



New Richland City Council Regular Meeting Agenda

March 13th, 2023

Agenda:

**7:00 Call to Order
 Roll Call**

Item(s) for Discussion

- Nuisance Ordinance

Adjournment

CHAPTER 5. NUISANCE AND OFFENSES

Section 500 - Public Nuisances

500.01 Public Nuisance Defined. Whoever does an act or fails to perform a legal duty therefore intentionally doing 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; or
- B. Interferes with, obstructs, or deposits garbage or refuse upon or otherwise 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 this Code to be a public nuisance and for which no sentence is specifically provided.

500.02 Public Nuisances Affecting Health. The following are 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. Carcasses of animals not buried or destroyed within 24 hours after death;
- D. Accumulations of manure, refuse, or other debris;
- E. 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;
- F. The pollution of any public or private well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- G. All noxious weeds and other rank growths of vegetation upon public or private property;
- H. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- I. Open or controlled burning in violation of state statutes and regulations.
- J. All public exposure of persons having a contagious disease;
- K. Any offensive trade or business as defined by statute not licensed by the Council.
- L. All ponds or pools of stagnant water.

500.03 Public Nuisances Affecting Morals and Decency. The following are, by this Section, declared to be nuisances affecting public morals and decency:

- A. All gambling devices, slot machines and punch boards kept in violation of law;
- B. Betting, bookmaking and all apparatus used in such 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 and illegal drugs are manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxicating liquor or using illegal drugs, or where intoxicating liquor or illegal drugs are kept for sale or other disposition in violation of law, and all liquor or drugs and other property used for maintaining such a place.
- E. Any vehicle used for the illegal transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

500.04 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 persons 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. (1) All prohibited noises. The following are declared to be nuisances affecting public health, safety, peace, or welfare:

(a) Any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person, or precludes their enjoyment of property, or affects their property's value (this general prohibition is not limited by any specific restrictions provided in this section);

(b) All obnoxious noises, motor vehicle or otherwise, in violation of Minn. Rules Ch. 7030, as they may be amended from time to time, are hereby incorporated in this section by reference;

(c) The use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise;

(d) The discharging of the exhaust or permitting the discharge of the exhaust of any statutory internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle (ATV), snowmobile, or any recreational device, except through a muffler or other device that effectively prevents loud or explosive noises there from and complies with all applicable state laws and regulations;

(e) Any loud or excessive noise in the loading, unloading, or unpacking of any vehicle; and

(f) The use or operation, or permitting the use or operation, of any radio receiving set, television set, musical instrument, music device, paging system, machine, or 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.

(2) Hourly restrictions of certain operations.

(a) Domestic power equipment. No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. on any day. Snow removal equipment is exempt from this provision.

(b) Refuse hauling. No person shall collect or remove garbage or refuse in any residential district, except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(c) Construction activities. No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(d) Radios, music devices, paging systems, and the like. The operation of any device referred to in subdivision D.(1)(f) 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 a violation of this section.

(e) Noise impact statements. The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation, alteration, or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. The Council shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning changes requested.

E. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks or public grounds except under such conditions as are permitted by this Code or other applicable law;

F. Radio aerials or television antennae erected or maintained in a dangerous manner;

G. 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 uses of the streets or sidewalks;

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

I. 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;

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

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

L. Waste water, as defined in Section 810.01 subd. 43, cast upon or permitted to flow upon streets or other public property;

M. 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 to fire, health or safety hazards from such accumulation or from the rank growth of vegetation among the items so accumulated;

N. Storing materials such as lumber, merchandise, machinery, miscellaneous parts, disabled household appliances or salvage goods on private property except as may be normal to the legal use of the property in question, unless housed within a lawfully erected building. Provided however,

that building materials stored during actual building operations or salvage materials during actual remodeling, wrecking or demolition operations, shall not be a violation of this Section.

O. Any well, hole or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child coming on the premises where it is located;

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

Q. 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 such substance;

R. Entry upon the premises of another if the person entering has been given oral or written notice not to, or if the premises are clearly marked with “no trespassing” signs posted so as to be in plain view along all routes of access to the premises, unless such entry is upon official business of a government agency or public utility.

S. The depositing of garbage, construction debris or other refuse on a public right-of-way or on adjacent private property;

T. To park any unlicensed, unregistered or inoperable motor vehicle on any property, public or private, unless housed within a lawfully erected building. Provided however, that a person residing

on the premises may store a partially dismantled automobile during actual repair for a period not to exceed two weeks.

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

500.05 Nuisances Affecting Public Property. 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 may sustain as a result of any illegal operation of the equipment. This illegal operation includes vehicles weighing in excess of the maximum weight permitted by statute or this Code. When the driver is not the owner of the vehicle, equipment, object, or contrivance, but is operating, driving, or moving the same 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. This amount shall be collectable by action or as a lien under Minn. Stat. § 514.67.

500.06 Duties of City Officers. City officials may enforce the provisions relating to any public nuisances within this jurisdiction. Any peace officer or other city official shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no peace officer or designated city official will enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property,

unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing entry.

500.07 Abatement.

Subd.1 Notice. Written notice of violation; notice of the time, date, place and subject of any hearing before the Council; notice of Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this Section.

A. Notice of Violation. Written notice of violation shall be served by the officer charged with enforcement on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises are 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.

B. Notice of Council Hearing. Written notice of any Council hearing to determine or abate 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 are not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of Council hearing, notice of Council hearing shall be served by posting it on the premises.

C. Notice of Council Order. Written notice of any Council hearing to determine or abate nuisance shall be served on the owner of record and occupant of the premises either in person

or by certified registered mail. If the premises are not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of council hearing, notice of Council Order shall be served by posting it on the premises.

D. Notice of Motion for Summary Enforcement. Written notice of any Council hearing to determine or abate nuisance shall be served on the owner of record and occupant of the premises either in person or by certified registered mail. If the premises are not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of Council hearing, notice of motion for summary enforcement shall served by posting it on the premises.

Subd. 2 Procedures. Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on 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 such nuisance be terminated or abated. If the notice of violation is not complied with within the time specified, the enforcing officer shall report that fact immediately to the Council. Thereafter, the 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 Council, the City may seek injunctive relief by serving a copy of the Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

Subd. 3 Emergency Procedure; Summary Enforcement. In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in Section 500.06, Subds. 1 and 2, will permit a continuing nuisance to unreasonably endanger public health, safety or welfare, the Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer charged with enforcement 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 enforcement 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 Council meeting to consider the question of summary enforcement. The 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 Section 500.06, Subd. 1, and may order that such nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the Council may order summary enforcement and abate the nuisance.

Subd. 4 Immediate Abatement. Nothing in Section 500.06 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.

500.08 Recovery of Cost.

Subd.1 Personal Liability. The owner of premises on which a nuisance has been abated by

the City or a person who caused a public nuisance on property not owned by that person, 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 Clerk-Treasurer or other city official shall prepare a bill for the cost and mail it to the owner. The amount shall be immediately due and payable at the office of the Clerk-Treasurer.

Subd. 2. Assessment. After notice is served on the owner of record of the premises either in person or by certified or registered mail; if the premises are not occupied, the owner of record is unknown, or the owner of record refuses to accept the notice, the notice shall be served by posting it on the premises; 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, any unpaid charges by the City for the cost of elimination of the nuisance may be collected along with all other such charges as well as other charges for current services to be assessed under Minn. Stat. § 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and any 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 (10), as the City Council may determine in each case.

(Am. Ord. 11-02, passed 6-27-11)

Section 510 - Grass and Weeds

510.01 Height. It shall be unlawful for any owner, lessee, or occupant, or any managing officer, agent, representative or employee of any such owner, lessee or occupant having control of any occupied or unoccupied lot or land or any part thereof in the City to permit or maintain on any such lot or land, or on or along the sidewalk, street or alley adjacent to the lot or land between the property line and the curb or middle of the alley or for ten feet outside the property line if there be no curb, any growth of weeds, grass, or other rank vegetation to a greater height than six inches on the average, or any accumulation of dead weeds, grass, or brush.

510.02 Removal. It shall be the duty of any owner, lessee or occupant of any lot or land to cut and remove or cause to be cut and removed all the weeds, grass or other rank vegetation as often as may

be necessary to comply with the provisions of Subsection 510.01: provided that cutting and removing the weeds, grass and rank vegetation at least once in every three weeks, between May 15 and September 15 of each year, shall be deemed to be a compliance with this chapter.

510.03 Notice of Abatement. If the provisions of this Section are not complied with, the Clerk-Treasurer shall serve written notice by certified mail upon the owner, lessee or occupant or any person having control of any such lot or land to comply with the provisions of this chapter. If the person upon whom the notice is served fails, neglects or refuses to cut and remove or cause to be cut and removed, the weeds, grass, or other vegetation within ten (10) days after the mailing of the notice, or if no person can be found in the City who either is or claims to be the owner of the lot or land or who either represents or claims to represent the owner, the Clerk-Treasurer shall cause the weeds, grass and other vegetation on the lot or land to be cut and removed and the actual cost of the cutting and removal plus 20 percent for inspection and other additional costs in connection with the removal shall be certified by the Clerk-Treasurer to the City Treasurer and shall thereupon become a lien upon the property on which the weeds, grass and other vegetation were located and shall be added to and become and form part of the taxes next to be assessed and levied upon the lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes. Any ground, lot parcel, vacant lot or portion thereof within a residential zoning district shall be graded and kept free of debris so it can be mowed and kept free of rank vegetation growth.

510.04 Scope. Provision for notice, work by the City and addition of costs to taxes for vegetation mowing shall also apply to grading and removal of debris so vegetation can be mowed. This Section

shall not apply to lots or parcels being filled for development when located 200 feet or more from the next adjacent dwelling.

Section 520 - Trees

520.01 Regulations Adopted by Reference. Sections 1505.0010 through 1505.0600 of Minnesota Rules, together with amendments thereof to date, shall be hereby adopted by reference, and made a part of this Section as if set out in full. A copy of the Rules incorporated shall be on file in the Clerk's office.

520.02 Nuisance. It shall be unlawful for any person to permit a public nuisance, as defined in this Section, on any premises owned or controlled by him or her within the City. The following shall be public nuisances:

A. The maintenance of any living or standing elm tree or part thereof infected to any degree whatsoever with the Dutch Elm disease fungus also called *Ceratocystis uhni*, or the maintenance of any said elm tree which harbors any of the elm bark beetles also called *Scolytus multistriatus* or *Hylurgopinus rufipes*.

B. The maintenance of any dead elm tree or part thereof, including but not limited to logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned, or sprayed with an effective elm bark insecticide.

520.03. The stockpiling of bark bearing elm wood within the City limits of the City shall be

permitted during the period from September 15 through April 1 of any given year. Any such wood not utilized by April 1 of any year shall then be removed and disposed of as provided by this Section and the regulations incorporated thereby.

520.04 Inspection. The City Council, or its appointee shall investigate all reported incidents or infestation by Dutch Elm Fungus or elm bark beetle nuisances. Upon finding conditions existing that indicate the presence of the Dutch Elm disease fungus or the elm bark beetle, appropriate specimens or samples, clearly marking their source, shall be taken and examined to confirm the nuisance condition when necessary. For the purpose of carrying out any of the investigative and enforcement duties assigned under this section, the City Council, or its appointee may enter upon private premises at any reasonable time.

