

## **TITLE IX: GENERAL REGULATIONS**

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**CHAPTER 90: HEALTH AND SANITATION; NUISANCES**

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***GENERAL PROVISIONS***

**§ 90.01 ASSESSABLE CURRENT SERVICES.**

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***CURRENT SERVICE.*** One or more of the following: snow, ice or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S. §§ 463.15 through 463.26 as they may amended from time to time; installation or repair of water service lines; street sprinkling, street flushing, light street oiling or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

**Montrose - General Regulations****(B) Snow, ice, dirt and rubbish.****(1) Duty of owners and occupants.**

(a) The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians.

(b) No owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than 24 hours after its deposit thereon. Failure to comply with this section shall constitute a violation.

**(2) Removal by city.**

(a) The City Administrator/Clerk-Treasurer or other person designated by the City Council may cause removal from all public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning 24 hours after any matter has been deposited thereon or after the snow has ceased to fall.

(b) The City Administrator/Clerk-Treasurer or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel.

**(C) Public health and safety hazards.** When the city removes or eliminates public health or safety hazards from private property under the following provisions of this chapter, the administrative officer responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and annually deliver that information to the City Administrator/Clerk-Treasurer.

**(D) Installation and repair of water service lines.** Whenever the city installs or repairs water service lines serving private property hereunder, the City Administrator/Clerk-Treasurer shall keep a record of the total cost of the installation or repair against the property.

**(E) Repair of sidewalks and alleys.**

(1) *Duty of owner.* The owner of any property within the city abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the City Council and on file in the Office of the City Administrator/Clerk-Treasurer.

**(2) Inspections; notice.**

(a) The City Council or its designee shall make inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians or vehicles.

(b) If it is found that any sidewalk or alley abutting on private property is unsafe and in need of repairs, the City Council shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property, ordering the owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so, the city will do so and that the expense thereof must be paid by the owner, and if unpaid it will be made a special assessment against the property concerned.

(3) *Repair by city.* If the sidewalk or alley is not repaired within 30 days after receipt of the notice, the City Administrator/Clerk-Treasurer shall report the facts to the City Council and the City Council shall by resolution order the work done by contract in accordance with law. The City Administrator/Clerk-Treasurer shall keep a record of the total cost of the repair attributable to each lot or parcel of property.

**(F) Personal liability.**

(1) The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of the service.

(2) As soon as the service has been completed and the cost determined, the City Administrator/Clerk-Treasurer, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the City Administrator/Clerk-Treasurer.

(G) *Damage to public property.*

(1) Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code.

(2) When the driver is not the owner of the vehicle, equipment, object or contrivance, but is operating, driving or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. § 514.67, as it may be amended from time to time.

(H) *Assessment.*

(1) On or before September 1 of each year, the City Administrator/Clerk-Treasurer shall list the total unpaid charges for each type of current service and charges under this section against each separate lot or parcel to which they are attributable under this section.

(2) The City Council may then spread the charges against property benefitted as a special assessment under the authority of M.S. § 429.101 as it may be amended from time to time and other

pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Penalty, see § 10.99

§ 90.02 TREE DISEASES.

(A) *Trees constituting nuisance declared.* The following are public nuisances whenever they may be found within the city:

(1) Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus *Ceratocystis Ulmi (Buisman) Moreau* or which harbors any of the elm bark beetles *Scolytus Multistriatus (Eichh.)* or *Hylungopinus Rufipes (Marsh)*;

(2) Any dead elm tree or part thereof, including branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide;

(3) Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt fungus *Ceratocystis fagacearum*;

(4) Any dead oak tree or part thereof which in the opinion of the designated officer constitutes a hazard, including but not limited to logs, branches, stumps, roots, firewood or other oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide; and

(5) Any other shade tree with an epidemic disease.

(B) *Abatement of nuisance.*

(1) It is unlawful for any person to permit any public nuisance as defined in division (A) of this section to remain on any premises the person owns or

controls within the city. The City Council may by resolution order the nuisance abated. Before action is taken on that resolution, the City Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to the affected property owner and published once no less than one week prior to the meeting.

(2) (a) The notice shall state the time and place of the meeting, the street affected, action proposed, the estimated cost of the abatement and the proposed basis of assessment, if any, of costs.

(b) At the hearing or adjournment thereof, the City Council shall hear any property owner with reference to the scope and desirability of the proposed project.

(3) The City Council shall thereafter adopt a resolution confirming the original resolution with modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

(C) *Record of costs.* The City Administrator/Clerk-Treasurer shall keep a record of the costs of abatement done under this section for all work done for which assessments are to be made, stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.

(D) *Unpaid charges.* On or before September 1 of each year, the City Administrator/Clerk-Treasurer shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges or any portion thereof against the property involved as a special assessment as authorized by M.S. § 429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes. Penalty, see § 10.99

## *NUISANCES*

### **§ 90.15 PUBLIC NUISANCE.**

Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

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

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

(C) Is guilty of any other act or omission declared by law or §§ 90.16, 90.17 or 90.18, or any other part of this code to be a public nuisance and for which no sentence is specifically provided. Penalty, see § 10.99

### **§ 90.16 PUBLIC NUISANCES AFFECTING HEALTH.**

The following are hereby declared to be nuisances affecting health:

(A) Exposed accumulation of decayed or unwholesome food or vegetable matter;

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

(D) Carcasses of animals not buried or destroyed within 24 hours after death;

(E) Accumulations of manure, refuse or debris;

(F) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

(G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;

(H) All noxious weeds and other rank growths of vegetation upon public or private property;

(I) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;

(J) All public exposure of people having a contagious disease; and

(K) Any offensive trade or business as defined by statute not operating under local license.  
Penalty, see § 10.99

#### **§ 90.17 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.**

The following are hereby declared to be nuisances affecting public morals and decency:

(A) All gambling devices, slot machines and punch boards, except as otherwise authorized by federal, state or local law;

(B) Betting, bookmaking and all apparatus used in those occupations;

(C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;

(D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor,

or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place;

(E) Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.  
Penalty, see § 10.99

#### **§ 90.18 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.**

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

(A) All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;

(B) All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

(C) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

(D) All obnoxious noises in violation of Minn. Rules Ch. 7030, as they may be amended from time to time which are hereby incorporated by reference into this code.

(E) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle, snowmobile or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.

(F) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or

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other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby. Operation of any device referred to above between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section.

(G) The participation in a party or gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property.

(H) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds, except under conditions as are permitted by this code or other applicable law;

(I) Radio aerials or television antennae erected or maintained in a dangerous manner;

(J) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;

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

(L) The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;

(M) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;

(N) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

(O) Waste water cast upon or permitted to flow upon streets or other public properties;

(P) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material in a manner conducive to the harboring of rats, mice, snakes or vermin or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation;

(Q) Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;

(R) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials;

(S) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;

(T) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

(U) All other conditions or things which are likely to cause injury to the person or property of anyone.

(V) *Accumulation in the open.* Accumulation in the open of broken or unused metal, wood, lumber, cement, electrical fixtures, plumbing fixtures, building materials (but excluding building materials awaiting use in construction or improvement presently in progress on the same premises), trash, debris, rubbish, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from such accumulation. Penalty, see § 10.99

**§ 90.19 DUTIES OF CITY OFFICERS.**

The Police Department or Sheriff, if the city has at the time no Police Department, shall enforce the provisions relating to nuisances. Any peace officer shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

**§ 90.20 ABATEMENT.**

(A) *Notice.* Written notice of violation; notice of the time, date, place and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this section.

(1) *Notice of violation.* Written notice of violation shall be served by a peace officer on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

(2) *Notice of City Council hearing.* Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.

(3) *Notice of City Council order.* Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be made as provided in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

(4) *Notice of motion for summary enforcement.* Written notice of any motion for summary enforcement shall be made as provided for

in M.S. § 463.17, Hazardous and Substandard Building Act, as it may be amended from time to time.

(B) *Procedure.* Whenever a peace officer determines that a public nuisance is being maintained or exists on the premises in the city, the officer shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement.

(C) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) of this

section, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(D) *Immediate abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.  
Penalty, see § 10.99

#### § 90.21 RECOVERY OF COST.

(A) *Personal liability.*

(1) The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Administrator/Clerk-Treasurer or other official shall prepare a bill for the cost and mail it to the owner.

(2) Thereupon the amount shall be immediately due and payable at the office of the City Administrator/Clerk-Treasurer.

(B) *Assessment.*

(1) If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Administrator/Clerk-Treasurer shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other the charges as well as other charges for current services to be assessed under M.S. § 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable.

(2) The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Penalty, see § 10.99

### ***WEEDS***

#### § 90.35 SHORT TITLE.

This subchapter shall be cited as the Weed Subchapter.

#### § 90.36 JURISDICTION.

This subchapter shall be in addition to any state statute or county ordinance presently in effect, subsequently added, amended or repealed.

#### § 90.37 DEFINITIONS; EXCLUSIONS.

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

***DESTRUCTION ORDER.*** The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the ordinance violation.

***PROPERTY OWNER.*** The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license or lease.

**WEEDS, GRASSES and RANK VEGETATION.** Includes but is not limited to the following:

(1) Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip;

(2) Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated or otherwise maintained for two consecutive years;

(3) Bushes of the species of tall, common, or European barberry, further known as *berberis vulgaris* or its horticultural varieties;

(4) Any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants, growing to a height exceeding 12 inches.

(5) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants.

