance and repair
- 97.07 Snow and ice removal and placement
  
- 97.99 Penalty

### **§ 97.01 CONSTRUCTION AND RECONSTRUCTION OF ROADWAY SURFACING, SIDEWALK, CURB, AND GUTTER.**

#### *(A) Methods of procedure.*

(1) Abutting or affected property owners may contract for, construct or reconstruct roadway surfacing, sidewalk or curb and gutter in accordance with this subchapter, if advance payment is made therefor, or arrangements for payment considered adequate by the city, are completed in advance.

(2) With or without petition by the methods set forth in the Local Improvement Code of Minnesota Statutes, presently beginning with M.S. § 429.011, as the same may from time to time be amended.

*(B) Permit required.* It is a misdemeanor to construct or reconstruct a sidewalk, curb and gutter, driveway or roadway, surfacing in any street or other public property in the city, without a permit in writing from the City Administrator-Clerk/Treasurer. Application for the permit shall be made on forms approved and provided by the city and shall sufficiently describe the work, and the length of time required to complete the same, provided that no permit shall be required for any improvement ordered installed by the City Council. The City Administrator-Clerk/Treasurer shall refer all applications to the City Council, and no permit shall be issued until approval has been received from the City Council. All applications shall contain an agreement by the applicant to be bound by this subchapter, and plans and specifications consistent with the provisions of this subchapter, and good engineering practices shall also accompany the application. A permit from the city shall not relieve the holder from damages to the person or property of another caused by the work.

(C) *Specifications and standards.* All construction and reconstruction of roadway surfacing, sidewalk and curb and gutter improvements, including curb cuts, shall be strictly in accordance with specifications and standards on file in the office of the City Administrator-Clerk/Treasurer, and open to inspection and copying there. These specifications and standards may be amended from time to time by the city, but shall be uniformly enforced.

(D) *Inspection.* The City Council shall inspect the improvements as deemed necessary or advisable. Any work not done according to the applicable specifications and standards shall be removed and corrected at the expense of the permit holder. Any work done hereunder may be stopped by the City Council if found to be unsatisfactory or not in accordance with the specifications and standards, but this shall not place a continuing burden upon the city to inspect or supervise the work.

(Ord. 89, passed 11-9-1998)

#### **§ 97.02 OBSTRUCTIONS IN STREETS.**

(A) *Obstructions.* It is a misdemeanor for any person to place, deposit, display or offer for sale, any fence, goods or other obstructions upon, over, across or under any street without first having obtained a written permit from the City Council, and then, only in compliance in all respects with the terms and conditions of that permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.

(B) *Fires.* It is a misdemeanor for any person to build or maintain a fire upon a street.

(C) *Dumping in streets.* It is a misdemeanor for any person to throw or deposit in any street any nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products, or to empty any water containing salt or other injurious chemical thereon. It is a violation of this subchapter to haul any material, inadequately enclosed or covered, thereby permitting the same to fall upon streets. It is also a violation of this subchapter to place or store any building materials or waste resulting from building construction or demolition on any street without first having obtained a written permit from the City Council.

(D) *Signs and other structures.* It is a misdemeanor for any person to place or maintain a permanent sign, advertisement, or other structure in any street without first having obtained a written permit from the City Council. In a district zoned for commercial or industrial enterprises, special permission allowing an applicant to erect and maintain signs overhanging the street may be granted upon the terms and conditions as may be set forth in the zoning or construction provisions of the city code. A sign in place for more than 10 days shall be considered a permanent sign.

(E) *Continuing violation.* Each day that any person continues in violation of this subchapter shall be a separate offense and deemed punishable.

(F) *Condition.* Before granting any permit under any of the provisions of this subchapter, the City Council may impose any insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding those persons and property. The insurance or bond shall also protect the city from any suit, action or cause of action arising by reason of this obstruction.