520.05 Abatement. In abating any nuisance discovered under this section, the City Council, or its appointee shall cause all infected wood or trees to be removed, burned or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of Dutch Elm disease, fungus and elm bark beetles. Insofar as possible, in abating the nuisances, the City Council or its appointee shall use the following procedure for removal of infected trees and wood whether on public property or private property or places:

- A. The City shall notify the property owner by certified mail or personal service in writing that the nuisance must be abated within a specified time, not less than ten (10) days and no more than 20 days from the date of mailing of or service of the notice. After the expiration of the

time limited by the notice, if the nuisance has not been abated, the City Council or its appointee shall abate the nuisance by removal and destruction of the tree and wood, and dispose of the tree within 72 hours.

520.06 Records. The City Council shall keep a record of all its costs of nuisance abatement done under this section according to lot or parcel of land involved. All the costs plus 10 percent for inspection and other administrative costs in connection with this Section shall be certified by the Clerk-Treasurer to the City and shall become and be a lien upon the property on which the nuisance was located before it was abated; and shall be added to and become and form part of the taxes next to be assessed and levied upon the lot or parcel of land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes.

520.07 Relation to Other Law. Where these provisions of this section conflict or are inconsistent with any other Ordinance of the City, the provisions of this similar Section shall supersede except in instances where one regulation is more restrictive than another in which case the more restrictive shall apply and control.

520.08 Violation. Violation of this Section 520 shall be a misdemeanor.

Section 530 - Unsafe Buildings

530.01 Nuisance. It shall be unlawful for any person to permit a public nuisance, in the form of an unsafe building, as defined in this Section, on any premises owned or controlled by him or her within the City. The following shall be a public nuisance:

A. Any building or structure or portions thereof, including excavations for buildings or excavations or basements or demolished or moved buildings, when they are either structurally unsafe; unstable; unsanitary; inadequately provided with exit facilities; constitute a fire hazard; constitute a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or otherwise dangerous to life or property.

530.02 Inspection and Notice. The City Council or its appointee shall investigate all reported unsafe buildings. Upon determining that a building or structure or portion thereof is unsafe, the City Council shall serve or caused to be served on the owner, or someone of the owners, executors, administrators, agents, lessees or other persons who may have a vested or contingent interest in the building, a written notice containing a description of the building or structure or portion thereof deemed unsafe, a statement of the particulars in which the building or structure or portion thereof is unsafe, and an order requiring the same to be made safe and secure or removed, as may be deemed necessary by him or her. If the person to whom the notice and order is addressed cannot be found after diligent search, then the notice and order shall be sent by registered mail to the last known address of the person, and a copy of the notice shall be posted in a conspicuous place on the premises to which it relates. Such mailing and posting shall be deemed adequate service.

530.03 Entrance on Private Property. For the purpose of carrying out any of the investigative and enforcement duties assigned under this chapter, the City Council, or its appointee may enter upon private premises at any reasonable time.

530.04 Vacate. When a building or structure or portion thereof is in an unsafe condition so that life is endangered thereby, the City Council shall order and require the inmates and occupants to vacate

the same, and may post the building or structure as condemned for occupancy and take suitable safeguards to prevent the public from entering the building or structure.

530.05 Abatement. If the person served with a notice or order to remove or repair an unsafe building or structure or portion thereof should fail within a reasonable time as stated in the notice to comply with the requirements of the notice, the City Council may authorize the necessary labor and materials to be employed to perform emergency repairs or any demolition to the damaged building or structure or portion thereof as may be deemed necessary for the general public health and safety.

530.06 Records. The City Council shall keep a record of all its costs of nuisance abatement done under this Section according to lot or parcel of land involved. All the costs plus 10 percent for inspection and other administrative costs in connection herewith shall be certified by the Clerk/Treasurer to the County Auditor and shall thereupon become and be a lien upon the property on which the nuisance was located before it was abated and shall be added to and become and form part of the taxes next to be assessed and levied upon the lot or parcel of land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes.

530.07 State Law. No action shall be taken under this Section except in accordance with Minnesota Statutes Chapter 329.

Section 540 - Current Services

540.01 Definition. The term “current service” as used in this Section shall mean one or more of the following: snow, ice or rubbish removed from sidewalks; weed elimination from street or grass plots adjacent to sidewalks or from private property, street sprinkling, street flushing, light street oiling or other dust treatment of streets, trimming and care of trees and removal of unsound or diseased trees, from the public streets or from public or private property.

540.02 Cleaning of Sidewalks.

Subd. 1 Nuisance. All snow, ice, dirt and rubbish remaining on a public sidewalk more than twenty-four hours after its deposit thereof shall be a public nuisance. The owner and the occupant of any property adjacent to public sidewalk shall use the diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than twenty-four hours after its deposit thereon.

Subd. 2 Removal. The Street Commissioner shall remove or cause to be removed from all public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning twenty-four hours after the matter has been deposited thereon or after the snow has ceased to fall. He or she shall keep a record showing the cost of the removal adjacent to each separate lot and parcel and shall deliver the information to the Clerk-Treasurer.

540.03 Weed Elimination.

Subd.1 Height. Any weeds, whether noxious or defined by law or not growing upon any lot or parcel of land outside the traveled portion of any street or alley in the City to a greater height than six inches or which have gone or about to go to seed shall be a nuisance. The owner and occupant shall abate or prevent the nuisance on the property and on land outside the traveled portion of the street or alley abutting on the property. **NOTE: Conflicts with Section 510.**

Subd. 2 Notice. When the owner and occupant, or either of them, permit a weed nuisance to exist in violation of Subd. 1, the weed inspector for the City shall serve notice upon the owner of the property if he or she resides in the municipality and can be found or upon the occupant in other cases, by registered or certified mail or by personal service ordering the occupant to have the weeds cut and removed within ten days after receipt of the notice and also stating that in case of noncompliance the work shall be done by the Street Commissioner at the expense of the owner and that if unpaid, the charge of the work shall be made a special assessment against the property concerned. When no owner, occupant or agent of the owner or occupant can be found after the exercise of due diligence, the provisions for notice shall not apply.

Subd. 3 Abatement. If the owner or occupant fails to comply with the notice within ten days after its receipt or if no owner, occupant or agent of the owner or occupant can be found, the Street Commissioner shall cut and remove the weeds. He or she shall keep a record showing the cost of the work attributable to each separate lot and parcel and shall deliver the information to the Clerk-Treasurer.

540.04 Street Sprinkling, Street Flushing, Tree Care, Etc.

Subd.1 Council Action. The Council may each year determine by resolution what streets and alleys may be sprinkled or flushed, oiled, or given other dust treatment during the year and the kind of work to be done on each. The Council may also determine by resolution from time to time the streets on which trees shall be trimmed and cared for, the kind of work to be done and what unsound trees shall be removed. The Council shall also have the authority to determine by resolution that diseased and unsound trees located upon private property which may affect the health of surrounding trees or shrubbery shall be a nuisance which must be abated. Dutch Elm disease and other similar diseases shall be the diseases which shall be contemplated. Before any work is done pursuant to any of these resolutions, the Clerk shall under the Council's direction, publish notice that the Council shall meet to consider the projects. The notice shall be published in the official newspaper at least once no less than ten days prior to the meeting of the Council and shall state the date, the time and place of the meeting, the streets affected, and the particular projects proposed, and the estimated cost of each project, either in total or on the basis of the proposed assessment per front foot or otherwise. In lieu of the published notice, the Council may include in the resolution that the notice of the hearing may be registered or certified mail or by personal service in the same manner as provided in the case of the destruction of weeds in Subsection 540.03, Subd. 2.

Subd. 2 Hearing. At the hearing or any adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed projects. The solution confirming the original projects with the modification as it considers desirable and shall provide for the doing of the work by day labor through the Street Commissioner or by contract the Street

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Commissioner shall keep a record of the cost and the portion of the cost properly attributable to each lot and parcel of property abutting on the street or alley on which the work is done and shall report the information to the Clerk-Treasurer.

540.05 Personal Liability. 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. As soon as the service has been completed and the cost determined, the Clerk-Treasurer shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable to the office of the Clerk-Treasurer.

540.06 Assessment. On or before November 30 of each year, the Clerk shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable under this Section. The Council may then spread the charges against property benefited as a special assessment in accordance with the provision of Minnesota Statutes Annotated, Section 429.101 and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.

540.07 Penalty. Any person who maintains a nuisance in violation of this Section and any person who interferes with a City employee or other authorized person in performance of any current service under this Chapter shall be guilty of a misdemeanor.

Section 550 - Garbage

550.01 Mandatory Collection. It shall be deemed in the best interest of the public and residents

of the City that the Council shall contract for the legal collection of and disposal of garbage or refuse from dwellings and places of business in the City. All residents shall be subject to the organized collection established by the City.

550.02 Charges. The owners of all property served by the waste collection shall pay service charges for the service to their respective properties as established by Council resolution. Payment of service charges shall be made quarterly to the Clerk-Treasurer. Default of payment due the City of the service charges shall subject the owner of the property to levy pursuant to Minnesota Statutes Annotated, 443.015, and Laws Amendatory and the payment of charges shall be obligatory upon all owners of property within the City.

550.03 Unlawful Disposal. No person shall deposit litter, refuse or garbage in any public trash barrels, unless the same shall have been accumulated or acquired while using public property, nor shall any person place any garbage or waste in the receptacle of another without permission from the owner.

550.04 Violation. A violation of this Section 550 shall be a petty misdemeanor.

Section 560 - Open Burning

560.01 Allowable Burning. The open burning of dried leaves within the City limits of the City of New Richland shall be allowed only under the following conditions:

- A. Such burning shall be permitted only during the days of Tuesday, Thursday & Saturday from October 1 to November 30.
- B. A responsible person shall be in constant attendance during all burning and until the fire is completely extinguished.
- C. Burning shall be allowed only between the hours of 1:00 P.M. and 7:00 P.M. All fires are to be completely extinguished by 7:00 P.M.
- D. All fires shall be not less than 25 feet from any structure, wood fence, hedge or bush and not less than 5 feet from any property line.
- E. Burning shall be prohibited on any City streets, alleys, boulevards, or any other public property by private citizens.
- F. No open burning of leaves shall be permitted at any time during any air alert or warning declared by any State, county, or local authority.
- G. All permit requirements of the Department of Natural Resources shall be complied with.

560.02 Restricted Burning. Burning of any other materials, other than dried leaves shall be strictly under the authority of the Minnesota Department of Natural Resources and the Minnesota Pollution Control Agency and Minnesota Statutes.

560.03 Violation. Violation of this Section 560 shall be a misdemeanor.

Section 570 - Curfew

570.01 Purpose. The curfew for minors established by this Section is maintained for four primary reasons:

- A. To protect the public from illegal acts of minors committed during the curfew hours;
- B. To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;
- C. To protect minors from criminal activity that occurs during the curfew hours; and D. To help parents control their minor children.

570.02 Definitions.

Subd. 1 Emergency Errand. “Emergency Errand” shall mean a task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minor’s household. Emergency Errands shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or fire department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or man-made calamity.

Subd. 2 Official City Time. “Official City Time” shall mean the time of day as determined by reference to the time given by the dispatcher.

Subd. 3 Places of Amusement, Entertainment, or Refreshment. “Places of

`Amusement', `Entertainment' or `Refreshment'" shall mean those places that include, but are not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.

570.03 Age.

Subd. 1 Under Eighteen Years. Except as otherwise provided, it shall unlawful for any person under the age of 18 years to be on or present in any public street, avenue, alley, park or other public place, or place of amusement, entertainment or refreshment in the City between the hours of 10:30 P.M. and 5:00 A.M. of the following day, official City time.