(6) The term **WEEDS** does not include shrubs, trees, cultivated plants or crops.

(B) In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

**§ 90.38 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.**

All property owners shall be responsible for the removal, cutting or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property, which at the time of notice, is in excess of 12 inches in height. Penalty, see § 10.99

**§ 90.39 FILING COMPLAINT.**

Any person, including the city, who believes there is property located within the corporate limits of the city which has growing plant matter in violation of this subchapter shall make a written complaint signed, dated and filed with the City Administrator/Clerk-Treasurer. If the city makes the complaint, an employee, officer or Council member of the city shall file the complaint in all respects as set out above.

**§ 90.40 NOTICE OF VIOLATIONS.**

(A) Upon receiving notice of the probable existence of weeds in violation of this subchapter, a person designated by the City Council shall make an inspection and prepare a written report to the City Council regarding the condition. The City Council, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in the form of a destruction order to the property owner or the person occupying the property as that information is contained within the records of the City Administrator/Clerk-Treasurer or any other city agency. The notice shall be served in writing by certified mail. The notice shall provide that within seven regular business days after the receipt of the notice that the designated violation shall be removed by the property owner or person occupying the property.

(B) (1) All notices are to be in writing and all filings are to be with the City Administrator/ Clerk-Treasurer.

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(2) Certified mailing to the City Administrator/Clerk-Treasurer or others is deemed filed on the date of posting to the United States Postal Service.

**§ 90.41 APPEALS.**

(A) (1) The property owner may appeal by filing written notice of objections with the City Council within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the City Council.

(2) It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants or crops or is not otherwise in violation of this subchapter, and should not be subject to destruction under the subchapter.

(B) An appeal by the property owner shall be brought before the City Council and shall be decided by a majority vote of the Council members in attendance and being at a regularly scheduled or special meeting of the City Council.

**§ 90.42 ABATEMENT BY CITY.**

In the event that the property owner shall fail to comply with the destruction order within seven regular business days and has not filed a notice within 48 hours to the City Administrator/Clerk-Treasurer of an intent to appeal, the City Council may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means.

**§ 90.43 LIABILITY.**

(A) The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subchapter.

(B) The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorney's fees and interest on any unpaid amounts incurred by the city. If the city uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

(C) All sums payable by the property owner are to be paid to the City Administrator/Clerk-Treasurer and to be deposited in a general fund as compensation for expenses and costs incurred by the city.

(D) All sums payable by the property owner may be collected as a special assessment as provided by M.S. § 429.101, as it may be amended from time to time.

***OPEN BURNING*****§ 90.60 DEFINITIONS.**

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

***FIRE CHIEF, FIRE MARSHAL*** and ***ASSISTANT FIRE MARSHALS.*** The Fire Chief, Fire Marshal and Assistant Fire Marshals of the Fire Department which provides fire protection services to the city.

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

**RECREATIONAL FIRE.**

(1) A fire set with approved starter fuel no more than three feet in height, contained within the border of 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, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans and air quality so that nuisance, health or safety hazards will not be created.

(2) No more than one **RECREATIONAL FIRE** is allowed on any property at one time.

**RECREATIONAL FIRE SITE.**

(1) An area of no more than a three foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only an which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces.

(2) Burning barrels are not a **RECREATION FIRE SITE**, as defined herein. **RECREATIONAL FIRE SITES** shall not be located closer than 25 feet to any structure.

**STARTER FUELS.** Dry, untreated, unpainted, kindling, branches, cardboard 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 must be used to start an open burn.

**WOOD.**

(1) Dry, clean fuel only such as twigs, branches, limbs, presto logs, charcoal, cord wood or untreated dimensional lumber. The term does not

include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives.

(2) Clean pallets may be used for recreational fires when cut into three foot lengths.

**§ 90.61 PROHIBITED MATERIALS.**

(A) No person shall conduct, cause or permit open burning oils, petro fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, Sheetrock, wiring, paint or paint fillers.

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

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

(D) No person shall conduct, cause or permit open burning of any leaves or grass clippings. Penalty, see § 10.99

**§ 90.62 PERMIT REQUIRED FOR OPEN BURNING.**

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in § 90.60. Penalty, see § 10.99

**§ 90.63 PURPOSES ALLOWED FOR OPEN BURNING.**

(A) Open burn permits may be issued only for the following purposes:

(1) Elimination of fire of health hazard that cannot be abated by other practical means.

(2) Ground thawing for utility repair and construction.

(3) 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, landspreading or other alternative methods are not practical.

(4) Disposal of diseased trees generated on site, diseased or infected nursery stock, diseased bee hives.

(5) 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 can only issued by the State Department of Natural Resources.  
Penalty, see § 10.99

**§ 90.64 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.**

(A) Open burning permits shall be obtained by making application on a form prescribed the Department of Natural Resources (DNR) and adopted by the Fire Department. The permit application shall be presented to the Fire Chief, Fire Marshal and Assistant Fire Marshals for reviewing and processing those applications.

(B) An open burning permit shall require the payment of a fee. Permit fees shall be in the amount established by the city from time to time.  
Penalty, see § 10.99

**§ 90.65 PERMIT PROCESS FOR OPEN BURNING.**

Upon receipt of the completed open burning permit application and permit fee, the Fire Chief, Fire Marshal or Assistant Fire Marshals shall schedule a preliminary site inspection to locate the proposed burn site, note special conditions and set dates and time of permitted burn and review fire safety considerations.

**§ 90.66 PERMIT HOLDER RESPONSIBILITY.**

(A) (1) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect.

(2) Every open burn event shall be constantly attended by the permit holder or his or her competent representative.

(3) The open burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan.

(B) (1) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site.

(2) No fire may be allowed to smolder with no person present.

(3) It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Police Department, Fire Department, MPCA representative or DNR forest officer.

(C) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and the burn event safety plan 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. Penalty, see § 10.99

**§ 90.67 REVOCATION OF OPEN BURNING PERMIT.**

(A) The open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief, Fire Marshal or Assistant Fire Marshals.

(B) Reasons for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit 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 present.

Penalty, see § 10.99

**§ 90.68 DENIAL OF OPEN BURNING PERMIT.**

If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical alternative method for disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the Fire Chief, Fire Marshal or Assistant Fire Marshals, these officers may deny the application for the open burn permit.

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

No recreational fire or open burn will be permitted when the city or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert.

Penalty, see § 10.99

**§ 90.70 RULES AND LAWS ADOPTED BY REFERENCE.**

The provisions of M.S. §§ 88.16 to 88.22 and the *Minnesota Uniform Fire Code*, Minn. Rules Ch. 1510, as these statutes and rules may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.



## CHAPTER 91: ABANDONED PROPERTY

### Section

#### *General Provisions*

91.01 Disposition of abandoned property

#### *Abandoned Vehicles*

91.15 Findings and purpose  
91.16 Definitions  
91.17 Violation to abandon motor vehicle  
91.18 Authority to impound vehicles  
91.19 Sale; waiting periods  
91.20 Notice of taking and sale  
91.21 Right to reclaim  
91.22 Operator's deficiency claim; consent to sale  
91.23 Disposition by impound lot  
91.24 Disposal authority  
91.25 Contracts; reimbursement by MPCA

#### **GENERAL PROVISIONS**

### **§ 91.01 DISPOSITION OF ABANDONED PROPERTY.**

(A) *Procedure.* Except for abandoned and junked vehicles, all property lawfully coming into possession of the city shall be disposed of as provided in this section which is adopted pursuant to M.S. § 471.195, as it may be amended from time to time. Abandoned and junked vehicles shall be disposed of according to the procedures of §§ 91.15 *et seq.*

(B) *Storage.* The department of the city acquiring possession of the property shall arrange for its storage. If city facilities are unavailable or inadequate, the department may arrange for storage at

a privately-owned facility.

(C) *Claim by owner.* The owner may claim the property by exhibiting satisfactory proof of ownership and paying the city any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.

(D) *Sale.* If the property remains unclaimed in the possession of the city for 60 days, the property shall be sold to the highest bidder at a public auction conducted by the City Administrator/Clerk-Treasurer or his or her designee after two-weeks' published notice setting forth the time and place of the sale and the property to be sold.

(E) *Disposition of proceeds.* The proceeds of the sale shall be placed in the general fund of the city. If the former owner makes application and furnishes satisfactory proof of ownership within six months of the sale, the former owner shall be paid the proceeds of the sale of the property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

#### **ABANDONED VEHICLES**

### **§ 91.15 FINDINGS AND PURPOSE.**

M.S. Ch. 168B, and Minn. Rules Ch. 7035, as they may be amended from time to time, are hereby adopted by reference. Sections 91.15 through 91.25 of this code are adopted under the authority of M.S. § 168B.09, Subd. 2, as it may be amended from time

to time. If any of these provisions are less stringent than the provisions of M.S. Ch. 168B or Minn. Rules Ch. 7035, as they may be amended from time to time, the statute or rule shall take precedence.

### § 91.16 DEFINITIONS.

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

#### ***ABANDONED VEHICLE.***

(1) A motor vehicle, as defined in M.S. § 169.01 as it may be amended from time to time, that:

(a) Has remained illegally:

1. For a period of more than 48 hours on any property owned or controlled by a unit of government, or more than four hours on that property when it is properly posted; or

2. On private property for a period of time, as determined under § 91.18(B), without the consent of the person in control of the property; and

(b) Lacks vital component parts or is in an inoperable condition that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.