(Ord. 89, passed 11-9-1998)

### § 97.03 STREET OPENINGS OR EXCAVATIONS.

It is a misdemeanor for any person, except a city employee acting within the course and scope of his or her employment or a contractor acting within the course and scope of a contract with the city, to make any excavation, opening or tunnel in, over, across or upon a street or other public property, without first having obtained a written permit from the city as herein provided.

(A) *Application.* Application for a permit to make a street excavation shall describe, with reasonable particularity, the name and address of the applicant, the place, purpose and size of the excavation, and any other information as may be necessary or desirable to facilitate the investigation hereinafter provided for, and shall be filed with the City Administrator-Clerk/Treasurer.

(B) *Investigation and payment of estimated costs.* Upon receipt of that application, the City Council shall cause an investigation to be made as they may deem necessary to determine estimated cost of repair, including, but not limited to, back-filling, compacting, resurfacing and replacement, and the conditions as to the time of commencement of work, manner of procedure, and time limitation upon the excavation. The foregoing estimated costs, other conditions, and the cost of the investigation, shall be included in the estimate. Payment of those estimated costs shall be made before the permit is issued.

(C) *Protection of the city and the public.*

(1) *Non-completion or abandonment.* Work shall progress expeditiously to completion in accordance with any time limitation placed thereon so as to avoid unnecessary inconvenience to the public. In the event that work is not preformed in accordance therewith, or shall cease or be abandoned without due cause, the city may, after 6 hours' notice in writing to the holder of the permit of its intention to do so, correct the work, fill the excavation and repair the public property, and the cost thereof shall be paid by the person holding the permit.

(2) *Insurance.* Prior to commencement of the work described in the application, the applicant shall furnish the city satisfactory evidence in writing that the applicant will keep in effect public liability insurance in amounts set by City Council from time to time, issued by an insurance company authorized to do business in the State of Minnesota on which the city is named as a co-insured.

(2) *Indemnification.* Before issuance of a permit, the applicant shall, in writing, agree to indemnify and hold the city harmless from any liability for injury or damage arising out of the action of

the applicant in performance of the work, or any expense whatsoever incurred by the city incident to a claim or action brought or commenced by any person arising therefrom.

(D) *Issuance of permit.* The City Council shall issue a permit after:

- (1) Completion of an investigation;
- (2) Determination of all estimated costs as aforesaid;
- (3) Agreement by the applicant to the conditions of time and manner as aforesaid;
- (4) Agreement in writing by the applicant to pay all actual costs of repairs over and above the estimate; and
- (5) Agreement in writing by the applicant to be bound by all of the provisions of this subchapter. No permit shall be issued until the applicant has paid all of the foregoing, together with any investigation, inspection and permit fees, as are fixed and determined by resolution of the City Council.

(E) *Repairs.* All temporary and permanent repairs, including back-filling, compacting and resurfacing shall be made, or contracted for, by the city in a manner prescribed by the City Council, and an accurate account of costs thereof shall be kept.

(F) *Cost adjustment.* Within 60 days following completion of any permanent repairs, the City Administrator-Clerk/Treasurer shall determine actual costs of repairs, including cost of investigation, and prepare and furnish to the permit holder an itemized statement thereof and claim additional payment from, or make refund (without interest) to, the permit holder, as the case may be.

(G) *Alternate method of charging.* In lieu of the above provisions relating to cost and cost adjustment for street openings, the city may charge on the basis of surface square feet removed, excavated cubic feet, or a combination of surface square feet and excavated cubic feet, on an established unit price uniformly charged.

(Ord. 89, passed 11-9-1998)

#### **§ 97.04 REGULATION OF GRASS, WEEDS, AND TREES.**

(A) *City to control tree planting (standards).* The city shall have control and supervision of planting shrubs and trees upon, or hanging from, all the streets or other public property. The city may establish and enforce uniform standards relating to the kinds and types of trees to be planted and the placement thereof. These standards shall be kept on file in the office of the City Administrator-Clerk/Treasurer, and may be revised from time to time, by action of the City Council upon the recommendation of the City Administrator-Clerk/Treasurer.