570.04 Exceptions. The restrictions of this Section do not apply when the minor:

- A. Is accompanied by parent or legal guardian;
- B. Is returning home by a direct route from and within 30 minutes after a school activity or an activity of a religious or other voluntary association.
- C. Is on the way to or from the minor's place of employment or is conducting lawful employment duties.
- D. Is upon an emergency errand or other legitimate business directed by parent, guardian or other adult having the lawful custody of the minor.

E. Is involved in interstate travel.

F. Is exercising protected constitutional rights.

G. Is on the sidewalk abutting his or her residence or that of a next-door neighbor and the neighbor has not complained to the police about the minor's presence.

H. Is married, has been married, or is otherwise an emancipated minor.

570.05 Parent or Guardian. It shall be unlawful for any parent, guardian or other person having the lawful care, custody or control of any person under the age of 18 years to allow or permit the person to violate the provisions of this Section.

570.06 Responsibility of Others. It shall be unlawful for any person, firm or corporation operating or in charge of any place of amusement, entertainment or refreshment, or other place of business, to permit any minor under the age of 18 years to be or remain in the place during the hours prohibited by this Section. Whenever the owner or person in charge or in control of any place of amusement, entertainment, refreshment, or other place of business shall find any persons under the age of 18 years, in the place of business during prohibited hours, he or she shall immediately order the person to leave, and if the person refuses to leave the place of business, the operator shall immediately notify the police department and inform them of the violation.

570.07 Construction. This Section shall not be construed as permitting the presence at any time or any person under the age of 18 in any place where his or her presence is now prohibited by any existing law or ordinance, or code provision.

570.08 Enforcement. Any member of the police force shall be authorized to arrest, with or without warrant, any person or persons violating the provisions of this Section, and any child unaccompanied by parents, guardian or other person having the lawful care and custody of the minor child.

510.09 Defense. It shall be a defense to prosecution under this Section that the owner, operator, or employee of an establishment promptly notified the City's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave.

570.10 Penalty. Violation of the provisions of this Section 570 shall be a misdemeanor.

Section 580 - Parks

580.01 Hours. It shall be unlawful for any person to be present in a City park between the hours of 10:00 p.m. and 6:00 a.m.

580.02 Alcohol. It shall be unlawful for any person to consume any alcoholic beverage in a City park in violation of Chapter Four of this Code.

580.03 Motor Vehicles. It shall be unlawful for any person to park or drive any motor vehicle,

including motorcycles, in any City park other than on designated roads, paths, or parking areas.

580.04 Fire. It shall be unlawful for any person to build or use any fire in any City park except for charcoal grills or in designated fire pits or fireplaces.

580.05 Swimming. It shall be unlawful for any person to swim in the designated boat landing areas of St. Olaf Park or in any other area posted “No Swimming.”

580.06 Violations. Violation of the provisions of this Section 580 shall be a misdemeanor.

TITLE IX: GENERAL REGULATIONS

Chapter

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91. NUISANCES

92. PARKS AND RECREATION

93. STREETS AND SIDEWALKS

94. DISCHARGE OF FIREARMS

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CHAPTER 90: ANIMALS

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- 90.020 Running at large prohibited
- 90.030 Declaration of nuisance
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TITLE IX: GENERAL REGULATIONS

DOGS AND CATS

§ 90.010 REGULATION.

The City Council determines that it is in the best interests of the citizenry and in the interests of the public safety, health and welfare, that the keeping of dogs and cats within the city limits be regulated and the same shall further be licensed pursuant to certain restrictions. (2002 Code, § 90.01)

§ 90.020 RUNNING AT LARGE PROHIBITED.

It is unlawful for any person who is the owner, or other person in possession, of a dog or cat to permit the dog or cat to run at large. For the purpose of this section, the term ***AT LARGE*** means off the premises of the owner and either not under the direct and complete control of the owner or not on a leash, cord or chain of not more than ten feet in length and also under the control of the accompanying person. (2002 Code, § 90.02) (Ord. 218, passed 6-12-1989) Penalty, see § 10.990

§ 90.030 DECLARATION OF NUISANCE.

(A) The owner or person keeping a dog or cat shall prevent the dog or cat from committing in the city any act which constitutes a nuisance. These acts shall include, but shall not necessarily be limited to the following:

(1) Running at large, which means that the dog or cat is off the premises of the owner or person keeping it. This restriction shall not prohibit the appearance of a dog or cat off the premises when on a leash no longer than ten feet in length, and while under the control of an accompanying person;

(2) Habitually and frequently barking, howling, or crying. Habitual barking, howling or crying shall be defined as barking, howling or crying or any combination thereof for repeated intervals of at least five minutes with less than one minute of interruption. The barking, howling or crying must also be audible off the owner's or caretaker's premises;

(3) Attacking, molesting or annoying any person or other animal; and

(4) Damaging, defiling or destroying public or private property. (2002 Code, § 90.03) (Ord. 218, passed 6-12-1989) Penalty, see § 10.990

§ 90.040 IMPOUNDMENT.

The official dog and cat catcher of the city and every police officer shall impound any dog or cat found unlicensed or running at large, and shall give notice of the impounding to the owner of the dog or cat if known. If the owner is unknown, the dog and cat catcher or officer shall post notice at the City Administrator's office that if the described dog or cat is not claimed within five regular business days of the posting of the notice, it will be killed. If an unlicensed animal or an animal running at large is a dangerous dog as defined by state law or vicious dog as defined by § 347.50, as it may be amended from time to time, it shall be kept seven days, and if an unlicensed animal or animal running at large is an improperly cared for animal it shall be kept for ten days, and the notice shall state the time that the animal shall be kept. If the dog or cat is not claimed within the time specified and all fees and charges duly paid, the official dog and cat catcher or police officer shall kill the dog or cat and dispose of the body immediately. The official dog and cat catcher shall house and feed in a humane manner any dog or cat held at the pound. (2002 Code, § 90.04) (Ord. 218, passed 6-12-1989)

§ 90.050 RELEASE FROM IMPOUNDMENT.

Except as otherwise provided herein, dogs and cats shall be released to their owners or persons previously in possession of them upon payment of all impounding fees and payment of the current licensing fee. The above notwithstanding, the owner of any dog or cat seized and the individual applying for and actually receiving a license for the dog or cat shall be responsible for any and all licensing fees, impoundment fees, vaccination fees, boarding fees and other similar maintenance fees accrued while the animal is in impoundment. It shall be the owner's responsibility to pay for all fees for the necessary period of impoundment, and in the event that the dog or cat is not redeemed, and until the animal is sold or destroyed, the fees shall be the responsibility of the owner. However, the owner will receive a credit towards these fees for any amounts actually received upon the sale of the dog or cat. *(2002 Code, § 90.05) (Ord. 218, passed 6-12-1989)*

§ 90.060 REGULATION OF PARKS.

It shall be unlawful for any person in a public park or recreation area to:

(A) Bring or have a dog, cat, ferret, raccoon, skunk, snake or bird of prey in any city parks except in connection with a written permit therefor from the City Administrator; provided, however, this prohibition shall not apply to a blind person accompanied by a seeing-eye dog; and

(B) Dogs will only be permitted in Lakeview Park on the road serving as the perimeter of the park, provided that the dogs are under the control of a person by leash, cord or chain and in the event any dog discharges or deposits any feces or other waste matter in the park, the person in control of the dog shall immediately remove and lawfully dispose of the matter. *(Ord. 2010B, passed 7-12-2010) Penalty, see § 10.990*

§ 90.070 LICENSING, BOARDING AND IMPOUNDMENT FEES.

(A) *Setting of fees.* The City Council may from time to time by resolution designate impoundment fees, license fees, and boarding rates to reflect the costs of those items. The owner of the dog or cat shall further be required to reimburse the city for any and all expenses incurred while the dog or cat is in impoundment. These fees shall be made a part of the City's fee schedule as it may be amended from time to time. The City Council may also charge additional fees for a dog or cat impounded a second time within three months. *(2002 Code, § 90.06) (Ord. 218, passed 6-12-1989; Res. 94.03, passed 1-11-1994) (Ord. 2020-B, passed 11-09-2020)*

§ 90.080 LICENSE NOTICE.

Any notice to the owner or individual who applied for a license for the dog or cat may be given either by personal notice verified by affidavit of service or by written notice forwarded via the United States mail to the address noted on the application for a license maintained by the licensing official. Should the address of the owner or applicant for the license change while the license is in effect, it shall be the obligation of that person to keep the licensing official informed of the change. *(2002 Code, § 90.07) (Ord. 218, passed 6-12-1989)*

§ 90.090 EXCEPTIONS TO FEES.

The licensing fees required by this subchapter shall not apply to dogs certified and trained to assist visually or other handicapped individuals. *(2002 Code, § 90.08) (Ord. 218, passed 6-12-1989)*

TITLE IX: GENERAL REGULATIONS

§ 90.100 IMMOBILIZATION.

For the purpose of enforcement of this section, any police officer, animal control officer or other person assisting a police officer or animal control officer may use a tranquilizer gun or other instrument for the purpose of immobilizing or catching a dog or cat. The usage of a tranquilizer gun or similar instrument shall be used only after the Chief of Police has determined that all other reasonable methods or attempts to control the animal are exhausted, or the Chief of Police or acting Chief of Police determines that the animal sought to be controlled is deemed dangerous. (2002 Code, § 90.09) (Ord. 218, passed 6-12-1989)

§ 90.110 DANGEROUS ANIMALS.

It is unlawful for any person to own or keep a dog or cat which causes an injury to a police officer or other person. Any dog or cat which causes any injury shall be deemed dangerous and may be impounded for a period of at least 21 days or until the veterinarian monitoring the dog or cat, or physician treating the injured person directs its release. Prior to release, the owner or person previously in possession shall pay the impounding fees. For the purpose of this section, a dog or cat which cannot be impounded with safety to a police officer or other person shall also be deemed dangerous and may be summarily destroyed. (2002 Code, § 90.10) (Ord. 218, passed 6-12-1989) Penalty, see § 10.990

§ 90.120 REGULATION OF VICIOUS DOGS.

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

OWNER. Any person, firm, corporation, organization or department possessing or harboring or having the care or custody of a dog.

UNCONFINED. A vicious dog is **UNCONFINED** if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot. All the pens or structures must be adequately lighted and kept in a clean and sanitary condition.

VICIOUS DOG.

(1) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals;

(2) Any dog which, because of its size, physical nature, or vicious propensity, is capable of inflicting serious physical harm or death to humans, and which would constitute a danger to human life or property if it were not kept in the manner required by this section;

(3) Any dog which, without provocation, attacks or bites, or has attacked or bitten a human being or domestic animal; and

(4) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

(B) *Confinement.* The owner of a vicious dog shall not suffer or permit the dog to go unconfined.

(C) *Leash and muzzle.* The owner of a vicious dog shall not suffer or permit the dog to go beyond the premises of the owner unless the dog is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(D) *Signs.* The owner of a vicious dog shall display, in a prominent place on his or her premises, a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

(E) *Dog fighting.* No person, firm, corporation, organization or department shall possess or harbor or maintain care or custody of any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to attack human beings or domestic animals.

(F) *Insurance.* Owners of vicious dogs must provide proof to the City Administrator of public liability insurance in the amount of at least \$25,000, insuring the owner for any personal injuries inflicted by his or her vicious dog. (2002 Code, § 90.11) (Ord. 214, passed 5-23-1988) *Penalty, see § 10.990*

§ 90.130 OWNER RESPONSIBILITY.