(2) A classic car or pioneer car, as defined in M.S. § 168.10 as it may be amended from time to time, is not considered an abandoned vehicle.

(3) Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with M.S. § 161.242 as it may be amended from time to time, or that are licensed and maintained in accordance with local laws and zoning regulations, are not considered abandoned vehicles.

(4) A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ or court order is in effect.

***DEPARTMENT.*** The Minnesota Department of Public Safety.

***IMPOUND.*** To take and hold a vehicle in legal custody. There are two types of impounds: public and nonpublic.

***IMPOUND LOT OPERATOR*** or ***OPERATOR.*** A person who engages in impounding or storing, usually temporarily, unauthorized or abandoned vehicles. ***OPERATOR*** includes an operator of a public or nonpublic impound lot, regardless of whether tow truck service is provided.

***JUNK VEHICLE.*** A vehicle that:

(1) Is three years old or older;

(2) Is extensively damaged, with the damage including things as broken or missing wheels, motor, drive train or transmission;

(3) Is apparently inoperable;

(4) Does not have a valid, current registration plate; and

(5) Has an approximate fair market value equal only to the approximate value of the scrap in it.

***MOTOR VEHICLE*** or ***VEHICLE.*** Has the meaning given ***MOTOR VEHICLE*** in M.S. § 169.01, as it may be amended from time to time.

***MOTOR VEHICLE WASTE.*** Solid waste and liquid wastes derived in the operation of or in the recycling of a motor vehicle, including such things as tires and used motor oil, but excluding scrap metal.

***MPCA*** or ***AGENCY.*** The Minnesota Pollution Control Agency.

**NONPUBLIC IMPOUND LOT.** An impound lot that is not a public impound lot.

**PUBLIC IMPOUND LOT.** An impound lot owned by or contracting with a unit of government under § 91.24.

**UNAUTHORIZED VEHICLE.** A vehicle that is subject to removal and impoundment pursuant to § 91.18(B), or M.S. § 169.041 as it may be amended from time to time, but is not a junk vehicle or an abandoned vehicle.

**UNIT OF GOVERNMENT.** Includes a state department or agency, a special purpose district, and a county, statutory or home rule charter city, or town.

**VITAL COMPONENT PARTS.** Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including such things as the motor, drive train and wheels.

#### **§ 91.17 VIOLATION TO ABANDON MOTOR VEHICLE.**

Any person who abandons a motor vehicle on any public or private property, without the consent of the person in control of the property, is guilty of a misdemeanor.

Penalty, see § 10.99

#### **§ 91.18 AUTHORITY TO IMPOUND VEHICLES.**

(A) *Abandoned or junk vehicles.* The City Administrator/Clerk-Treasurer or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle if the vehicle is on public property. If the abandoned or junk vehicle is located on private property, the vehicle shall not be removed or impounded until the provisions of § 91.18(C) are complied with.

(B) *Unauthorized vehicles.* The City Administrator/Clerk-Treasurer, or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any unauthorized vehicle under M.S. § 169.041 as it may be amended from time to time. A vehicle may also be impounded after it has been left unattended in one of the following public or private locations for the indicated period of time:

(1) In a public location not governed by M.S. § 169.041 as it may be amended from time to time:

(a) On a highway and properly tagged by a peace officer, four hours;

(b) Located so as to constitute an accident or traffic hazard to the traveling public, as determined by a peace officer, immediately; or

(c) That is a parking facility or other public property owned or controlled by a unit of government, properly posted, four hours; or

(2) On private property, only with the express permission of the owner of the property, a resident or other person in control of the premises:

(a) That is single-family or duplex residential property, immediately;

(b) That is private, nonresidential property, properly posted, immediately;

(c) That is private, nonresidential property, not posted, 24 hours; or

(d) That is any residential property, properly posted, immediately.

(3) If under division (B)(2) of this section, permission is not granted, then the city shall not remove and impound any vehicle until the procedure established in division (B)(2) of this section have been followed.

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(C) If the vehicle is on private property, the City Administrator/Clerk-Treasurer or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle on private property only with the permission of the owner of the property, a resident, or other person in control of the premises. If permission is denied, the city may declare the existence of the abandoned or junk vehicle to be a nuisance and proceed to abate the nuisance as provided for in this title. Once the abatement procedure has been completed, the city may apply for an order from a court of competent jurisdiction authorizing the removal and impoundment of the vehicle and, after the order has been granted, the city may then remove and impound the vehicle.

**§ 91.19 SALE; WAITING PERIODS.**

(A) *Sale after 15 days.* An impounded vehicle is eligible for disposal or sale under § 91.23, 15 days after notice to the owner, if the vehicle is determined to be:

(1) A junk vehicle, except that it may have a valid, current registration plate and still be eligible for disposal or sale under this subdivision; or

(2) An abandoned vehicle.

(B) *Sale after 45 days.* An impounded vehicle is eligible for disposal or sale under § 91.23, 45 days after notice to the owner, if the vehicle is determined to be an unauthorized vehicle.

**§ 91.20 NOTICE OF TAKING AND SALE.**

(A) *Contents; notice given within five days.* When an impounded vehicle is taken into custody, the city or impound lot operator taking it into custody shall give notice of the taking within five days. The notice shall:

(1) Set forth the date and place of the taking; the year, make, model and serial number of the impounded motor vehicle if the information can be reasonably obtained; and the place where the vehicle is being held;

(2) Inform the owner and any lienholders of their right to reclaim the vehicle under § 91.21; and

(3) State that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under § 91.19 shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to § 91.23.

(B) *Notice by mail or publication.* The notice shall be sent by mail to the registered owner, if any, of an impounded vehicle and to all readily identifiable lienholders of record. The Department makes this information available to impound lot operators for notification purposes. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy.

(C) *Unauthorized vehicles; notice.* If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent under division (B) of this section, a second notice shall be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lienholders of record.

**§ 91.21 RIGHT TO RECLAIM.**

(A) *Payment of charges.* The owner or any lienholder of an impounded vehicle shall have a right to reclaim the vehicle from the city or impound lot operator taking it into custody upon payment of all

towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days, as applicable under § 91.19, after the date of the notice required by § 91.20.

(B) *Lienholders.* Nothing in this chapter shall be construed to impair any lien of a garage keeper under the laws of this state, or the right of a lienholder to foreclose. For the purposes of this section, **GARAGE KEEPER** is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

**§ 91.22 OPERATOR'S DEFICIENCY CLAIM; CONSENT TO SALE.**

(A) *Deficiency claim.* The nonpublic impound lot operator has a deficiency claim against the registered owner of the vehicle for the reasonable costs of services provided in the towing, storage and inspection of the vehicle minus the proceeds of the sale or auction. The claim for storage costs may not exceed the costs of:

- (1) Twenty-five-days' storage for a vehicle described in § 91.19(A); and
- (2) Fifty-five-days' storage for a vehicle described in § 91.19(B).

(B) *Implied consent to sale.* A registered owner who fails to claim the impounded vehicle within the applicable time period allowed under § 91.19 is deemed to waive any right to reclaim the vehicle and consents to the disposal or sale of the vehicle and its contents and transfer of title.

**§ 91.23 DISPOSITION BY IMPOUND LOT.**

(A) *Auction or sale.*

(1) If an abandoned or unauthorized vehicle and contents taken into custody by the city or any impound lot is not reclaimed under § 91.21, it may be disposed of or sold at auction or sale when eligible pursuant to §§ 91.20 and 91.21.

(2) The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

(B) *Unsold vehicles.* Abandoned or junk vehicles not sold by the city or public impound lots pursuant to division (A) of this section shall be disposed of in accordance with § 91.24.

(C) *Sale proceeds; public entities.* From the proceeds of a sale under this section by the city or public impound lot of an abandoned or unauthorized motor vehicle, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred in handling the vehicle pursuant to this chapter. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in the treasury of the city.

(D) *Sale proceeds; nonpublic impound lots.* The operator of a nonpublic impound lot may retain any proceeds derived from a sale conducted under the authority of division (A) of this section. The operator may retain all proceeds from sale of any personal belongings and contents in the vehicle that were not claimed by the owner or the owner's agent before the sale, except that any suspected contraband or other

items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency.

#### **§ 91.24 DISPOSAL AUTHORITY.**

The city may contract with others or may utilize its own equipment and personnel for the inventory of impounded motor vehicles and abandoned scrap metal and may utilize its own equipment and personnel for the collection, storage and transportation of these vehicles and abandoned scrap metal. The city may utilize its own equipment and personnel only for the collection and storage of not more than five abandoned or unauthorized vehicles without advertising for or receiving bids in any 120-day period.

#### **§ 91.25 CONTRACTS; REIMBURSEMENT BY MPCA.**

(A) *MPCA review and approval.* If the city proposes to enter into a contract with a person licensed by the MPCA pursuant to this section or a contract pursuant to § 91.24, the MPCA may review the proposed contract before it is entered into by the city, to determine whether it conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules. A contract that does so conform may be approved by the MPCA and entered into by the city. Where a contract has been approved, the MPCA may reimburse the city for the costs incurred under the contract that have not been reimbursed under § 91.23. Except as otherwise provided in § 91.24, the MPCA shall not approve any contract that has been entered into without prior notice to and request for bids from all persons duly licensed by the MPCA to be a party to a disposal contract pursuant to M.S. § 116.07, as it may be amended from time to time; does not provide for a full performance bond; or does not provide for total collection and transportation of abandoned motor vehicles, except that the MPCA may approve a contract covering solely collection or transportation of abandoned motor vehicles where the

MPCA determines total collection and transportation to be impracticable and where all other requirements herein have been met and the unit of government, after proper notice and request for bids, has not received any bid for total collection and transportation of abandoned motor vehicles.