(B) *Permit required.* It is unlawful for any person to plant, spray, trim or remove trees or other plants which are upon city property, including rights-of-way, without first procuring from the city a permit in writing to do so.

(C) *Duty of property owners to cut grass and weeds, and maintain trees and shrubs.*

(1) Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of that property nearest to the street to the curb of the street. If the grass or weeds in that place attain a height in excess of 6 inches, it shall be prima facie evidence of a failure to comply with this subchapter. Every owner of property abutting on any street shall, subject to the provision herein requiring a permit therefore, trim, cut and otherwise maintain all trees and shrubs from the line of that property nearest to the curb.

(2) Every owner of property abutting on any street shall notify the City Administrator-Clerk/Treasurer, or some other member of the Public Works Department, at once when the condition of any tree thereon, or in the grass plot adjacent thereto, is in a condition as to be a menace to public safety. Any tree whose branches are closer than 14 feet above the surface of any street, or 8 feet above the surface of a sidewalk, is a menace to public safety. If a tree becomes a menace to public safety, the City Council shall notify the owner to remove or trim the same. If the owner fails to do so, the city may act as provided for in this subchapter.

(D) *City may order work done.* The city may, in cases of failure to comply with this subchapter, perform the work with employees of the city, keeping an accurate account of the cost thereof for each lot, piece or parcel of land abutting upon the street.

(E) *Assessment.* If any maintenance work is performed by the city as set forth in the foregoing subchapter, the City Administrator-Clerk/Treasurer shall forthwith, upon completion thereof, ascertain the cost attributable to each lot, piece or parcel of abutting land. The City Administrator-Clerk/Treasurer shall, at the next regular meeting thereof, present the certificate to the City Council and obtain its approval thereof. When the certificate has been approved, it shall be extended as to the cost therein stated as a special assessment against the abutting land, and the special assessment shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments are certified and collected.

(Ord. 89, passed 11-9-1998)

#### **§ 97.05 LOAD LIMITS.**

The city may, from time to time, impose upon vehicular traffic on any part or all of the streets, any load limits as may be necessary or desirable. Those limits, and the specific extent or weight to which loads are limited, shall be clearly and legibly sign-posted thereon. It is a misdemeanor for any person to operate a vehicle on any street in violation of the limitation so posted.

(Ord. 89, passed 11-9-1998)

**§ 97.06 SIDEWALK MAINTENANCE AND REPAIR.**

(A) *Primary responsibility.* It is the primary responsibility of the owner of property upon which there is abutting any sidewalk, to keep and maintain that sidewalk in safe and serviceable condition.

(B) *Construction, reconstruction and repair specifications.* All construction, reconstruction or repair of sidewalks shall be done in strict accordance with specifications on file in the office of the City Administrator-Clerk/Treasurer.

(C) *Notice - non-emergency.* Where, in the opinion of the City Administrator-Clerk/Treasurer, no emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. The notice shall require completion of the work within 90 days, and shall be mailed to the owner or owners shown as on the records of the county office who mails tax statements.

(D) *Notice - emergency.* Where, in the opinion of the City Council, an emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. The notice shall require completion of the work within 10 days, and shall be mailed to the owner or owners shown as on the records of the county office who mails tax statements.

(E) *Failure of owner to reconstruct or make repairs.* If the owner of the abutting property fails to make repairs or accomplish reconstruction as herein required, the City Administrator-Clerk/Treasurer shall report that failure to the City Council, and the City Council may order that work to be done under its direction, and the cost thereof assessed to the abutting property owner as any other special assessment.

(F) *Inspection.* The Public Works Department shall make any inspections as are necessary to determine that sidewalks are kept in safe and serviceable condition.  
(Ord. 89, passed 11-9-1998)

**§ 97.07 SNOW AND ICE REMOVAL AND PLACEMENT.**

(A) *Purpose.* This section is intended to require owners or occupants of real property to remove snow and ice from public sidewalks and to regulate the placement of snow and ice for the purpose of preventing a public nuisance affecting the safety of the general public.