The owner or person in control of a dog or cat who is not on the premises wherein the animal resides shall be required to maintain the cleanliness of the animal, and should the animal deposit feces on either a public right-of-way or any public property or upon the property of a private landowner, the person in control of the animal shall be required to immediately clean up the feces and deposit them in an appropriately maintained trash receptacle on the premises of the owner. (2002 Code, § 90.12) (Ord. 218, passed 6-12-1989) *Penalty, see § 10.990*

§ 90.140 ADOPTION OF STATE STATUTES.

The city adopts the provisions of M.S. Chapters 346 and 347 as they presently exist and as they may be hereafter amended or revised. To the extent that other provisions of this subchapter are more restrictive than these statutes, the more restrictive provisions of this subchapter shall apply. (2002 Code, § 90.13) (Ord. 218, passed 6-12-1989)

§ 90.150 VIOLATION.

It shall be considered a misdemeanor for any person to violate any of the provisions of this subchapter, and any violation may receive the maximum penalty authorized for the commission of a misdemeanor as determined by state statutes. (2002 Code, § 90.14) (Ord. 218, passed 6-12-1989)

NON-DOMESTIC ANIMALS

§ 90.300 DEFINITION.

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

NON-DOMESTIC ANIMAL. Any wild animal, reptile or fowl, which is not naturally tame, but is of a wild nature or disposition, or which because of its size or other characteristics would constitute a danger to human life or property. (2002 Code, § 90.25) (Ord. 253, passed 3-27-2000)

TITLE IX: GENERAL REGULATIONS

§ 90.310 PROHIBITED ANIMALS; SALE.

(A) No person shall keep, maintain or harbor within the city any of the following animals.

(1) Any animals or species the keeping of which is prohibited by state or federal law; or

(2) Any non-domestic animal or species, including, but not limited to, the following:

(a) Any skunk, whether captured in the wild, domestically raised, de-scented or not de-scented, vaccinated against rabies or not vaccinated against rabies;

(b) Any large cat of the family Felidae such as lions, tigers, jaguars and ocelots, except commonly accepted domesticated house cats;

(c) Any member of the family Canidae, such as wolves, foxes, coyotes, dingos and jackals, except domestic dogs;

(d) Any crossbreed such as the crossbreeds between dogs and coyotes, or dogs and wolves, but does not include crossbred domestic dogs;

(e) Any poisonous pit viper such as a rattlesnake, coral snake, water moccasin or cobra;

(f) Any raccoon;

(g) Any ferret which has not been vaccinated for rabies;

(h) Any monkey or other primate; or

(i) Any other animal which is not listed explicitly above, but which can be reasonably defined by the term wild animal in § 97A.015 Subd. 55, as it may be amended from time to time, including bears and badgers; or

(j) Bees, honeybees, or relatives there too. (*Ord. 2020-B, passed 11-09-2020*)

(B) No person shall offer for sale, within the city limits, any animal prohibited in division (A) above.

(2002 Code, § 90.26) (*Ord. 253, passed 3-27-2000*) *Penalty, see § 10.990*

§ 90.320 EXCEPTIONS.

The following are exempt from the prohibition of § 90.310:

(A) Non-poisonous snakes, birds kept indoors, hamsters, mice, rabbits, gerbils, white rats, guinea pigs, chinchillas, or lizards. Similar small animals capable of being maintained continuously in cages are also exempt from this subchapter, provided that the manner of keeping does not constitute a nuisance.

(B) Handicapped persons keeping monkeys trained as household helpers are exempt;

(C) Traveling exhibitions which keep wild animals for exhibition or show, provided that the person,

traveling circus zoo or show has obtained a state permit or is exempt from this requirement pursuant to M.S. § 97a.041, as it may be amended from time to time, and provided that the animals are not kept in the city more than 14 days per year;

(D) Animals in the custody of licensed veterinarians; and

(E) Falcons and other birds of prey kept by state and federally licensed falconers. (2002 Code, § 90.27) (Ord. 253, passed 3-27-2000)

§ 90.330 IMPOUNDMENT.

Any non-domestic animal kept in violation of this subchapter may be impounded by the city, and, after being so impounded for three days or more without being reclaimed by the owner, may be destroyed or sold. Any person reclaiming any impounded animal shall pay the costs of impounding and keeping the same. (2002 Code, § 90.28) (Ord. 253, passed 3-27-2000)

§ 90.340 EXISTING NON-DOMESTIC ANIMALS.

Anyone keeping or maintaining any non-domestic animal at the time this subchapter is adopted has 90 days in which to comply with the provisions of this subchapter. Extensions beyond 90 days may be granted for just cause by the City Council. (2002 Code, § 90.29) (Ord. 253, passed 3-27-2000) Penalty, see § 10.99

§ 90.350 VIOLATION.

Violation of any provision of this subchapter shall be a misdemeanor. (2002 Code, § 90.30) (Ord. 253, passed 3-27-2000)

KEEPING OF CHICKENS

§ 90.400 CHICKENS PERMITTED

Chickens permitted. It is unlawful for any person to own, control, keep, maintain or harbor chickens on any premises within the City unless issued a permit to do so as provided in this section. No permit shall be issued for the keeping or harboring of more than five (5) female chickens or hens on any premises up to two (2) acres and ten (10) female chickens or hens on any premises of more than two (2) acres. The keeping or harboring of male chickens or roosters is prohibited and the premises upon which the chickens are kept must be the property owner's primary residential dwelling.

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

“CHICKEN” means a female chicken or hen.

“AT LARGE” means a chicken out of its chicken run, off the premises or not under the custody and control of the owner.

“CHICKEN COOP” means a structure for housing chickens made of wood or other similar materials that provides shelter from the elements.

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“CHICKEN RUN” means an enclosed outside yard for keeping chickens.

“PERSON” means the resident, property owner, custodian, or keeper of any chicken.

“PREMISES” means any platted lot or group of contiguous lots, parcels or tracts of land and is located within the city.

§ 90.420 PERMIT

(A) No person shall maintain a chicken coop and / or chicken run unless granted a permit by the Zoning Administrator. The permit shall be subject to all the terms and conditions of this section and any additional conditions deemed necessary by the Zoning Administrator or designated Animal Control Officer to protect the public health, safety and welfare. The necessary permit application may be obtained from the Zoning Administrator's office. Included with the completed application must be a scaled diagram that indicates the location of any chicken coop and / or chicken run, and the approximate size and distance from adjoining structures and property lines, the number and species of chickens to be maintained at the premises, and a statement that the applicant / permittee will at all times keep the chickens in accordance with this ordinance and all the conditions prescribed by the Animal Control Officer, or modification thereof, and failure to obey such conditions will constitute a violation of the provisions of this section and grounds for cancellation of the permit. The applicant shall include written consent / approval of the keeping of chickens on their premises from 75% of the abutting property owners. Upon receipt of a permit application, the Zoning Administrator shall determine if the application is complete and contains the required consent and/or approval. If the application is complete and includes written consent / approval from 75% of abutting property owners, the Zoning Administrator shall issue a permit for the keeping of chickens to the applicant.

(B) No permit shall be issued for an incomplete application or for the keeping of chickens on any rental premises. A permit for the keeping of chickens may be revoked or suspended by the Administrator-Clerk or designated Animal Control Officer for any violation of this section following written notice. The applicant / permittee may appeal the revocation or suspension of their permit by requesting in writing a hearing before the city council within seven (7) days of the notice of revocation or suspension. The request for hearing must be either postmarked or received in the city administrator's office within seven (7) days of the date of the notice. The city council shall hold a hearing on the applicant / permittee's request for hearing within thirty (30) days of the request for hearing. The permit fee shall be charged in accordance to the City's fee schedule and shall expire on December 31 of each year.

(C) Permit fees shall made a part of the City's fee schedule as it may be amended from time to time.

§ 90.430 CONFINEMENT

Every person who owns, controls, keeps, maintains, or harbors chickens must keep them confined at all times in a chicken coop and chicken run and may not allow the chicken to run at large. Any chicken coop and chicken run shall be at least fifteen (15) feet from any structure, setback, or property line.

§ 90.440 CHICKEN COOPS AND CHICKEN RUNS

(A) All chicken coops and chicken runs must be located within the rear yard subject to a fifteen (15) foot setback from any property line and at least fifteen (15) feet from any other structures. All chicken coops must be a minimum of four (4) square feet per chicken in size, must not exceed ten (10) square feet per chicken in size and must not exceed six (6) feet in total height. Attached fenced-in chicken runs must not exceed 20

square feet per chicken and fencing must not exceed six (6) feet in total height. Chicken runs may be enclosed with wood and / or woven wire materials and may allow chickens contact with the ground. Chicken feed must be kept in metal predator proof containers. Chicken manure may be placed in yard compost piles.

(B) Chicken coops must either be:

(1) Elevated with a clear open space of at least twenty-four (24) inches between the ground surface and framing / floor of the coop; or,

(2) The coop floor, foundation and footings must be constructed using rodent resistant construction.

(C) Chicken coops are not allowed to be located in any part of a home and / or garage.

(D) Chickens must be secured in a chicken coop from sunset to sunrise each day and no chickens shall be allowed to run outside of the coop.

(E) All coops shall be constructed and maintained in a workmanlike manner.

(F) All coops shall be rodent proof and built in such a manner as to prevent access to the coop by rodents.

§ 90.450 CONDITIONS AND INSPECTIONS

No person who owns, controls, keeps, maintains, or harbors chickens shall permit the premises where the chickens are kept to be or remain in an unhealthy, unsanitary or noxious condition or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. Any chicken coop or chicken run authorized by permit under this section may be inspected at any reasonable time by the designated Animal Control Officer, Law Enforcement Officer or other agent of the City. A person who has been issued a permit shall submit it for examination upon demand by the Animal Control Officer, Law Enforcement Officer or other agent of the City. Slaughter and breeding of chickens on any premises within the City is prohibited.

§ 90.460 PRIVATE RESTRICTIONS AND COVENANTS ON PROPERTY

Notwithstanding the issuance of a permit by the City, private restrictions and / or covenants on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include but are not limited to deed restrictions, condominium master deed restrictions, neighborhood association by-laws, covenant declarations and deed restrictions. A permit issued to a person whose premises are subject to private restrictions and / or covenants that prohibit the keeping of chickens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

§ 90.470 REFUSAL TO GRANT OR RENEW PERMIT

The Zoning Administrator may refuse to grant or renew a permit to keep or maintain chickens for failure to comply with the provisions of this section, submitting an inaccurate or incomplete application, if the conditions of the permit are not met, if a nuisance condition is created, or if the public health and safety would be unreasonably endangered by the granting or renewing of such permit.

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§ 90.480 REMOVAL OF CHICKEN COOP AND CHICKEN RUN

Any chicken coop or chicken run constructed or maintained on any premises shall be immediately removed from said premises after the expiration of the permit or shall be removed within thirty (30) days upon ceasing to use the chicken coop and / or chicken run for keeping chickens.

§ 90.490 SLAUGHTERING OF CHICKENS

The slaughtering of chickens on the property is strictly prohibited.