(B) *The city may perform work.* If the city utilizes its own equipment and personnel pursuant to its authority under § 91.24, and the use of the equipment and personnel conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules, the city may be reimbursed by the MPCA for reasonable costs incurred which are not reimbursed under § 90.23.

(C) *The city required to contract work.* The MPCA may demand that the city contract for the disposal of abandoned motor vehicles and other scrap metal pursuant to the MPCA's plan for solid waste disposal. If the city fails to contract within 180 days of the demand, the MPCA, through the Department of Administration and on behalf of the city, may contract with any person duly licensed by the MPCA for the disposal.

## CHAPTER 92: PARKS AND RECREATION

### Section

- 92.01 Reservations
- 92.02 Overnight use
- 92.03 Vandalism
- 92.04 Noise

### § 92.04 NOISE.

Noises or obnoxious behavior reasonably tending to annoy other persons within or without the park is prohibited.

( '85 Code, § 302.02) Penalty, see § 10.99

### § 92.01 RESERVATIONS.

The city parks shall be available for all of the people in the area for picnics. Reservations for the use of the city park shelter may be made through the Administrator/ Clerk-Treasurer or designee, and shall be granted in the order received. The grant of a reservation of the city park shelter shall not prohibit any other person from using park facilities other than the shelter during the same period as the reservation period.

( '85 Code, § 302.01)

### § 92.02 OVERNIGHT USE.

The city park shall not be used or occupied between 10:00 p.m. and 6:00 a.m. of the following day. Overnight camping or parking is prohibited, except by special permit obtained from the Administrator/Clerk-Treasurer.

( '85 Code, § 302.02) Penalty, see § 10.99

### § 92.03 VANDALISM.

No person shall remove, break, destroy, injure, mutilate, deface or damage in any way any structure, monument, statue, vase, foundation, fence, railing, flag pole, vehicle, bench, tree, shrub, fern, plant, flower, fireplace or other property in the park.

( '85 Code, § 302.02) Penalty, see § 10.99



## CHAPTER 93: STREETS

Section

### ***RIGHT-OF-WAY CONSTRUCTION REGULATIONS***

- 93.01 Election to manage the public right-of-way
- 93.02 Definitions and adoption of rules by reference

#### **§ 93.01 ELECTION TO MANAGE THE PUBLIC RIGHT-OF-WAY.**

In accordance with the authority granted to the city under state and federal statutory, administrative, and common law, the city hereby elects pursuant to this chapter to manage rights-of-ways within its jurisdiction.

#### **§ 93.02 DEFINITIONS AND ADOPTION OF RULES BY REFERENCE.**

Minn. Rules Ch. 7819, as it may be amended from time to time, is hereby adopted by reference and is incorporated into this code as if set out in full. The definitions included in Minn. Rules part 7819.0100 subps. 1 through 23, as it may be amended from time to time, are the definitions of the terms in this chapter.



## CHAPTER 94: LARGE ASSEMBLIES

### Section

- 94.01 Purpose
- 94.02 Definition
- 94.03 License required
- 94.04 Conditions of issuance
- 94.05 Application
- 94.06 Issuance
- 94.07 Revocation
- 94.08 Variance
- 94.09 Conduct of assembly
- 94.10 Enforcement

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

*Health and Sanitation; Nuisances, see Ch. 90*  
*Noise Regulations, see Ch. 95*

#### **§ 94.01 PURPOSE.**

It is the purpose of the Council of the city to regulate the assemblage of large numbers of people, in excess of those normally needing the health, sanitary, fire, police, transportation and utility services regularly provided in the city, in order that the health, safety and welfare of all persons in the city, residents and visitors alike, may be protected.  
(‘85 Code, § 603.01)

#### **§ 94.02 DEFINITION.**

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

**ASSEMBLY.** A company of persons gathered together at any location at any single time for any purpose.  
(‘85 Code, § 603.02)

#### **§ 94.03 LICENSE REQUIRED.**

(A) No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell or give tickets to an actual or reasonably anticipated assembly of 250 or more people, which continues or can reasonably be expected to continue for four or more consecutive hours, whether on public or private property, unless a license to hold the assembly has first been issued by the Council. A license to hold an assembly issued to one person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly.

(B) A separate license shall be required for each day and each location in which 250 people assemble or can reasonably be anticipated to assemble.

(C) The fee for each license shall be established as set by Council.

(D) This chapter shall not apply to any regularly established permanent place of worship, stadium, athletic field, arena, auditorium, coliseum or other similar permanently established place of assembly for assemblies which do not exceed, by more than 50%, the maximum seating capacity of the structure where the show or exhibition is held.

(E) This chapter shall not apply to activities conducted upon city ground or public property with the prior approval of the Council. The city shall make appropriate conditions on the use of the park and public property to assure compliance with the intent of this chapter.  
(‘85 Code, § 603.03) Penalty, see § 10.99

#### § 94.04 CONDITIONS OF ISSUANCE.

No license shall be issued unless the applicant shall make provision of the following:

(A) A fence or barrier, sufficient to prevent ingress/exit, except at established gates, completely enclosing the proposed location of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have sufficient entrances and exits to allow easy movement into and out of the assembly grounds and provide traffic control onto established public road systems;

(B) Potable water, meeting all federal and state requirements for sanitary quality, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person per day and where the assembly is to continue for more than 12 hours, water for bathing at the rate of at least ten gallons per person per day, or portion of a day;

(C) Separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled, in accordance with the State Board of Health Regulations and Standards;

(D) A sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least two and one-half pounds of solid waste per person per day, together with a plan for holding and collecting all waste at least once each day of the assembly, and sufficient trash containers and personnel to perform tasks;

(E) Physicians and nurses licensed to practice in the state sufficient to provide the average medical care enjoyed by residents of the state for the maximum number of people to be assembled at the rate of at least one physician and nurse for every 1,000 people,

together with an enclosed covered structure where treatment may be rendered, containing separately enclosed treatment rooms for each physician, and at least two emergency ambulances with attendants for each 1,000 people;

(F) If the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five-foot candles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly;

(G) A free parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one parking space for every four persons;

(H) Telephones connected to outside lines sufficient to provide service to the maximum number of people to be assembled at the rate of at least one separate line and receiver for each 500 persons;

(I) If the assembly is to continue overnight, camping facilities in compliance with all state and local requirements, as set forth in state statutes and regulations and ordinances of the city, sufficient to provide camping accommodations for the maximum number of people to be assembled;

(J) Security and traffic and narcotics control plan which will meet the requirements of local authorities and the State Department of Public Safety; regularly employed off-duty state law enforcement officers or protective agents licensed in the state sufficient to provide adequate security for the maximum number of people to be assembled; (At least one security guard for every 100 people will be provided for the first 1,000 people to assemble. For assemblies of more than 1,000 people, additional security guards will be provided at the rate of one for each 250 people or major fraction thereof.)

(K) Fire protection shall be provided by the sponsor which may include, but not be limited to fire alarms, extinguishing devices and fire lanes, and

which shall be sufficient to meet all applicable state laws and local regulations which are in effect, or may be set forth by the political subdivision concerned; and sufficient emergency personnel to efficiently operate the required equipment will be provided by the sponsor;

(L) All reasonably necessary precautions to insure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly;

(M) Administrative control center with telephones where local authority can contact the sponsors and law enforcement personnel inside the assembly area;

(N) Direction of pedestrians and vehicle traffic to prevent trespass on private abutting property;

(O) Prevention on littering and deposit of waste materials on private and public property and clean-up of private and public property; and

(P) A bond, filed with the Administrator/ Clerk-Treasurer of the city, either in cash or under written by a surety company licensed to do business in the state in the minimum amount of \$1,000,000, which shall indemnify and hold harmless the political subdivision or any of its agents, officers, servants and employees from any liability or causes of action which might arise by reason of granting the license, payment of employees or services rendered by the granting authority, and from any cost incurred in cleaning up any waste material produced or left by the assembly.

(`85 Code, § 603.04) Penalty, see § 10.99

**§ 94.05 APPLICATION.**

(A) Application for a license must be made at least 30 days in advance of an assembly. Each application shall be in writing and shall contain a statement made under oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making

application in the case of a corporation, by all partners in the case of a partnership or by all officers of an unincorporated association, society or group, or, if there are no officers, by all members of the association, society or group.

(B) Each application shall contain the following.

(1) The name, date of birth, fingerprints, residence and mailing address of all persons required to sign the application, and in the case of a corporation, a certified copy of the articles of incorporation together with the name, date of birth, residence and mailing address of each person holding 10% or more of the stock of the corporation;

(2) The address and legal description of all property upon which the assembly is to be held, together with the name, residence and mailing address of the record owner(s) of all property;

(3) Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owner(s) of all property that the applicant has permission to use the property;

(4) The nature or purpose of the assembly;

(5) The total number of days and/or hours during which the assembly is to last;

(6) The maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the zoning regulations of the city if the assembly is to continue overnight;

(7) The maximum number of tickets to be sold, if any; and

(8) The plans of the applicant to limit the maximum number of people permitted to assemble.

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(C) Attached to each application shall be complete plans for complying with a requirements of § 94.04, specifically including the following.