(B) *Snow and ice removal.* It is a petty misdemeanor for the owner or the occupant of real property abutting a public sidewalk to fail to remove snow and ice from such abutting public sidewalk within 48 hours after the snow or ice has been deposited. This section shall not apply to public sidewalks or dead-end streets where no houses face that side of the street nor the public sidewalks that are asphalt surfaced. The Mayor, or in the absence of the Mayor, the acting Mayor, may file with the City Clerk a written declaration suspending the requirements of this section when the accumulation of snow or ice makes removal unreasonably difficult. Such suspension shall continue for the remainder of the winter season, unless revoked by the City Council at its first regular meeting following the date of the written declaration.

(C) *Placement of snow and ice.* Unless acting under a specified contract with the city or with written special permission from the city, no owners or occupants of real property, or any person on behalf of any such owner or occupant, shall push, deposit, pile, or otherwise place in any public street, alley, sidewalk, or trail right-of-way, any snow or ice from such private real property or from public boulevards adjoining such private real property. Any such owner or occupant who violates this section shall remove the deposit of snow or ice within 12 hours after written notice is given by the city.

(D) *Failure to comply.* If any such owner or occupant fails to remove the snow or ice herein required, the city may perform such removal work and the owner or occupant shall be personally liable for the costs incurred by the city for such work. If payment is not remitted within 30 days of mailing of an invoice by the city, the City Administrator-City Clerk/Treasurer may report that failure to the City Council, and the City Council may approve all or any portion of any snow removal costs as herein provided as a special assessment against the abutting property. Such special assessment shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments are certified and collected pursuant to M.S. § 429.101.

(Ord. 159, passed 5-14-2012)

#### **§ 97.99 PENALTY.**

(A) Any person violating any provision of this code for which no specific penalty is provided shall be subject to § 10.99.

(B) Every person violates §§ 97.01 *et seq.* when he or she performs an act thereby prohibited or declared unlawful, or fails to act when this failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

(1) Where the specific division, paragraph or provision specifically makes violation a misdemeanor, he or she shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he or she shall be punished as for a misdemeanor, where he or she stands convicted of violation of any provision of this subchapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, he or she shall be punished as for a misdemeanor.

(2) As to any violation not constituting a misdemeanor under the provisions of division (B) hereof, he or she shall be punished as for a petty misdemeanor.

(Ord. 89, passed 11-9-1998)



## CHAPTER 98: OUTDOOR WOOD BOILER SYSTEMS

### Section

- 98.01 Purpose
- 98.02 Definitions
- 98.03 Area of operation
- 98.04 Certificate of compliance
- 98.05 Application for a certificate of compliance
- 98.06 Application for building permit
- 98.07 Minimum requirements for all outdoor wood boiler systems
- 98.08 Right of entry and inspection
- 98.09 Existing outdoor wood boiler systems
  
- 98.99 Penalty

### § 98.01 PURPOSE.

This chapter is intended to insure that outdoor wood boiler systems are utilized in a manner that does not create a public nuisance and is not detrimental to the health, safety and general welfare of the residents of the city.

(Ord. 144, passed 10-13-2008)

### § 98.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CLEAN FUEL.** Natural dry wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products and other Environmental Protection Agency approved fuels.

**OUTDOOR WOOD BOILER SYSTEM.** An appliance installed out of doors and designed to transfer or provide heat, via liquid or other means, through the burning of clean fuel for heating purposes. **OUTDOOR WOOD BOILER** does not include a fire pit or wood-fired barbeque.

**PUBLIC NUISANCE.** A public nuisance as defined in § 90.02(A) of this code.

(Ord. 144, passed 10-13-2008)

**§ 98.03 AREA OF OPERATION.**

An outdoor wood boiler system may be installed and used in the agricultural, residential and industrial zoning districts only.