§ 90.499 PENALTY

Any person who owns, controls, keeps, maintains or harbors chickens in the City without obtaining or maintaining a current permit or after a permit has been suspended or revoked by Council action shall be guilty of a misdemeanor. In addition, any person who violates any provision of this Chapter shall be guilty of a misdemeanor which is punishable by imprisonment for up to 90 days in jail and / or the imposition of a fine of up to \$1,000, and / or a combination of both. (*Ord. 2020-B, passed 11-09-2020*)

CHAPTER 91: NUISANCES

Section

- 91.010 Definitions
- 91.020 Public nuisance
- 91.030 Public nuisances affecting health
- 91.040 Public nuisances affecting morals and decency
- 91.050 Public nuisances affecting peace and safety
- 91.060 Duties of city officers
- 91.070 Abatement
- 91.080 Recovery of cost
- 91.090 Weeds, grass, brush and other rank, poisonous or harmful vegetation
- 91.100 Nuisance parking and storage
- 91.110 Habitual nuisance
- 91.120 Penalty

§ 91.010 DEFINITIONS.

The following words and terms shall, for the purposes of this chapter and as stated elsewhere in this code, have the meanings shown herein.

ABANDONED BUILDING. Any building or portion of a building that has stood with an incomplete exterior shell for longer than one year or any building or portion thereof which has stood unoccupied for longer than one year which meets one or more of the following criteria:

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

(4) Placarded ex “Unfit for Human Habitation.”

ABANDONED VEHICLE. A motor vehicle that lacks vital component parts or is in inoperable condition such that it has no potential for further use, unless it is kept in an enclosed garage or storage building.

BASEMENT. The portion of a building which is partly or completely below grade.

DANGEROUS STRUCTURE. Any structure that is potentially dangerous to persons or property including, but not limited to, the following:

(1) A structure which is in danger of partial or complete collapse;

(2) A structure which has any exterior parts such as chimneys, eaves, porches, siding, railings or trim that are loose or in danger of falling; and

(3) A structure that has any parts such as porches, stairs, ramps, rails, balconies or roofs which are accessible and which are either collapsed, in danger of collapsing, or unable to support a person.

DECIBEL or dB. The unit for measuring the relative loudness of sound.

ENFORCEMENT OFFICER. An employee of the city designated by the City Administrator as a duly authorized representative charged with nuisance complaint investigation and abatement; including, but not limited to, the Chief of Police, the Public Works Director, the City Planner and Building Inspector.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owner(s) or operator(s) of the premises.

EXTERMINATION. The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serves as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITUAL NUISANCE. Any premises or property under the same owner that generates three or more citations for violation under §§ 91.01 through 91.10 within a 12-month time period shall be deemed a “habitual nuisance” until the premises or property is without a nuisance violation for 24 consecutive months.

HAZARDOUS BUILDING. Any building or property, as described in law or M.S. § 463.15, as it may be amended from time to time, which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition or abandonment, constitutes a fire hazard or a hazard to public safety or health.

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

JUNK. Old or scrap hazard signs, copper, brass, rope, rags, batteries, paper, synthetic or organic, trash, rubber debris, waste or junked, dismantled or wrecked automobiles or farm or construction machinery or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.

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JUNK VEHICLE. A motor vehicle that is extensively damaged; apparently inoperable; does not have a valid, current registration plate; and has an approximate fair market value equal to only the approximate value of the scrap in it.

NOISE. Any activity which creates or produces sound, regardless of frequency, that exceeds the ambient noise levels at the property line of any property (or if a condominium or apartment house within any adjoining apartment).

NOXIOUS WEED. An annual, biennial or perennial plant the Minnesota Commissioner of Agriculture designates to be injurious to public health, the environment, public roads, crops, livestock or other property.

OCCUPANT. Any person living or sleeping in a building; or having possession of a space within a building.

OWNER. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person and the executor or administrator of the estate of the person if ordered to take possession of real property by a court.

PREMISES. A lot, plot or parcel of land including any structures thereon.

PUBLIC NUISANCE. Includes any of the following:

(1) The physical condition or occupancy of any premises regarded as a public nuisance at common law;

(2) Any physical condition of occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to: abandoned wells, shafts, basements, excavations and unsafe fences or structures;

(3) Any premises that has unsanitary sewerage or plumbing facilities;

(4) Any premises designated as unsafe for human habitation;

(5) Any premises that is manifestly capable of being a fire hazard, or is manifestly unsafe or unsecured so as to endanger life, limb or property;

(6) Any premises from which the plumbing, heating or facilities required by this code have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided;

(7) Any premises that is unsanitary, or that is littered with rubbish or garbage, or that has an uncontrolled growth of weeds; or

(8) Any structure that is in a state of dilapidation; deterioration or decay; faulty construction; overcrowded; open, vacant or abandoned; damaged by fire to the extent so as not to provide shelter; in danger of collapse or failure; and dangerous to anyone on or near the premises.

RECREATIONAL VEHICLE. A currently licensed motorized or non-motorized conveyance that includes, but is not limited to, motor homes, travel trailers, folding tent trailers, truck campers removed from a truck or pickup, horse trailers, boat trailers with or without boats, utility trailers and similar vehicles.

RUBBISH. Combustible and noncombustible waste materials; except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

UNAUTHORIZED VEHICLE. A motor vehicle that is subject to removal and impoundment under the law, but does not fall within the definition of an abandoned or junk vehicle.

YARD. An open space on the same lot with a structure. (2002 Code, § 91.00) (Ord. 2014C, passed 11-24-2014; Ord. 2016C, passed 7-25-2016)

§ 91.020 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 injures or endangers the safety, health, morals, comfort or repose 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 §§ 91.020, 91.030 or 91.040, or any other part of this code to be a public nuisance and for which no sentence is specifically provided. (2002 Code, § 91.01) Penalty, see § 10.990

§ 91.030 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, garbage, trash, refuse or other 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;

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

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

(J) Any offensive trade or business as defined by statute not operating under local license; and

(K) Any vacant or unoccupied building that is deemed hazardous due to the fact that the building is open to trespass and/or vermin infestation and has not been secured. The City Council may order the property owner to secure the property per M.S. § 463.251, as it may be amended from time to time. *(2002 Code, § 91.02) (Ord. 2016C, passed 7-25-2016) Penalty, see § 10.990*

§ 91.040 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; and

(E) Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose. *(2002 Code, § 91.03) Penalty, see § 10.990*

§ 91.050 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 unnecessary noises and vibrations; and any 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) (1) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or 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 in all zoning districts except B-2 Central Business 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. (*Ord 2012-B, passed 07-23-2012*)

(2) Operation of any device referred to above in the B-2 Central Business between the hours of 12:30 a.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.

(3) The regulations in divisions (F)(1) and (F)(2) do not apply to the following:

(a) Amplifying equipment used in connection with activities which are authorized, sponsored or permitted by the city, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing the activity;

(b) Church celebrations, church bells, chimes or carillons, school bells or emergency civil defense warning signals;

(c) Anti-theft devices;

(d) Machines or devices for the production of sound on or in authorized emergency vehicles; or

(e) Snow removal or other authorized activity that will improve the safety of residents and surrounding areas.

(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 rights-of-way, streets, alleys, sidewalks or public grounds except under conditions as are permitted by this code or other applicable law;

(I) Radio aerials or television antennas 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 rainwater, ice or snow to fall from any building or structure upon any street or

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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) Wastewater 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, abandoned vehicles, junk vehicles 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 of 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 public property 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) All use of skateboards, roller blades and bicycles is prohibited in the entire Central Business District, including parking lots. In addition, all use of skateboards and roller blades is prohibited on Main Street sidewalks from Second Street to Fourth Street; and

(W) All buildings, walls and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half their original value, or which are so situated as to endanger the safety or health of the public.

(1) The City Council may order the owner of any hazardous building to correct or remove the hazardous condition of the building or property or to raze or remove the building per M.S. § 463.16, as it may be amended from time to time.

(2) The City Council may also order the City Administrator (or his or her designee) to correct or remove the hazardous condition; the cost of which shall be charged against the real estate as provided in M.S. §§ 463.16 and 463.21, as they may be amended from time to time. *(2002 Code, § 91.04) (Res. 2002-38, passed 10-28-2002; Res. 2002-43, passed 11-25-2002; Ord. 2012B, passed 7-23-2012) Penalty, see § 10.990*

§ 91.060 DUTIES OF CITY OFFICERS.

The City Administrator or his or her designated enforcement officer shall enforce the provisions relating to nuisances. (2002 Code, § 91.05)

§ 91.070 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 the City Administrator or his or her designated enforcement 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) *Summary enforcement procedure.* Whenever the City Administrator or his or her designated enforcement officer determines that a public nuisance is being maintained or exists on the premises in the city, the City Administrator or his or her designated enforcement officer shall notify in writing the owner of record or occupant of the premises of the 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 City Administrator or his or her designated enforcement 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 abatement procedure.*

(1) In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) above will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Administrator may order summary enforcement and abate the nuisance. To proceed with emergency abatement, the City Administrator or his or her designated enforcement

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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 City Administrator or his or her designated enforcement officer shall make a good faith effort to notify the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek emergency abatement. Following an emergency abatement, as soon as the costs incurred are known to the City Administrator, the City Administrator shall serve written notice upon the owner.

(2) The notice shall contain:

- (a) A description of the real estate sufficient for identification;
- (b) The location and description of the nuisance;
- (c) The remedial action taken by the city;
- (d) The reasons for immediate action;
- (e) The costs incurred in abating the nuisance; and

(f) A statement that the owner may request, by writing to the City Administrator within 20 calendar days of the date of the notice, a hearing at which the City Council shall review the actions taken by the city.

(3) In the event that the owner files a request for a review of the action with the City Administrator, the City Council shall within three weeks fix a date for a public hearing. The City Administrator shall inform the enforcement officer and the owner of the date, time, place and subject of the hearing. At the time of the hearing, the City Council shall hear from the enforcement officer and any other parties who wish to be heard. After the hearing, the City Council may adopt a resolution levying an assessment for all or a portion of the costs incurred by the city in abating the nuisance. The City Administrator shall give a copy of the resolution to the enforcement officer and shall mail a copy to the owner.

(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. (2002 Code, § 91.06) (Ord. 2005A, passed 11-14-2005) Penalty, see § 10.990

§ 91.080 RECOVERY OF COST.

(A) *Personal liability.* The owner of the 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 or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Administrator.

(B) *Assessment.* 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 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. 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. (2002 Code, § 91.07) *Penalty, see § 10.990*

§ 91.090 WEEDS, GRASS, BRUSH AND OTHER RANK, POISONOUS OR HARMFUL VEGETATION.

(A) *Removal of vegetation.* It shall be unlawful for any owner, lessee or occupant having control of any occupied or unoccupied parcel of land or any part thereof in the city to permit or maintain on any such parcel or along the sidewalk, street or alley adjacent to the same any growth of weeds, grasses, brush or other rank vegetation to a height greater than 12 inches on average or any accumulation of dead weeds, grasses or brush.

(B) *Vegetation elimination.* Any weeds or grasses, whether noxious or not, as defined by state law, growing to a height greater than 12 inches, or which have gone, or are about to go to seed, regardless of height, are a nuisance. For the purposes of this section, **OWNER** shall refer to the person or corporation listed as such in the records of the county. Abatement of the nuisance shall cause the complete killing of the weeds or grasses, or controlling of the weeds or grasses above the surface of the earth by the use of cutting, chemicals, tillage or cropping system.

(C) *Notice of noncompliance.* In the event the owner of any property in the city permits a weed, grass, brush or other rank, poisonous or harmful vegetation nuisance to exist, the city shall serve a notice of noncompliance upon the owner of the property by US mail. The notice shall order the owner or occupant abate the nuisance within seven days upon receipt of the notice. If the owner or occupant does not comply with the order, the necessary work will be performed by the city at the expense of the owner. If the owner does not pay for the expense, the cost of the work will be assessed against the property benefitted.