(1) The plans for fencing the location of the assembly and the gates contained in the fence;

(2) The plans for supplying potable water including the source, amount available and location of outlets;

(3) The plans for providing toilet and lavatory facilities including the source, number and location, type and means of disposing of waste deposited;

(4) The plans for holding, collection and disposing of solid waste material;

(5) The plans to provide for medical facilities including the location and construction of a medical structure, the names and addresses and hours of availability of physicians and nurses, and provisions for emergency ambulance service;

(6) The plans, if any, to illuminate the location of the assembly including the source and amount of power and the location of lights;

(7) The plans for parking vehicles including size and location of lots, points of highway access and interior roads including routes between highway access and parking lots;

(8) The plans for telephone service including the source, number and location of telephones;

(9) The plans for camping facilities, if any, including facilities available and their location;

(10) The plans for security and the number of guards, their deployment and their names, credentials and hours of availability;

(11) The plans for fire protection as may be required by § 94.04(K);

(12) The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers;

(13) The plans for food concessions and concessioners who will be allowed to operate on the grounds including the names and addresses of all concessioners and their license or permit numbers;

(14) The plans for the direction and control of pedestrians and vehicle traffic for safety and to prevent trespass;

(15) The plans for area traffic control for egress from and exit onto public roads or highways; and

(16) The plans for the prevention and clean up of litter and waste,

(D) (1) Each application shall be accompanied by payment in full of the license fee.

(2) The bond or insurance policy required under § 94.04(P), shall be attached to the application.

(E) Also, attached to each application shall be certified copies of any other necessary state license or permit.  
( 85 Code, § 603.05) Penalty, see § 10.99

**§ 94.06 ISSUANCE.**

(A) The application for a license shall be processed within 20 days of receipt and shall be issued if all conditions are complied with.

(B) Ten days prior to the assembly, the Council shall cause the premises to be inspected to determine whether the requirements of this chapter are met.  
( 85 Code, § 603.06)

**§ 94.07 REVOCATION.**

The license may be revoked at any time, if any of the conditions necessary for the issuing of or contained in the license are not complied with, or if any condition previously met ceases to be complied with.

(`85 Code, § 603.07)

**§ 94.08 VARIANCE.**

In cases deemed appropriate, the Council may, by unanimous resolution, grant a variance from any section of this chapter, where the variance will not deter from the basic intent and purpose of this chapter.

(`85 Code, § 603.08)

**§ 94.09 CONDUCT OF ASSEMBLY.**

Each assembly licensed under this chapter shall be conducted in accordance with the following.

(A) The license shall permit assembly of only the maximum number of persons stated in the license application. The license shall not sell tickets to or permit to assemble at the licensed location more than that number of persons.

(B) The license shall not permit the sound of the assembly to carry unreasonably beyond the enclosed boundaries of the location of the assembly. The city hereby adopts by reference the regulations of the State Pollution Control Agency Noise Pollution Control Section. Sound from the licensed activity shall not exceed the standard set for the protection of household or residential units.

(C) In the event that any boundary of the licensed premises is within 500 feet of any residential dwelling, the licensed activity shall not be carried on between the hours of 8:00 p.m. and 8:00 a.m.

(D) All persons sleeping during the night hours shall sleep only in a tent, camper, enclosed trailer, mobile home, building or similar enclosed item.

(`85 Code, § 603.09) Penalty, see § 10.99

**§ 94.10 ENFORCEMENT.**

In addition to all other penalties provided for violation of this code, the provisions of this chapter may be enforced as follows.

(A) The provisions of this chapter may be enforced by injunction in any court of competent jurisdiction.

(B) The holding of any assembly in violation of any provision or condition of this chapter shall be deemed a public nuisance and may be abated as such.

(C) Any person who violates any provision or condition of this chapter shall forfeit an appropriate amount from the bond required under § 94.04(P). No portion of the bond shall be released to the sponsors until all provisions of the license agreement and this chapter have been met.

(`85 Code, § 603.10)



## CHAPTER 95: NOISE REGULATIONS

### Section

95.01	Prohibition
95.02	Motor vehicle noise
95.03	Responsibility
95.99	Penalty

### § 95.01 PROHIBITION.

(A) No person shall make, continue or cause to be made any loud, unnecessary or unusual noise or any noise which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of others or precludes their enjoyment of property or affects their property value. This general prohibition is not limited by the specific restrictions of division (B) below.  
(‘85 Code, § 903.01)

(B) The following acts listed herein are declared to be nuisance noises in violation of this chapter, but this listing shall not be deemed to be exclusive.

(1) (a) The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street, public place or private property within the city, except as a present danger warning;

(b) The creation, by means of any horn or signaling device, of any unreasonably loud or harsh sound;

(c) The sounding of any device for an unnecessary and unreasonable period of time;

(d) The use of any signaling device, except one operated by hand or electricity;

(e) The use of any, horn, whistle or other device operated by engine exhaust; and

(f) The use of any signaling device when traffic is held up for any reason.

(2) The using, operating or permitting to be played any radio, musical insert, phonograph, juke box, amplifier or other machine or device for the producing, reproducing or amplifying of sound in a manner as to disturb the peace, quiet or comfort of persons residing or working or peaceably gathered in its vicinity. The operation of the machine or device between the hours of 10:00 p.m. and 7:00 a.m. shall be prima facie evidence of a violation of this section if done in a manner as to be plainly audible:

(a) Within any building or structure used for residential purposes; or

(b) At a distance of 50 feet from the building, structure or vehicle in which it is located.

(3) The using, operating or permitting to be played any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure;

(4) Yelling, shouting, hooting, whistling or singing at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel, motel or other place of residence, or of any persons in the vicinity;

(5) It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries.

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**HABITUAL BARKING** shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

(6) The blowing of a locomotive whistle or steam whistle attached to any stationary whistle or any siren whatsoever, except to give notice of the time to begin or stop work or as a warning of fire or danger, or by public emergency vehicles;

(7) The use of any automobile, motorcycle or vehicle so out or repair, operation or in a manner as to create loud and unnecessary grating, grinding, rattling or other noise which shall disturb the comfort or repose of any persons in the vicinity;

(8) The use of sound trucks or any other vehicle equipped with sound-amplifying devices for the purposes of advertising any program, project or meeting of any public agency, private business, religious organization, civic group, political party or charitable organization;

(9) The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers;

(10) The erection, including excavating, demolition, alteration or repair of any building between the hours of 9:00 p.m. and 6:00 a.m. on week days and all day Sunday, except where single individuals or families work on single-family residences owned by them for their own occupancy provided that the Building Inspector may, in cases of emergency, grant permission to repair at any time when he or she finds that the repair work will not affect the health and safety of the persons in the vicinity;

(11) The creation of any excessive noise on any street or private property adjacent to any school, institution of learning, church, court or hospital while the same are in use which unreasonably interferes with

the use thereof provided conspicuous signs are displayed in the streets indicating that the same is a school, hospital or court street;

(12) The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood;

(13) The operation between the hours of 9:00 p.m. and 6:00 a.m. of any pile driver, power shovel, pneumatic hammer, jack hammer, derrick, power or electric hoist or other appliance the use of which is attended by loud or unusual noise;

(14) The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from the blower or fan is muffled and the engine is equipped with a muffler device sufficient to deaden the noise; and/or

(15) (a) No person shall, between the hours of 10:00 p.m. and 7:00 a.m., congregate because of or participate in any party or gathering of people from which noise emanates of a sufficient volume so as to disturb the peace quiet or repose of persons residing in any residential area.

(b) Noise between the hours of 10:00 p.m. and 7:00 a.m. of a volume as to be plainly audible at a distance of 50 feet from the residential dwelling unit wherein the party or gathering is located shall be prima facie evidence of a violation of this section.

(c) No persons shall visit or remain within any residential dwelling unit wherein the party or gathering is taking place, except the owner, persons residing in that unit or persons who have gone there for the sole purpose of abating the disturbance.

( 85 Code, § 903.02) Penalty, see § 95.99

**§ 95.02 MOTOR VEHICLE NOISE.**

(A) *Definitions.* For the purposes of this section, the following phrases are defined as follows:

***ABNORMAL OR EXCESSIVE NOISE.***

(a) A distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value;

(b) Noise in excess of that permitted by M.S. § 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order or;

(c) Noise in excess of that permitted by M.S. § 169.693 and Minn. Rules parts 7030.1000 through 7030.1050, as this statute and these rules may be amended from time to time, which establish motor vehicle noise standards.

***ENGINE RETARDING BRAKE.*** A Dynamic Brake, Jake Brake, Jacobs Brake, C-Brake, Paccar Brake, transmission brake or other similar engine retarding brake system which alters their normal compression of the engine and subsequently releases that compression.

(B) It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.

(C) It shall be unlawful for the operator of any truck to intentionally use an engine retarding brake on any public highway, street, parking lot or alley within the city which causes abnormal or excessive noise from the engine because of an illegally modified or defective brake system, except in an emergency.

(D) M.S. §§ 169.69 and 169.693 (motor vehicle noise limits) and Minn. Rules parts 7030.1000 through 7030.1050, as these statutes and rules may be amended from time to time, are hereby adopted by reference.

(E) Signs stating **VEHICLE NOISE LAWS ENFORCED** may be installed at locations deemed appropriate by the City Council to advise motorists of the prohibitions contained in this section, except that no sign stating **VEHICLE NOISE LAWS ENFORCED** shall be installed on a state highway without a permit from the Minnesota Department of Transportation. The provisions of this section are in full force and effect even if no signs are erected.