(Ord. 144, passed 10-13-2008)

**§ 98.04 CERTIFICATE OF COMPLIANCE.**

A certificate of compliance shall be obtained from the city prior to installing, altering or relocating an outdoor wood boiler system.

(Ord. 144, passed 10-13-2008)

**§ 98.05 APPLICATION FOR A CERTIFICATE OF COMPLIANCE.**

(A) An application for a certificate of compliance shall be made to the city upon forms furnished by the city. The application shall include the following data:

(1) Name and address of applicant and property owner;

(2) Legal description of the property;

(3) A site plan or survey, if deemed necessary by the City, illustrating the dimensions of the property, including location of buildings and the outdoor wood boiler relative to the lot lines and distances from neighboring residences that are within 150 feet; and

(4) Manufacturer's specifications for installation.

(B) An application shall be accompanied by the application fee as established by the City Council.  
(Ord. 144, passed 10-13-2008)

**§ 98.06 APPLICATION FOR BUILDING PERMIT.**

A building permit must be obtained to assure that all outdoor wood boiler systems meet all building and fire codes, and manufacturer's specifications for installation.

(Ord. 144, passed 10-13-2008)

**§ 98.07 MINIMUM REQUIREMENTS FOR ALL OUTDOOR WOOD BOILER SYSTEMS.**

(A) All requirements for installation and maintenance shall be met including but not limited to local, state and federal regulations and manufacturer's specifications.

(B) An outdoor wood boiler system shall be located at least 150 feet from any residence or principal building which is not on the same property as the outdoor wood boiler system.

(C) An outdoor wood boiler system shall only be placed in a location meeting the minimum required setbacks of an accessory structure within the applicable zoning district.

(D) An outdoor wood boiler system shall have an attached permanent stack extending two feet higher than the roof line of the structure being served and residential or principal buildings within a 500 foot radius of the wood boiler system.

(E) An outdoor wood boiler system shall not be operated or maintained in a manner which creates a public nuisance.

(F) An outdoor wood boiler system shall burn clean fuel only. An outdoor wood boiler system shall not be operated in a manner which creates any dense smoke, noxious fumes or noxious gas or releases soot or cinders in unreasonable quantities.

(G) An outdoor wood boiler system shall be equipped with properly functioning spark arresters.

(H) An outdoor wood boiler system may not be operated from April 20 through October 1 in each year.

(Ord. 144, passed 10-13-2008; Am. Ord. 147, passed - - 2009) Penalty, see § 98.99

**§ 98.08 RIGHT OF ENTRY AND INSPECTION.**

(A) An officer, agent, employee or representative of the city may inspect any property for the purpose of ascertaining compliance with the provisions of this chapter.

(B) If the city determines that the operation of an outdoor wood boiler system is creating a public nuisance or is being operated in a manner hazardous to persons or property, or not meeting the requirements of this chapter, the city may revoke the certificate of compliance after a hearing is held by the City Council upon a minimum of 10 days written notice given to the property owner.

(Ord. 144, passed 10-13-2008)

**§ 98.09 EXISTING OUTDOOR WOOD BOILER SYSTEMS.**

Outdoor wood boiler systems installed prior to the adoption of this chapter shall be operated in compliance with the minimum requirements of this chapter except that the distance requirements of § 98.07(B) shall not apply and for any existing outdoor wood boiler system not located in an agricultural,

residential, or industrial district, the requirements of § 98.03 shall not apply. The owner(s) of the property on which the outdoor wood boiler system is installed shall make an application for a certificate of compliance within 30 days of the effective date of this chapter.  
(Ord. 144, passed 10-13-2008)

**§ 98.99 PENALTY.**

Any person, firm, or corporation who violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall be subject to the penalties imposed by § 10.99.  
(Ord. 144, passed 10-13-2008)