(D) *Performance of work by the city - billing procedures.* If the owner or occupant of any property within the city fails within seven days after receipt of the notice of noncompliance to comply with the order pursuant to division (C) above, the city shall maintain a record showing the cost of the work attributable to each separate parcel, prepare and mail to the owner an invoice setting forth the charge for the work, which charge shall be immediately due and payable at the office of the City Administrator. The cost of the work shall be determined by the city fee schedule at the time work was performed.

(E) *Assessment.* On or before October 1 of each year, the city shall list total unpaid charges for each type of the work against each separate lot or parcel to which the charges are attributable pursuant to this section. The City Council may then assess the charges against property benefitted as a special assessment, pursuant to the provisions of M.S. Chapter 429, as it may be amended from time to time, for certification to the County Auditor, and collection, together with the current property taxes for the following year. (2002 Code, § 91.08) (Ord. 2012A, passed 5-14-2012; Ord. 2016C, passed 7-25-2016) *Penalty, see § 10.990*

§ 91.100 NUISANCE PARKING AND STORAGE.

(A) *Declaration of nuisance.* All materials, machinery, vehicles and equipment that:

- (1) Obstructs views on streets and private property;
- (2) Creates cluttered and otherwise unsightly areas;
- (3) Prevents the full use of residential streets for residential parking;

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(4) Introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited;

(5) Decreases adjoining landowners' and occupants' use and enjoyment of their property and neighborhood; or

(6) Otherwise adversely affects property values and neighborhood patterns shall be declared a nuisance.

(B) *Improper outside storage.*

(1) A person must not place, store or allow the placement or storage of ice fishing houses, recreational vehicles, all-terrain vehicles, snowmobiles, boats, trailers, skateboard ramps, kennels, firewood, refuse containers or other similar non-permanent structures in the front yard of a residential property continuously for longer than 48 hours.

(2) A person must not place, store or allow the placement or storage of pipe, lumber, forms, steel, machinery, mineral materials, automotive parts or similar materials, including all materials used in conjunction with a business in the front yard of a residential property. All materials in the side and rear yard must be shielded from public view by an opaque cover or fence and must be maintained so as to not to be in violation of § 91.050 (P).

(C) *Unlawful parking.*

(1) A person must not place, store or allow the placement or storage of a combined total of not more than three recreational vehicles, trailers, boats over 14 feet in length, snowmobiles, and all-terrain vehicles in the side or rear yard of the property and must be maintained so as to not to be in violation of § 91.050 (P).

(2) A person must not cause, undertake, permit or allow the outside parking and storage of vehicles on any residential property unless it complies with the following requirements.

(a) Vehicles that are parked or stored outside in the front, side or rear yard areas must be on a paved or graveled parking surface or driveway area and must not interfere with, obstruct or render dangerous for passage of any public highway, right-of-way or waters used by the public. The vehicle(s) must appear to be operable with current registration.

(b) Vehicles, watercraft, snowmobiles and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away from school for periods of time but still claim the property as their legal residence will be considered residents on the property.

(c) Temporary outside storage, not exceeding 30 days, in appropriate commercial or industrial zones only, while awaiting repair work thereon.

(D) *Exceptions for improper outside storage and unlawful parking.* In those cases where the City Council deems it appropriate, exceptions may be granted for improper outside storage and unlawful parking when associated with a home occupation subject to obtaining a conditional use permit or interim use permit in accordance with the provisions of § 152.241. (2002 Code, § 91.09) (Ord. 2014C, passed 11-24-2014)

§ 91.110 HABITUAL NUISANCE.

(A) *Penalty for habitual nuisance.* Any property determined to be a habitual nuisance shall be subject to an administrative fine at three times the amount provided by the city fee schedule. The fine will be imposed upon notice of the third cited violation within a 12-month time period. The premises or property is subject to fine after each subsequent violation until the premises or property is without a nuisance violation for 24 consecutive months.

(B) *Notice of nuisance.* A building or premises may not be declared a habitual nuisance, nor may the fine be collected unless notice to the responsible person has been given. Notice that a property may be declared a habitual nuisance shall be stated on the face of an administrative citation or through some other documentation delivered to the responsible person. The notice shall state that future responses to the property may result in the property being declared a habitual nuisance, subject to a fine. (2002 Code, § 91.10) (Ord. 2016-B, passed 7-25-2016)

§ 91.120 PENALTY.

Violation of any terms and provisions of this Chapter shall be deemed a misdemeanor and be punishable by up to 90 days in jail, a fine of up to \$1,000, or both. Each day shall constitute a separate violation.

CHAPTER 92: PARKS AND RECREATION

Section

Lakeview Park

- 92.010 Parking
- 92.020 Boat landing area; dock
- 92.030 Use of boats; mooring
- 92.040 Bath houses
- 92.050 Fishing in park
- 92.060 Vehicle regulations
- 92.070 Picnic area
- 92.080 Fires prohibited; exception
- 92.090 General use of park
- 92.100 Snowmobiles prohibited
- 92.110 Hours of operation
- 92.120 Damage to park prohibited
- 92.130 Penalty

LAKEVIEW PARK

§ 92.010 PARKING.

(A) No parking of any vehicle shall be allowed at any time in any area of the park marked with “No Parking” signs or with posts painted yellow.

(B) No vehicles shall be backed into the lake with boat trailers attached and so parked. Vehicles with boat trailers or trailers of any kind used for transporting boats shall be parked facing west in the area across from the boat landing area.

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(C) No boat trailers or trailers used for transporting boats shall be detached from a vehicle and left backed into the lake, but shall be parked in the area across from the boat landing area.

(D) No vehicles shall be parked parallel with the lake, nor shall any vehicle or trailer be parked in the boat landing area at any time. *(2002 Code, § 92.01) (Ord. 134, passed 7-1-1958) Penalty, see § 10.990*

§ 92.020 BOAT LANDING AREA; DOCK.

(A) All boats shall be unloaded and/or loaded in the area designated as the boat landing area. No parking is allowed in this area at any time. Vehicles and trailers shall be removed as quickly as possible after boats are unloaded or loaded and the vehicle and trailer parked as herein designated.

(B) No fishing shall be allowed at any time by any person from the boat dock. This dock is provided for the use of boat operators only. No water skis may be left on the dock. Boats may not be tied up to this dock for a period of longer than ten minutes. Persons wishing to temporarily take their boat out of service shall beach the same in the area provided immediately north of the boat landing area. *(2002 Code, § 92.02) (Ord. 134, passed 7-1-1958) Penalty, see § 10.990*

§ 92.030 USE OF BOATS; MOORING.

(A) No boats shall be tied up, docked or moored along the shore from the entrance of the park to the place designated as the Point. Overnight mooring of boats may be made only north of the Point.

(B) No operator of any power boat (speed boat) or operator of any motor boat used for fishing or for any purpose shall violate the laws of the state as to the safe operation of boats. No boats of any kind shall enter any designated swimming area, which is plainly marked with floats. *(2002 Code, § 92.03) (Ord. 134, passed 7-1-1958) Penalty, see § 10.990*

§ 92.040 BATH HOUSES.

(A) No person shall in any manner damage the bath house or any part or portion thereof or any fixture therein. Nor shall any person damage any park property of any kind at any time. *(2002 Code, § 92.04) (Ord. 134, passed 7-1-1958) Penalty, see § 10.990 (Ord. 2020-B, passed 11-09-2020)*

§ 92.050 FISHING IN PARK.

Fishing from shore is allowed from the entrance of the park to any designated swimming area and also from the north line of the boating area. No fishing is allowed at any time in either the boat landing area or any designated swimming area, both of which are clearly marked. *(2002 Code, § 92.05) (Ord. 134, passed 7-1-1958) Penalty, see § 10.990*

§ 92.060 VEHICLE REGULATIONS.

(A) Speed limits in the park are posted and no person shall operate any motor vehicle over the speed so posted. No motor vehicle shall be driven in the park except on duly laid out roads or in the parking area or the boat landing area. No motor vehicle, including motorcycles, shall be driven up or down the banks from the lower level of the park to the picnic area at any time.

(B) One-way roads in the park are posted as such, and no person shall drive or operate a motor vehicle in a direction opposite to that shown on the signs. (2002 Code, § 92.06) (Ord. 134, passed 7-1-1958) Penalty, see § 10.990

§ 92.070 PICNIC AREA.

Fireplaces, stoves, water facilities, picnic tables and playground equipment have been provided for the convenience of the public. No person shall damage any of this equipment. All paper and other refuse, including cans, paper cups and other containers, shall be placed in the barrels provided for this purpose. (2002 Code, § 92.07) (Ord. 134, passed 7-1-1958) Penalty, see § 10.990

§ 92.080 FIRE PROHIBITED; EXCEPTION.

No fire shall be started at any place in the park at any time except on the fireplaces or in the stoves provided for this purpose. (2002 Code, § 92.08) (Ord. 134, passed 7-1-1958) Penalty, see § 10.990

§ 92.090 GENERAL USE OF PARK.

It shall be unlawful for any person to bring any glass beverage container into the park at any time. No refuse shall be thrown about the park. Refuse barrels have been provided and all paper, cans, containers and the like shall be placed in the barrels. No cans, paper or other objects shall be thrown into the lake. (2002 Code, § 92.09) (Ord. 134, passed 7-1-1958; Ord. 194, passed 6-13-1983) Penalty, see § 10.990

§ 92.100 SNOWMOBILES PROHIBITED.

No person shall operate, drive, propel or tow or have an engine running on any snowmobile of any make, kind or description in any part of Lakeview Park at any time, except that snowmobiles shall be permitted to operate on the lower road and on that portion of Lakeview Park abutting Lake Elysian, between the road and the lake. No snowmobile shall at any time be operated on any of the upper roads or on the hills in Lakeview Park. (2002 Code, § 92.10) (Ord. 142, passed 1-7-1969; Ord. 151, passed 2-2-1971) Penalty, see § 10.990

Cross-reference: Snowmobile regulations, see Ch. 72

§ 92.110 HOURS OF OPERATION.

(A) Lakeview Park shall be closed to the public between the hours of 11:00 p.m. and 6:00 a.m.

(B) It shall be unlawful for any person to be in or remain in the park between the hours specified in division (A) above, and any person in or on park property between the prohibited hours shall be deemed guilty of a misdemeanor. (2002 Code, § 92.11) (Ord. 119, passed 9-7-1948) Penalty, see § 10.990

§ 92.120 DAMAGE TO PARK PROHIBITED.

No person shall in any way or manner damage or destroy any picnic table, fences, signs, buildings, playground equipment, or any other property belonging to and used in connection with Lakeview Park. (2002 Code, § 92.12) (Ord. 120, passed 9-7-1948) Penalty, see § 10.990

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§ 92.130 PENALTY.

Violation of any terms and provisions of this Chapter shall be deemed a misdemeanor and be punishable by up to 90 days in jail, a fine of up to \$1,000, or both. Each day shall constitute a separate violation.