**§ 95.03 RESPONSIBILITY.**

The owner and tenant of any premises on which a violation of § 95.01 occurs shall make every reasonable effort to see that the violation ceases. Violation of § 95.01 shall be deemed the act of the person committing the act and the person in possession, control, custody or having charge of premises who allows or permits the violation to take place. Violation of § 95.01 shall also be deemed the act of the nonresident landlord, provided he or she has received written notice from the city of the violation and has failed to make every reasonable effort to see that the violation ceases. ( '85 Code, § 903.03)

**§ 95.99 PENALTY.**

(A) Violation of § 95.01 is a petty misdemeanor. ( '85 Code, § 903.04)

(B) Violation of § 95.01 may be abated as a nuisance. ( '85 Code, § 903.05)



## CHAPTER 96: ANIMALS

### Section

#### *General Provisions*

- 96.01 Farm animals and non-domestic animals
- 96.02 Nuisance
- 96.03 Horses

#### *Regulations for Dogs and Cats*

- 96.15 Definitions
- 96.16 License required
- 96.17 Running at large prohibited
- 96.18 Abandonment prohibited
- 96.19 City Pound; designation and location
- 96.20 Impoundment
- 96.21 Rabies control
- 96.22 Limit on number of dogs and cats
- 96.23 Dangerous animals
- 96.24 Dangerous animal requirements
- 96.25 Commercial kennels
- 96.26 Animal Warden; financial accounts
- 96.27 Removal of feces
- 96.28 Adoption of state law
  
- 96.99 Penalty

#### **GENERAL PROVISIONS**

### **§ 96.01 FARM ANIMALS AND NON-DOMESTIC ANIMALS.**

#### *(A) Definitions.*

**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 equestrian 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.

**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.

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(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.

(B) *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.

(C) *Farm animals.* Farm animals shall only be kept in an agricultural district of the city, or on a residential lot of at least ten 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.  
Penalty, see § 96.99

**§ 96.02 NUISANCE.**

The owner or custodian of any animal or bird otherwise lawfully kept within the city limits shall not allow the odor of the animal or bird to become a nuisance to his or her neighbors. The nuisance may, upon written complaint of two or more neighbors, be abated as provided by Chapter 90 of this code of ordinances.

(‘85 Code, § 502.02) Penalty, see § 96.99

**§ 96.03 HORSES.**

(A) Horses may be ridden on city streets in an orderly manner so as not to cause traffic. Riders of horses are to clean up feces deposited by horses they are riding or handling.

(B) Horses may be tied up during daylight hours in an area approved by the Council.  
(‘85 Code, § 502.03) Penalty, see § 96.99

**REGULATIONS FOR DOGS AND CATS****§ 96.15 DEFINITIONS.**

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

**AT LARGE.** A dog or cat is at large when it is off the property of the person owning, harboring or keeping the dog or cat and it is not under restraint.

**PERSON.** Any person, firm or corporation owning, harboring or keeping a dog or cat.

**UNDER RESTRAINT.** A dog or cat is under restraint if it is on the premises of the person harboring or keeping the dog or cat; or is controlled by a leash not exceeding six feet in length, is at heel beside a person having custody of it or obedient to the person's command or is within a private motor vehicle of a person owning, harboring or keeping the dog or cat.

(Ord. 501, passed 6-10-1991; Am. Ord. 93-1, passed 3-8-1993)

**§ 96.16 LICENSE REQUIRED.**

(A) (1) No person shall own, harbor or keep any dog or cat over three months of age, for period in excess of three days, without first having obtained a dog or cat license from the official City Animal Warden.

(2) This section shall not apply to any premises maintained by a licensed veterinarian or licensed pet operator.

(B) (1) Every person required to obtain a dog or cat license under this subchapter shall place and keep around the neck of the dog or cat a permanent-type collar.

(2) The collar shall be securely attached the metallic license tag issued at the time the license was applied for.

(C) The initial dog or cat license fee, the license fee for dog or cats caught in violation that are unlicensed, and the amount of the fines for the first and subsequent violations of this subchapter shall be as prescribed by the City Council. (Ord. 501, passed 6-10-1991; Am. Ord. 93-1, passed 3-8-1993) Penalty, see § 96.99

**§ 96.17 RUNNING AT LARGE PROHIBITED.**

(A) (1) Any female dog or cat in heat or season shall be confined indoors or in a kennel run or pen so constructed as to keep other dogs or cats out.

(2) No person shall own, harbor or keep any dog or cat over five months of age unless the dog or cat has been vaccinated within the last 12 months with a killed rabies vaccine or within the past 24 months with a live rabies vaccine and a certificate of vaccination has been obtained.

(3) No dog or cat license shall be issued pursuant hereto unless the owner presents the said certificate of vaccination at the time of license application.

(4) It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large. A person, who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading Dogs or Cats Prohibited.

(B) The restrictions imposed hereby shall not prohibit the appearance of a dog or cat upon the streets or other public place when the dog or cat is on a leash or under restraint, except a female dog or cat in heat or season. (Ord. 501, passed 6-10-1991; Am. Ord. 93-1, passed 3-8-1993) Penalty, see § 96.99

**§ 96.18 ABANDONMENT PROHIBITED.**

It shall be unlawful for any person to abandon any dog or cat or other animal within the city. (Ord. 501, passed 6-10-1991; Am. Ord. 93-1, passed 3-8-1993) Penalty, see § 96.99

**§ 96.19 CITY POUND; DESIGNATION AND LOCATION.**

(A) The City Council, from time to time, shall designate the place or places as City Dog or Cat Pound for keeping and maintaining any dog or cats which may be seized or impounded pursuant hereto.

(B) The City Dog or Cat Pounds may be within or outside the city limits.

(C) (1) The Council is hereby authorized to appoint an Animal Warden to enforce the provisions of this section. In the Animal Warden'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.

(2) The Warden shall display on his or her person his or her proper identification, as prescribed by the City Council.  
(Ord. 501, passed 6-10-1991; Am. Ord. 93-1, passed 3-8-1993)

### § 96.20 IMPOUNDMENT.

(A) (1) The Animal Warden or the County Sheriff is authorized to seize and impound dog or cats found in the city running at large in violation of § 95.17(A).

(2) Any police officer or Animal Warden 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 Warden making a contemporaneous complaint about the animal;

(b) The Animal Warden or police officer reasonably believes that the animal meets either the barking dog criteria set out in § 95.01; the criteria for cruelty; or the criteria for an at large animal set out in § 96.17;

(c) The Animal Warden or police officer can demonstrate that there has been at least one 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 Animal Warden or police 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 Warden 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. If the Animal Warden or police 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.

(B) In lieu of picking up an animal on private property, the Animal Warden will notify the City Administrator/Clerk-Treasurer and then will issue a citation to the owner of the animal found to be in violation.

(Ord. 501, passed 6-10-1991; Am. Ord. 93-1, passed 3-8-1993)

### § 96.21 RABIES CONTROL.

(A) (1) Any dog or cat exhibiting symptoms of rabies or known or thought to have come in contact with rabies may be seized on the premises of the owner or elsewhere and be confined in a veterinary hospital for a period of at least ten days at the expense of the owner and at the discretion of the Animal Warden. Any dog or cat that has bitten any person may be seized on the premises of the owner or elsewhere, and be confined or impounded for a period of at least ten days at the expense of the owner and at the discretion of the Animal Warden.

(2) The dog or cat may be released the end of the ten-day period if healthy and free from symptoms of rabies and by the payment of costs by the owner.

(3) If the owner of the dog or cat applies in writing, he or she may, under circumstances where proper facilities are available, obtain permission from the County Sheriff to impound the dog or cat at his or her home.

(4) It shall be the responsibility of any person bitten by a dog or cat, wherein the bite requires the services of a physician, to report an incident to the County Sheriff's Department.

(5) Any dog or cat which is diseased, vicious, dangerous, rabid or exposed to rabies and which dog or cat cannot be taken up and impounded without serious risk to the person or persons attempting to take up the dog or cat, may be tranquilized and impounded.

(B) (1) The city, upon the impounding of any dog or cat, shall, through the Animal Warden, without delay, notify the owner personally or through the United States Mail, if the owner is known; but if the owner be unknown, then the City Animal Warden shall post a written notice at the city offices describing the dog or cat, stating where it is impounded, and that it may be redeemed.

(2) All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined under § 96.23 in which case it shall be kept for seven regular business days or the times specified in § 96.23, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

(a) Payment of the release fee and receipt of a release permit as established by the Ordinance Establishing Fees and Charges, as that ordinance may be amended from time to time.

(b) Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in the pound; and

(c) If a dog is unlicensed, payment of a regular license fee as established by the Ordinance Establishing Fees and Charges, as that ordinance may be amended from time to time, and valid certificate of vaccination for rabies and distemper shots is required.

(3) The Animal Warden shall issue a receipt in triplicate pursuant to the requirements of this section, the duplicate to be furnished by the City Administrator/Clerk-Treasurer with remittance of the impounding fee and the triplicate to be retained by the Animal Warden.

(4) Any dog or cat which is not redeemed within the time specified in this section may be sold for not less than the amount provided in that section to anyone desiring to purchase the dog or cat if it is not requested by a licensed educational or scientific institution under M.S. § 35.71, as it may be amended from time to time. All sums received in addition hereto shall be paid to the owner if he or she makes a claim within one year of the sale and furnishes satisfactory proof of ownership.