CHAPTER 93: STREETS AND SIDEWALKS

Section

Right-of-Way Construction Regulations

- 93.010 Election to manage the public right-of-way
- 93.020 Definitions and adoption of rules by reference
- 93.030 Permit requirement
- 93.040 Permit applications
- 93.050 Issuance of permit; conditions
- 93.060 Permit fees
- 93.070 Right-of-way patching and restoration
- 93.080 Supplementary applications
- 93.090 Denial of permit
- 93.100 Installation requirements
- 93.110 Inspection
- 93.120 Work done without a permit
- 93.130 Supplementary notification
- 93.140 Revocation of permits
- 93.150 Mapping data; information required
- 93.160 Location of facilities
- 93.170 Damage to other facilities
- 93.180 Right-of-way vacation
- 93.190 Indemnification and liability
- 93.200 Abandoned facilities; removal of abandoned facilities
- 93.210 Appeal
- 93.220 Reservation of regulatory and police powers

Numbering of Buildings

- 93.350 Numbering of buildings

Cross-reference:

Building Code, see Chapter 150

Subdivisions, see Chapter 151

Zoning, see Chapter 152

RIGHT-OF-WAY CONSTRUCTION REGULATIONS

§ 93.010 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 subchapter to manage rights-of-way within its

jurisdiction.(2002 Code, § 93.01)

§ 93.020 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 are 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 used in the following provisions of this subchapter. (2002 Code, § 93.02)

§ 93.030 PERMIT REQUIREMENT.

(A) *Permit required.* Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate permit from the city.

(1) *Excavation permit.* An excavation permit is required to excavate that part of the right-of-way described in the permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(2) *Obstruction permit.* An obstruction permit is required to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(B) *Permit extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless the person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and a new permit or permit extension is granted.

(C) *Delay penalty.* In accordance with Minn. Rules part 7819.1000, subp. 3, as it may be amended from time to time and notwithstanding division (B) above, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching or restoration.

(D) *Permit display.* Permits issued under this subchapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Public Works Director. (2002 Code, § 93.03) *Penalty, see § 10.990*

§ 93.040 PERMIT APPLICATIONS.

Application for a permit shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

(A) Submission of a completed permit application form, including all required attachments, scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, and the following information:

(1) Each permittee's name, gopher one-call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers;

(2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information

TITLE IX: GENERAL REGULATIONS

regarding how to contact the local representative in an emergency shall be provided at the time of registration;

(3) A certificate of insurance or self-insurance:

(a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state, or a form of self-insurance acceptable to the Public Works Director;

(b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;

(c) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all coverages;

(d) Requiring that the Public Works Director be notified 30 days in advance of cancellation of the policy or material modification of a coverage term; and

(e) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the Public Works Director in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this subchapter.

(4) The city may require a copy of the actual insurance policies;

(5) If the person is a corporation, a copy of the certificate required to be filed under M.S. § Chapter 302A, as it may be amended from time to time, as recorded and certified to by the Secretary of State; and

(6) A copy of the person's order granting a certificate of authority from the State Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have the certificate from the Commission or other state or federal agency.

(B) Payment of money due the city for:

(1) Permit fees as established by ordinance, estimated restoration costs and other management costs;

(2) Prior obstructions or excavations;

(3) Any undisputed loss, damage or expense suffered by the city because of the applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city; or

(4) Franchise fees or other charges, if applicable. (2002 Code, § 93.04)

§ 93.050 ISSUANCE OF PERMIT; CONDITIONS.

(A) *Permit issuance.* If the applicant has satisfied the requirements of this subchapter, the Public Works Director shall issue a permit.

(B) *Conditions.* The Public Works Director may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use. (2002 Code, § 93.05)

§ 93.060 PERMIT FEES.

Permit fees shall be in an amount established by Resolution from time to time and shall be part of the City's fee schedule.

(A) *Excavation permit fee.* The city shall establish an excavation permit fee in an amount sufficient to recover the following costs:

- (1) The city management costs; and
- (2) Degradation costs, if applicable.

(B) *Obstruction permit fee.* The city shall establish the obstruction permit fee in an amount sufficient to recover the city management costs.

(C) *Payment of permit fees.* No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay those fees within 30 days of billing.

(D) *Non-refundable.* Permit fees that were paid for a permit that the Public Works Director has revoked for a breach as stated in § 93.210 are not refundable.

(E) *Application to franchises.* Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

(F) All permit fees shall be established consistent with the provisions of Minn. Rules part 7819.100, as it may be amended from time to time. (2002 Code, § 93.06) *Penalty, see § 10.990*

§ 93.070 RIGHT-OF-WAY PATCHING AND RESTORATION.

(A) *Timing.* The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under § 93.150.

(B) *Patch and restoration.* The permittee shall patch its own work. The city may choose either to have the city restore the right-of-way or to restore the right-of-way itself.

(1) *City restoration.* If the city restores the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If following the restoration, the pavement settles due to the permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with having to correct the defective work.

(2) *Permittee restoration.* If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minn. Rules part 7819.3000, as it may be amended from time to time.

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(C) *Standards.* The permittee shall perform patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rules part 7819.1100, as it may be amended from time to time. The Public Works Director shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis.

(D) *Duty to correct defects.* The permittee shall correct defects in patching, or restoration performed by the permittee or its agents. The permittee, upon notification from the Public Works Director, shall correct all restoration work to the extent necessary, using the method required by the Public Works Director. The work shall be completed within five calendar days of the receipt of the notice from the Public Works Director, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under § 93.150.

(E) *Failure to restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the Public Works Director, or fails to satisfactorily and timely complete all restoration required by the Public Works Director, the Public Works Director at his or her option may do the work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If the permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

(F) *Degradation fee in lieu of restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee as established by ordinance. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities. (2002 Code, § 93.07)

§ 93.080 SUPPLEMENTARY APPLICATIONS.

(A) *Limitation on area.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area make application for a permit extension and pay any additional fees required thereby, and be granted a new permit or permit extension.

(B) *Limitation on dates.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date. (2002 Code, § 93.08)

§ 93.090 DENIAL OF PERMIT.

The city may deny a permit for failure to meet the requirements and conditions of this subchapter or if the city determines that the denial is necessary to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use. (2002 Code, § 93.09)

§ 93.100 INSTALLATION REQUIREMENTS.

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules part 7819.1100, as it may be amended from time to time and other applicable local requirements, in so far as they are not inconsistent with M.S. §§ 237.162 and 237.163, as they may be amended from time to time. (2002 Code, § 93.10)

§ 93.110 INSPECTION.

(A) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minn. Rules part 7819.1300, as it may be amended from time to time.

(B) *Site inspection.* The permittee shall make the work-site available to city personnel and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(C) *Authority of Public Works Director.*

(1) At the time of inspection, the Public Works Director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.

(2) The Public Works Director may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the Public Works Director that the violation has been corrected. If proof has not been presented within the required time, the Public Works Director may revoke the permit pursuant to § 93.21. (2002 Code, § 93.11)

§ 93.120 WORK DONE WITHOUT A PERMIT.

(A) *Emergency situations.*

(1) Each person with facilities in the right-of-way shall immediately notify the city of any event regarding its facilities which it considers to be an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the owner shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this subchapter for the actions it took in response to the emergency.

(2) If the city becomes aware of an emergency regarding facilities, the city will attempt to contact the local representative of each facility owner affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the person whose facilities occasioned the emergency.

(B) *Non-emergency situations.* Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, and as a penalty pay double the normal fee for the permit, pay double all the other fees required by this code, deposit with the city the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this subchapter. (2002 Code, § 93.12)

§ 93.130 SUPPLEMENTARY NOTIFICATION.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the Public Works Director of the accurate information as soon as this information is known. (2002 Code, § 93.13)

TITLE IX: GENERAL REGULATIONS

§ 93.140 REVOCATION OF PERMITS.

(A) *Substantial breach.* The city reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by the permittee shall include, but shall not be limited, to the following:

- (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- (3) Any material misrepresentation of fact in the application for a right-of-way permit;
- (4) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittees control; or
- (5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 93.180.

(B) *Written notice of breach.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the city shall make a written demand upon the permittee to remedy that violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(C) *Response to notice of breach.* Within 24 hours of receiving notification of the breach, the permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. The permittee's failure to so contact the city, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

(D) *Reimbursement of city costs.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with the revocation. (2002 Code, § 93.14)

§ 93.150 MAPPING DATA; INFORMATION REQUIRED.

Each permittee shall provide mapping information required by the city in accordance with Minn. Rules parts 7819.4000 and 7819.4100, as it may be amended from time to time. (2002 Code, § 93.15)

§ 93.160 LOCATION OF FACILITIES.

(A) *Placement, location and relocation of facilities.* Placement, location and relocation of facilities must comply with applicable laws, and with Minn. Rules parts 7819.3100, 7819.5000 and 7819.5100, as they may be amended from time to time, to the extent the rules do not limit authority otherwise available to cities.

(B) *Corridors*. The city may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

(C) *Limitation of space*. To protect the health, safety and welfare or when necessary to protect the right-of-way and its current use, the Public Works Director shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making those decisions, the Public Works Director shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest. (2002 Code, § 93.16)

§ 93.170 DAMAGE TO OTHER FACILITIES.

When the city does work in the right-of-way and finds it necessary to maintain, support or move facilities to protect it, the Public Works Director shall notify the local representative as early as is reasonably possible and placed as required. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each facility owner shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each facility owner shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that owner's facilities. (2002 Code, § 93.17)

§ 93.180 RIGHT-OF-WAY VACATION.

If the city vacates a right-of-way which contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules part 7819.3200, as it may be amended from time to time. (2002 Code, § 93.18)

§ 93.190 INDEMNIFICATION AND LIABILITY.

By applying for and accepting a permit under this subchapter, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rules 7819.1250, as it may be amended from time to time. (2002 Code, § 93.19)

§ 93.200 ABANDONED FACILITIES; REMOVAL OF ABANDONED FACILITIES.

Any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation or construction, unless this requirement is waived by the Public Works Director. (2002 Code, § 93.20)

§ 93.210 APPEAL.

A right-of-way user that has been denied registration; has been denied a permit; has had permit revoked; or believes that the fees imposed are invalid, may have the denial, revocation or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation or fee as imposition will be writing and supported by written findings establishing the reasonableness of the decision. (2002 Code, § 93.21)

TITLE IX: GENERAL REGULATIONS

§ 93.220 RESERVATION OF REGULATORY AND POLICE POWERS.

A permittees or registrants rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public. *(2002 Code, § 93.22)*

NUMBERING OF BUILDINGS

§ 93.350 NUMBERING OF BUILDINGS.

(A) The current address of all homes and other buildings occupied for living purposes and business buildings shall be displayed on the exterior of the home or business facing the street adjacent to the home or business building in compliance with this section.

(B) Each number of the address attached to the home or business shall be three inches or greater in size. The numbers shall be of a color that contrasts to the color of the building to which it is attached. The numbers of the address shall be in arabic numbers only and roman numerals and numbers in writing shall be prohibited.

(C) All numbers attached to a home or business place shall display the address of the home or business place and shall be located in a position near the front door of the building so it may be seen from the street and read clearly at night with a spotlight or a porch light attached to the building.

(D) All persons violating any of the provisions of this section shall be guilty of a petty misdemeanor as defined by state law. *(2002 Code, § 93.35)*

CHAPTER 94: DISCHARGE OF FIREARMS

Section

94.010	Definition
94.020	Discharge of firearms
94.030	Discharge of non-firearms
94.040	Use of bow and arrow
94.050	Fireworks and explosives
94.060	Acts of minors
94.990	Penalty

§ 94.010 DEFINITIONS.

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

FIREARMS. Any gun from which shot or a projectile is discharged by means of an explosive, gas or compressed air, including, but not limited to, pistols, rifles, shotguns, air rifles or pellet guns.

NON-FIREARM. Any device from which a projectile may be sent by means other than explosive gas or compressed air for a distance exceeding 50 feet, including, but not limited to, BB guns, sling shots or paint ball guns. (2002 Code, § 94.01) (Res. 2002-23, passed 6-10-2002)

§ 94.020 DISCHARGE OF FIREARMS.