(5) Any dog or cat which is not claimed by the owner, accepted by the Humane Society, or sold shall be painlessly killed and buried. (Ord. 501, passed 6-10-1991; Am. Ord. 93-1, passed 3-8-1993)

**§ 96.22 LIMIT ON NUMBER OF DOGS AND CATS.**

(A) (1) *Keeping dogs and cats.* The keeping of more than two dogs or cats in a single- or multiple-dwelling unit, except by kennel permit of the City Council, shall be deemed a public nuisance and unlawful, and shall be abated upon order of the City Council within 90 days or the owner of the premises upon which the nuisance is maintained shall be subject to the penalties imposed hereby.

(2) *Definition.*

**KENNEL.** The keeping of three 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 three months before that keeping shall be deemed to be a **KENNEL**.

(3) *Certain kennels are nuisances.*

Because the keeping of six 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 six or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel with six or more dogs within the city.

(4) *Kennel permit.* An annual kennel permit is required before three or more dogs may be kept on the same premises. The permit shall be obtained from the City Administrator/Clerk-Treasurer. The annual fee for a kennel permit shall be established by ordinance. Persons operating or maintaining a kennel as defined by M.S. § 347.31, Subd. 2, as it may be amended from time to time, shall also obtain a kennel license from the state Board of Animal Health before being issued a kennel permit by the city.

(5) *Kennels kept in sanitary manner; humane treatment.* Kennels shall be kept in a clean and sanitary manner, all animals shall be treated humanely, and the owners or operators of all kennels shall follow all of the provisions of Minn. Rules parts 1720.1400 to 1720.1550, as they may be amended from time to time.

(6) *Revocation of permit.* A kennel permit may be revoked by City Council if a kennel is not kept in a clean and sanitary manner, if the animals are not treated humanely, if the kennel does not comply with the above cited rules, or if any other provision of this chapter is violated, including the prohibition of habitual barking and the requirement to clean up litter.

(B) The keeping of a dog or cat or dog or cats that annoy other persons by habitually barking, howling or baying shall be deemed a public nuisance and unlawful. For purposes of this section, a public nuisance is determined to be barking, howling, baying or making any other noise continuously for a period of ten minutes, or that makes noises intermittently for one-half hour or more, and in so doing disturbs another person.

(Ord. 501, passed 6-10-1991; Am. Ord. 93-1, passed 3-8-1993)

### § 96.23 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 Warden 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 one or more persons on two 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 five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be one and

one-quarter-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.

(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 two 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 two 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 Warden 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 Warden 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 Warden 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).

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(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 Warden, 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 Warden, after having determined that an animal is dangerous, may proceed in the following manner: The Animal Warden 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 Warden 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 three weeks after demand for the hearing. The

records of the Animal Warden or City Administrator/ Clerk-Treasurer'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 Warden 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 Warden. If the owner does not immediately make the animal available, the Animal Warden 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 Warden or police officer is witness to an attack by an animal upon a person or another animal, the Animal Warden may take whatever means the Animal Warden or police 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 Warden 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 § 96.99

## § 96.24 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 § 96.23(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 Warden 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 Warden.

(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 Warden 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 § 96.24(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 § 96.24(B), is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under § 96.23(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 § 96.23 with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in § 96.23(F). If the owner is found to have violated the provisions for which the animal was seized, the Animal Warden 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 § 96.24(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 § 96.23(F) and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

**§ 96.25 COMMERCIAL KENNELS.**

(A) No person shall operate a commercial kennel in the city without first obtaining a permit as provided in § 96.22(A). Applications for the permit shall be made to the City Administrator/Clerk-Treasurer and shall be accompanied by the permit fee which shall be set by the City Council from time to time. The Administrator/Clerk-Treasurer shall refer the application to the City Council which may grant or deny the permit.

(B) This shall not apply to the premises of a duly licensed veterinarian.  
(Ord. 501, passed 6-10-1991; Am. Ord. 93-1, passed 3-8-1993) Penalty, see § 96.99

**§ 96.26 ANIMAL WARDEN; FINANCIAL ACCOUNTS.**

The Animal Warden shall account for and pay over to the city each month all money received by him or her, pursuant hereto. The Animal Warden shall also give an accurate written report for each month to the city showing all fees collected, all sales made, all dog or cats impounded, the duration of the impoundment, or otherwise disposed or under the terms of this subchapter.  
(Ord. 501, passed 6-10-1991; Am. Ord. 93-1, passed 3-8-1993)

**§ 96.27 REMOVAL OF FECES.**

Persons owning a dog or cat, whether that dog or cat is at large or under restraint, are responsible for the prompt removal of all dog or cat feces left by the dog or cat on private property within the city.  
(Ord. 501, passed 6-10-1991; Am. Ord. 93-1, passed 3-8-1993) Penalty, see § 96.99

**§ 96.28 ADOPTION OF STATE LAW.**

The provisions of M.S. §§ 35.67, 35.68 and 35.69, as they may be amended from time to time, are hereby adopted by reference and are incorporated in and made a part of this subchapter as completely as if the same were set down in full.  
(Ord. 501, passed 6-10-1991; Am. Ord. 93-1, passed 3-8-1993)

**§ 96.99 PENALTY.**

Any person convicted of violating any of the provisions this subchapter shall be deemed guilty of a misdemeanor and shall be punished as provided in § 10.99  
(Ord. 501, passed 6-10-1991; Am. Ord. 93-1, passed 3-8-1993)

## CHAPTER 97: PHOSPORHOUS FERTILIZER

### Section

- 97.01 Authority
- 97.02 Definitions
- 97.03 Phosporhous use restrictions
- 97.04 Exceptions
- 97.05 Impervious surfaces
  
- 97.99 Penalty

**MANIPULATED.** Fertilizers that are manufactured, blended or mixed, or animal or vegetable manures that have been treated in any manner, including mechanical drying, grinding, pelleting, and any other means, or by adding other chemicals or substances.

**TURF.** Noncrop land planted in closely mowed, managed grasses including, but not limited to, residential and commercial residential property, private golf courses, and property owned by federal, state, or local unit of government, including parks, recreation areas, and public golf courses. Turf does not mean pasture, hayland, hay, turf grown on turf farms, or any other form of agricultural production. (Ord. 507, passed 11-18-2002)

### § 97.01 AUTHORITY.

Based on the authority granted to local units of government in M.S. § 18C.60, Subd. 2(b), as it may be amended from time to time, the city elects to adopt the restrictions on the use of phosporhous fertilizer on turf as set forth in M.S. § 18C.60, Subd. 2(a), as it may be amended from time to time. (Ord. 507, passed 11-18-2002)

### § 97.02 DEFINITIONS.

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

**FERTILIZER.** A substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claimed to have value for promoting plant growth. **FERTILIZER** does not include animal and vegetable manures that are not manipulated, marl, lime, limestone, and other products exempted by rule by the Minnesota Commissioner of Agriculture.

**IMPERVIOUS SURFACE.** A highway, street, sidewalk, parking lot, driveway or other material that prevents infiltration of water into the soil.

### § 97.03 PHOSPORHOUS USE RESTRICTIONS.

A person may not apply a fertilizer containing the plan nutrient phosporhous to turf located within the city limits except as provided for in § 97.04 of this chapter. (Ord. 507, passed 11-18-2002)

### § 97.04 EXCEPTIONS.

(A) The prohibition on the use of fertilizer containing the plan nutrient phosporhous as set forth in § 97.03 does not apply when:

(1) A tissue, soil, or other test by a laboratory or method approved by the Minnesota Commissioner of the Agriculture and performed

within the last three years indicates that the levels of available phosphorous in the soil are insufficient to support healthy turf growth.

(2) The property owner or agent of the property owner is first establishing turf via seed or sod procedures, and only during the first growing season; or

(3) The fertilizer containing the plant food phosphorous is used on a golf course under the direction of a person licensed, certified, or approved by an organization with an ongoing training program approved by the Minnesota Commissioner of Agriculture.

(B) The application of fertilizer authorized under paragraphs (A)(1) and (A)(2) of this section, must not exceed rates recommended by the University of Minnesota and approved by the Minnesota Commissioner of Agriculture.  
(Ord. 507, passed 11-18-2002)

city for costs and disbursements including administrative costs and attorneys fees incurred by the city in enforcing this chapter.

(C) Each right or remedy accruing to the city under this chapter is separate and distinct, and may, in the city's discretion, be exercised independently or simultaneously with any other right or remedy.  
(Ord. 507, passed 11-18-2002)

#### § 97.05 IMPERVIOUS SURFACES.

A person may not apply a fertilizer to an impervious surface. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site, or returned to the original or other appropriate container.

(Ord. 507, passed 11-18-2002)

#### § 97.99 PENALTY.

(A) A person found to be violation any provision of this chapter shall be guilty of a petty misdemeanor, and shall be punished pursuant to the applicable State statute regarding petty misdemeanor penalties as may be amended from time to time, plus the cost of prosecution. Each violation shall be deemed a separate offense.

(B) The city may, in its discretion, seek any civil remedies available to it as well, including injunctive relief or abatement. Each violator will be liable to the

## CHAPTER 98: CLANDESTINE DRUG LAB SITES

### Section

- 98.01 Purpose
- 98.02 Definitions
- 98.03 Public nuisance
- 98.04 Notice to other authorities
- 98.05 Notice to concerned parties
- 98.06 Issuance of order
- 98.07 Responsibilities of owner
- 98.08 Responsibilities for costs
- 98.09 Recovery of city costs
- 98.10 Removal of public nuisance designation
- 98.11 Violations
- 98.12 Relationship to other laws and regulations

waste material used in a clandestine drug lab have been deposited.

**CHIEF BUILDING OFFICIAL.** The chief building official for the city or the official's designee.

**CLANDESTINE DRUG LAB.** The unlawful manufacture or attempt to manufacture controlled substances.

**CLANDESTINE DRUG LAB SITE.** Any place or location where conditions associated with the operation of a clandestine drug lab are found to exist and may include dwellings, accessory buildings or structures, mobile homes, motorized or non-motorized vehicles, or any parcels of land.

### § 98.01 PURPOSE.

The City Council finds that the existence of clandestine drug lab sites and chemical dump sites in the city pose a serious health and safety threat to members of the public, particularly minors and persons of child bearing age, through the exposure to hazardous chemicals and chemical residue. The Council has therefore determined that the regulation and proper removal of those sites is necessary for the protection of the public health, safety, and general welfare.

(Ord. 2005-01, passed 1-24-2005)

**CONTROLLED SUBSTANCE.** Any drug, chemical, substance, or immediate precursor thereto as defined by M.S. § 152.02, Schedules I-V, as may be amended from time to time, but does not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.

**HAZARDOUS WASTE.** Any chemicals or other substances used in the manufacture of controlled substances in a clandestine drug lab and the resulting by-products thereof which pose a risk to the health, safety, and welfare of occupants, visitors, or neighbors of the site.

### § 98.02 DEFINITIONS.

For the purposes of this chapter the following definitions will apply.

**CHEMICAL DUMP SITE.** Any place or location where chemicals and/or other hazardous

**MANUFACTURE.** The production, cultivation, quality control, and standardization, in locations other than a pharmacy, of controlled substances by mechanical, physical, chemical, or pharmaceutical means, and the packing, repacking, tablet producing, encapsulating, labeling, relabeling, filling or other similar process relating to such substances.

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**MDH.** The Minnesota Department of Health or any successor thereto.

**MINOR.** Any person under the age of 18 years.

**MPCA.** The Minnesota Pollution Control Agency or any successor thereto.

**OWNER.** Any person, firm, partnership, company, corporation, or other entity that owns or has title to in full or in part, the land, buildings, structures, or other property associated with a clandestine drug lab site or a chemical dump site.

**SITE.** Any defined location, including buildings, structures, or other property, where appropriate tests have determined that, due to the existence of a clandestine drug lab site or chemical dump site, a risk to the health, safety, and welfare exists for any persons who occupy, visit, or neighbor on the location.  
(Ord. 2005-01, passed 1-24-2005)

**§ 98.03 PUBLIC NUISANCE.**

Existence and maintenance of a clandestine drug lab site or chemical dump site in the city constitutes a public nuisance subject to the regulations of this chapter in addition to any and all applicable federal, state, or local laws and ordinances.  
(Ord. 2005-01, passed 1-24-2005)

**§ 98.04 NOTICE TO OTHER AUTHORITIES.**

Law enforcement agencies that identified conditions associated with a clandestine drug lab site or chemical dump site which place neighbors, visiting public, or present and future occupants of the site at risk for exposure to harmful chemicals or other contaminants must promptly notify the Wright County Sheriff's Department, the Chief Building Official, appropriate child protection agencies, and the appropriate health authorities. The notice must, at a

minimum, identify the location of the site, the site owner, if known, and the conditions found on the site.  
(Ord. 2005-01, passed 1-24-2005)

**§ 98.05 NOTICE TO CONCERNED PARTIES.**

(A) Upon receipt of the notice provided for in § 98.04, the Chief Building Official must promptly notify the following parties by registered or certified mail:

- (1) The owner of the property, if known;
- (2) Occupants of the property;
- (3) Any neighbors that have been determined to be at risk;
- (4) Other appropriate state and local authorities including, but not limited to, the MDH and the MPCA, which are known to have applicable public and environmental protection responsibilities;

(B) The notice must, at a minimum, include the location of the site, the name of the property owner, if known, the type and nature of the contamination, and the extent of the contamination.

(C) The Chief Building Official must also cause a copy of the notice to be posted at each appropriate access point to the site.  
(Ord. 2005-01, passed 1-24-2005)

**§ 98.06 ISSUANCE OF ORDER.**

(A) In addition to the required notices, the Chief Building Official will issue an order to the property owner to abate the public nuisance. The order must include at a minimum the following:

- (1) A description of the site and all portions thereof that are determined to be contaminated. The

description may be in any form that readily identifies the contaminated portion of the site;

(2) That all portions of the site that are determined to be contaminated and a risk to occupants or visitors are immediately vacated;

(3) That the owner commence and complete all testing and clean up procedures and other required remedial actions on the site by dates specified in the order or such other dates agreed to by the city;

(4) That the site may not be re-occupied or used in any manner until it has been completely cleaned in accordance with the guidelines established by the MDH;

(5) That if the owner does not commence testing and complete the clean up procedures by the dates established in the order, the city, its officials, employees, or agents, will enter the property and provide for the testing and clean up services at the owner's expense; and

(6) That the owner is responsible for all costs associated with the clean up of the site including all costs incurred by the city and other public agencies, and that if the owner does not promptly pay those costs, they will be assessed against the property and collected in the manner of a special tax.

(B) The order must be served upon the owner by personal service or by registered or certified mail and posted at appropriate access points to the site. If, after due diligence, the owner cannot be located, the order, in addition to being posted, must be published once in the official newspaper of the city.  
(Ord. 2005-01, passed 1-24-2005)

**§ 98.07 RESPONSIBILITIES OF OWNER.**

(A) Upon receipt of the notice and order, the owner will be responsible for the following:

(1) Ensure that the site and all surrounding areas determined to be at risk are properly vacated;

(2) Engage an appropriate environmental testing firm to assess the extent of the contamination, monitor the clean up process, provide follow up testing after the completion of the clean up process, and certify that the risks of contamination have been sufficiently reduced to allow safe occupancy of the site;

(3) Engage an appropriate contractor to properly clean the site in accordance with guidelines of the MDH;

(4) Provide the city with copies of all testing results and the clean up plan;

(5) Keep the city regularly advised through the process of the testing and clean up;

(6) Upon completion of the clean up process, provide the city with a copy of the final certification from the testing firm that the site is fit for human habitation, including a written, signed statement that the clean up met all MDH guidelines.

(B) If the owner, after due diligence, cannot be located or has not commenced appropriate action toward the clean up of the site on or before the commencement date established by the order, or has not completed the process by the completion date established by the order, the city, its officials, employees and agents, are hereby authorized to enter the property for the purpose of abating the public nuisance through vacating, testing and cleaning the site, or completing that process, in accordance with the requirements of this chapter. When appropriate, the abatement process may include the demolition and removal of any hazardous building or structure.  
(Ord. 2005-01, passed 1-24-2005)

**§ 98.08 RESPONSIBILITY FOR COSTS.**

(A) The owner of the site is responsible for any and all costs incurred in the clean up of that site including, but not limited to, the costs of vacating the site and surrounding areas, testing, clean up, and public expenses.

(B) Public expenses will include all costs that may be incurred by the city and other public agencies such as:

- (1) Laboratory fees;
  - (2) Preparing and serving notices;
  - (3) Preparing and serving the order;
  - (4) Posting the site;
  - (5) Vacating the site and other necessary properties;
  - (6) Testing services;
  - (7) Clean up services;
  - (8) Expenses incurred in recovering costs including all special assessment expenses;
  - (9) Administrative fees; and
  - (10) All other costs associated with the clean up of the site.
- (Ord. 2005-01, passed 1-24-2005)

**§ 98.09 RECOVERY OF CITY COSTS.**

(A) Within 30 days after receipt of an invoice from the city, the owner will submit payment in full of all city costs associated with the clean up project.

(B) If the city has been unable to locate the owner, or the owner fails to submit timely payment to

the city, the city is authorized to collect its costs by assessing those costs against the property in the same manner as a special assessment which will be certified and collected in the manner of a special tax in accordance with applicable law.

(C) Other collection as allowed by law.  
(Ord. 2005-01, passed 1-24-2005)

**§ 98.10 REMOVAL OF PUBLIC NUISANCE DESIGNATION.**

Upon receipt of the appropriate certification that the site has been cleaned in accordance with MDH guidelines and is no longer a risk to occupants of the site or others, the Chief Building Official will remove the public nuisance designation of the site and will so notify in writing the owner and all parties previously notified. The Chief Building Official will also promptly cause all postings on the site to be removed.  
(Ord. 2005-01, passed 1-24-2005)

**§ 98.11 VIOLATIONS.**

Any person who violates the provisions of this chapter, including, but not limited to, the unauthorized removal of any official postings at the site, is guilty of a misdemeanor in addition to any other sanctions and obligations imposed herein.  
(Ord. 2005-01, passed 1-24-2005)

**§ 98.12 RELATIONSHIP TO OTHER LAWS AND REGULATIONS.**

If any regulation, standard, condition, or requirement imposed by this chapter is determined to be either more or less restrictive than comparable provisions of any other law, statute, ordinance, rule or regulations, whether federal, state, or local, the more restrictive provision, or the one providing for the higher standards or requirements will prevail.  
(Ord. 2005-01, passed 1-24-2005)