It is unlawful for any person to fire or discharge any firearm within the municipal limits of the city. (2002 Code, § 94.02) (Res. 2002-23, passed 6-10-2002) *Penalty, see § 94.990*

§ 94.030 DISCHARGE OF NON-FIREARMS.

It is unlawful for any person to discharge a non-firearm within the municipal limits of the city unless the person is located upon property constituting his or her residence or land appurtenant to the residence and the projectile does not leave the boundaries of the property. (2002 Code, § 94.03) (Res. 2002-23, passed 6-10-2002) *Penalty, see § 94.990*

§ 94.040 USE OF BOW AND ARROW.

It is unlawful for any person to shoot a bow and arrow within the municipal limits of the city except in a physical education program in a school supervised by a member of its faculty or in a community-wide supervised class or event. (2002 Code, § 94.04) (Res. 2002-23, passed 6-10-2002) *Penalty, see § 94.990.*

TITLE IX: GENERAL REGULATIONS

§ 94.050 FIREWORKS AND EXPLOSIVES.

(A) The term ***FIREWORKS*** means any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation and includes blank cartridges, toy cannons and toy canes in which explosives are used; the type of balloons which require fire underneath to propel them; firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, sparklers other than those specified in division (C) or other fireworks of like construction; and any fireworks containing any explosive or inflammable compound or any tablets or other device containing any explosive substance and commonly used as fireworks.

(B) The term ***FIREWORKS*** shall not include toy pistols, toy guns in which paper caps containing 25/100 grains or less of explosive compound are used or toy pistol caps which contain less than 20/100 grains of explosive mixture.

(C) The term also does not include wire or wood sparklers of not more than 100 grams of mixture per item, other sparkling items which are non-explosive and non-aerial and contain 75 grams or less of chemical mixture per tube or a total of 200 grams or less for multiple tubes; snakes and glow worms; smoke devices or trick noisemakers which include paper streamers; or party poppers, snappers and drop pops, each consisting of not more than 25/100 grains of explosive mixture. The use of items listed in this division (C) is not permitted on public property. This division (C) does not authorize the purchase of items listed in it by persons younger than 18 years of age. The age of a purchaser of items listed in this division (C) must be verified by photographic identification. *(2002 Code, § 94.05) (Res. 2002-23, passed 6-10-2002) Penalty, see § 94.990*

§ 94.060 ACTS OF MINORS.

It is unlawful for a person in a position of authority or control over a minor child to permit the child to violate this chapter. *(2002 Code, § 94.06) (Res. 2002-23, passed 6-10-2002) Penalty, see § 94.990*

§ 94.990 PENALTY.

It shall be a misdemeanor to violate any portion of this chapter. See § 10.99. *(2002 Code, § 94.99) (Res. 2002-23, passed 6-10-2002)*

CHAPTER 95: TREES

Section

- 95.010 Definitions
- 95.020 Purpose; intent
- 95.030 Authority; duty
- 95.040 Tree planting, maintenance and removal
- 95.050 Permits

§ 95.010 DEFINITIONS.

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

CORRECTIVE ACTION PLAN. A binding document filed with and approved by the Tree Inspector describing the deadline and corrective measures necessary to abate a nuisance.

DISEASE CONTROL. An area designated by resolution of the City Council upon recommendation from the Tree Inspector, for intensive surveillance of the tree disease.

PUBLIC NUISANCE. Any living or standing tree or part thereof infected to any degree by tree disease, or any dead elm or oak tree or part thereof, including logs, branches, stumps or firewood.

TREE DISEASE. Dutch Elm disease caused by *Ceratocystis ulmi*, oak wilt disease caused by *Ceratocystis fagacearum*, Sudden Oak Death, Emerald Ash Borer and other similar tree diseases as defined by the Commissioner of the Department of Agriculture, in M.S. §§ 89.51 to 89.66, as they may be amended from time to time, and Minn. Rules Chapter 1505, as it may be amended from time to time.

TREE INSPECTOR. A person who has the necessary qualifications to properly plan, direct and supervise all requirements for controlling shade tree disease in one or more governmental subdivisions within the geographical limits set by the Commission of the Department of Agriculture. The **TREE INSPECTOR** shall inspect public and private premises within the city, pursuant to the authority, responsibilities, definitions and procedures stipulated by the Commissioner of the Department of Agriculture as it may be amended from time to time, and Minn. Chapter 89, as it may be amended from time to time. (*Ord. 2005B, passed 11-14-2005*)

§ 95.020 PURPOSE; INTENT.

This chapter provides all power and authority over all trees, plants and shrubs located within public rights-of-way and boulevards, parks and public places of the city; and to trees, plants and shrubs located on private property that constitutes a hazard or threat as described herein. (*Ord. 2005B, passed 11-14-2005*)

§ 95.030 AUTHORITY; DUTY.

(A) *City's right to plant, maintain and remove trees on public property.*

(1) The city shall have the right, but does not have the obligation, to plant, prune, maintain and remove trees, plants and shrubs within the public right-of-way of all streets, alleys, avenues, lanes, squares and public grounds, and/or as may be necessary to preserve or enhance the symmetry and beauty of the public grounds.

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(2) The city shall take responsibility for those maintenance activities needed to keep public trees reasonably healthy and to minimize the risk of injury to people or property. Tree care may be accomplished by the city personnel or by contract with commercial tree care companies.

(3) Tree care and maintenance may include pruning, fertilization, watering, insect and disease control, tree surgery or other related activities as approved by the Commissioner of the Department of Agriculture.

(B) *Duty to inspect for and control insect and disease.* The Tree Inspector shall have the authority and responsibility for the removal of trees deemed by the official to be diseased, dying or dead on public or private property.

(C) *Duty to enforce, manage risk and control nuisances.*

(1) The Tree Inspector shall have the authority and responsibility for the removal of dead or living trees or limbs on public property that are determined by the official to be a hazard to public safety and property.

(2) The Tree Inspector shall have the right to cause the removal of any dead, diseased or structurally damaged trees on private property when the trees constitute a potential hazard to life and property within the right-of-way or on any other public property.

(D) *Duty to hear appeals.* The City Council shall serve as the appeal board for the administration of this chapter. The City Council shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Tree Inspector in the enforcement of this section. (*Ord. 2005B, passed 11-14-2005*)

§ 95.040 TREE PLANTING, MAINTENANCE AND REMOVAL.

(A) *Landscaping on public grounds.* Private citizens desiring to plant trees (to be deemed to include shrubs and bushes) in the public right-of-way shall comply with the terms and conditions of the written policy, and the trees shall, once planted, be subject to management by the city to include pruning and removal as necessary to protect the public health and safety.

(B) *Tree protection.* Subdivision and development plans shall be designed to preserve natural vegetation areas as much as possible. Streets, parcels, structures and parking areas shall be laid out to minimize the destruction of wooded areas or outstanding tree specimens. Developers of land are encouraged to designate wooded areas as park reserves.

(C) *Prohibit topping.* It shall be unlawful for any person other than the Tree Inspector to top any street tree, park tree or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this chapter at the determination of the Tree Inspector.

(D) *Abuse or mutilation of public trees.* No person shall cut down, lop or otherwise destroy any ornamental shade tree, shrub, flowers, bulb or fruit standing or growing on any public ground or any street, sidewalk, park or promenade, parkway or boulevard in the city.

(E) *Protection from posting and wire.* No person shall be allowed to post any bills, advertisements, cards

or notices of any kind, upon any trees, placed or growing for ornament or use, in any street or square, within the limits of the city, without permission of the Tree Inspector if the tree is within the limits of a public place. In addition, no person shall attach a potentially harmful device or structure (i.e., tree houses) to or on public trees unless otherwise authorized by the Tree Inspector.

(F) *Nuisance or hazard.*

(1) The Tree Inspector may declare a tree a nuisance or hazard (to be deemed to include shrubs and bushes) if it is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, disease, insect or other pest.

(2) Any otherwise healthy tree, shrub or other plant, whether located on city-owned property or on private property which dangerously obstructs the view in the “visibility triangle” a nuisance or hazard as such may be determined by the Tree Inspector pursuant to ordinance.

(3) For the purposes of this section, the visibility triangle shall be defined as the intersection of any street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of 25 feet from their point of intersection.

(G) *Protection from disease and pestilence.*

(1) Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, or threatens to spread disease or insect infestations, the Tree Inspector shall at once cause written notice to be served upon the owner of the property which such diseased or infested tree is situated, and the notice shall require the property owner to eradicate, remove or otherwise control the condition.

(2) Any tree or part thereof which is afflicted with any dangerous and infectious insect infestation or plant disease shall be cured or destroyed.

(H) *Order required for a notice to take action.*

(1) Upon determination that a public nuisance exists, the Tree Inspector shall serve written notice upon 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 a notice of violation, a notice of violation shall be served by posting it on the premises.

(2) The Tree Inspector shall cause ten calendar days’ written notice to be given to the owner of the property in front of which a shade tree is planted, to remove a dead, dying, damaged, dangerous or prohibited species of tree, or one which is growing in or extending over a public right-of-way.

(3) In those cases where immediate abatement is impractical or excessively difficult, a corrective action plan must be filed with and approved by the Tree Inspector within ten calendar days of the written notice of a nuisance. The corrective action plan must stipulate the date and methods of abatement of the nuisance not to exceed 30 calendar days from the filing date of the corrective action plan.

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(I) *Failure to comply with a notice to take action.*

(1) Should any person fail or refuse to repair or replace the damaged or destroyed trees or plants within the time specified by the Tree Inspector in an order, the Tree Inspector shall do or cause to be done the necessary repairing or replacement.

(2) It shall be lawful for the municipality to prune the trees (to be deemed to include shrubs and bushes), and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

(3) The city shall not assess more than 50% of the expense of treating or removing or removing diseased shade trees, with a method approved by the Commissioner of the Department of Agriculture, located on street terraces or boulevards to the abutting properties and the assessment becomes a lien on the property.

(4) Any person convicted of violating any provision of this chapter is guilty of a misdemeanor and shall be punished as provided for in § 10.99. (*Ord. 2005B, passed 11-14-2005*) *Penalty, see § 10.990*

§ 95.050 PERMITS.

(A) *Planting permit application contents.* The application required herein shall state the number of trees to be set out; the location, grade, species, cultivar or variety of each tree; the method of planting; and other information as the Tree Inspector shall find reasonably necessary for a fair determination of whether a permit should be issued.

(B) *Tree becomes public property.* Any tree planted upon public lands or grounds, pursuant to this section, shall become property of the city.

(C) *Improper planting.* Whenever any tree shall be planted or set out in conflict with the provisions of this section, it shall be lawful for the Tree Inspector to remove or cause removal of the same, and the exact cost thereof shall be assessed to the owner as provided by law in the case of assessments.

(D) *Interference.* No person shall hinder, prevent, delay or otherwise interfere with the Tree Inspector or other designated city official while engaged in the execution or enforcement of this chapter.

(E) *Violations.* If, as a result of the violation of any provision of this chapter, the injury, mutilation or death of a tree, shrub or other plant located on city-owned property is caused, the cost of repair or replacement, or the appraised dollar value of the tree, shrub or other plant, shall be borne by the party in violation.

(F) *Separate violations.* Each tree (to be deemed to include shrubs and bushes) affected by noncompliance with this section shall constitute a separate violation. (*Ord. 2005B, passed 11-14-2005*) *Penalty, see § 10.990*