CHAPTER 91: NUISANCES

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GENERAL PROVISIONS

§ 91.01 ASSESSABLE CURRENT SERVICES.

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

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

(B) ***Snow, ice, dirt, and rubbish.***

(1) ***Duty of owners and occupants.*** The owner or occupant of any property adjacent to a public sidewalk shall use 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 48 hours, or 24 hours in the central business district defined for this purpose as the area bordered by Fourth Street on the north, Knight Avenue on the west, First Street on the south, and the Canadian Pacific Railroad on the east, after its deposit thereon. Failure to comply with this section will constitute a violation.

(2) ***Removal by City.*** The City Administrator or other person designated by the City Council may cause removal from all public sidewalks all snow, ice, dirt, and rubbish as soon as possible beginning 48 hours, or 24 hours in the central business district defined for this purpose as the area bordered by Fourth Street on the north, Knight Avenue on the west, First Street on the south, and the Canadian Pacific Railroad on the east, after any matter has been deposited thereon, or after the snow has ceased to fall. The City Administrator or other designated person shall keep record showing the cost of removal adjacent to each separate lot and parcel.

Ordinance No. 117, 3rd Series 11/27/2018

(C) ***Public health and safety hazards.*** When the City removes or eliminates public health or safety hazards from private property under the following provisions of this Chapter, the administrative officer responsible for doing the work shall keep a record of the cost of the removal or elimination

against each parcel of property affected and annually deliver that information to the City Administrator.

(D) ***Installation and repair of water service lines.*** Whenever the City installs or repairs water service lines serving private property under Chapter 54 of this Code, the City Administrator shall keep a record of the total cost of the installation or repair against the property.

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

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

(2) ***Inspections; notice.*** The City Council or its designee shall make inspections as are necessary to determine that public sidewalks and alleys within the City are kept in repair and safe for pedestrians or vehicles. If it is found that any sidewalk or alley abutting on private property is unsafe and in need of repairs, the City Council shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property, ordering the owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so, the City will do so and that the expense thereof must be paid by the owner, and if unpaid it will be made a special assessment against the property concerned.

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

(F) ***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 City Administrator, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the City Administrator.

(G) ***Damage to 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 thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment, object or contrivance, but is operating, driving or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. § 514.67, as it may be amended from time to time.

(H) ***Assessment.*** On or before September 1 of each year, the City Administrator shall list the total unpaid charges for each type of current service and charges under this Section against each separate lot or parcel to which they are attributable under this Section. The City Council may then spread the charges against property benefitted as a special assessment under the authority of M.S. § 429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor

and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Ordinance No. 44, 3rd Series 10/06/09

§ 91.02 TREE DISEASES.

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

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

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

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

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

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

(B) ***Abatement of nuisance.*** It is unlawful for any person to permit any public nuisance as defined in Division (A) of this Section to remain on any premises the person owns or controls within the City. The City Council may by resolution order the nuisance abated. Before action is taken on that resolution, the City Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to the affected property owner and published once no less than one week prior to the meeting. The notice shall state the time and place of the meeting, the street affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At such hearing or adjournment thereof, the City Council shall hear any property owner with reference to the scope and desirability of the proposed project. The City Council shall thereafter adopt a resolution confirming the original resolution with modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

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

(D) ***Unpaid charges.*** On or before September 1 of each year, the City Administrator shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable

under this Section. The City Council may then spread the charges or any portion thereof against the property involved as a special assessment as authorized by M.S. § 429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes.

Penalty, see § 10.99

NUISANCES

§ 91.15 PUBLIC NUISANCE.

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

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

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

(C) Is guilty of any other act or omission declared by law or §§ 91.16, 91.17 or 91.18, or any other part of this Code to be a public nuisance and for which no sentence is specifically provided.

§ 91.16 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

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

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

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

(E) Accumulations of manure, refuse, or 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;

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

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

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

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

(K) Any offensive trade or business as defined by statute not operating under local license.

(L) Construction debris and solid waste.

Ordinance No. 31, 3rd Series 7/10/07

§ 91.17 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

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

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

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

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

(D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place; or

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

§ 91.18 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

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

(A) All snow and ice not removed from public sidewalks 48 hours, or 24 hours in the central business district defined for this purpose as the area bordered by Fourth Street on the north, Knight Avenue on the west, First Street on the south, and the Canadian Pacific Railroad on the east, after the snow or other precipitation causing the condition has ceased to fall;

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

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

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

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

(F) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine, or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet, and comfort of any person nearby. Operation of any device referred to above between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this Section;

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

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

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

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

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

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

(M) Any barbed wire fence which fence abuts any street or within ten feet of a property line;

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

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

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

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

(R) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash 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 a public right-of-way or on adjacent private property; and

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

Ordinance No. 44, 3rd Series 10/06/09
Ordinance No. 117, 3rd Series 11/27/2018

§ 91.19 DUTIES OF CITY OFFICERS.

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

§ 91.20 ABATEMENT.

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

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

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

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

(4) ***Notice of motion for summary enforcement.*** Written notice of any motion for summary enforcement shall be made as provided for in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

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

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

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

§ 91.21 RECOVERY OF COST.

(A) ***Personal liability.*** The owner of premises on which a nuisance has been abated by the City shall be personally liable for the cost to the City of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Administrator 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 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.

(C) ***Alternative.*** The City Administrator shall, in the alternative, upon direction of the City Council, bring suit in a court of competent jurisdiction to recover costs and damages, any costs to the City, attorney's fees, and costs and disbursements of a civil action therefor.

WEEDS/GRASS CONTROL

§ 91.35 JURISDICTION.

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

§ 91.36 DEFINITIONS; EXCLUSIONS.

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

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

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

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

(a) Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle,

Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, and Wild Parsnip;

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

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

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

(e) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants; and

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

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

§ 91.37 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.

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

§ 91.38 FILING COMPLAINT.

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

§ 91.39 NOTICE OF VIOLATIONS.

(A) Upon receiving notice of the probable existence of weeds in violation of this Subchapter, a person designated by the City Council shall make an inspection. Upon concluding that there is a probable belief that this Subchapter has been violated, the person designated by the City Council shall forward written notification in the form of a "Destruction Order" to the property owner or the person

occupying the property as that information is contained within the records of the City Administrator or any other City agency. The notice shall be served in writing by mail. The notice shall provide that within seven days after the date of the order that the designated violation shall be removed by the property owner or person occupying the property.

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

(2) Mailing to the City Administrator or others is deemed filed on the date of posting to the United States Postal Service.

§ 91.40 APPEALS.

(A) The property owner may appeal by filing written notice of objections with the City Council within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the destruction notice. It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants, or crops or is not otherwise in violation of this Subchapter, and should not be subject to destruction under the Subchapter.

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

§ 91.41 ABATEMENT BY CITY.

In the event that the property owner shall fail to comply with the "Destruction Order" within seven days and has not filed a notice within 48 hours to the City Administrator of an intent to appeal, the City Council may employ the services of City employees or outside contractors and remove the weeds or grass to conform to this Subchapter by all lawful means.

§ 91.42 LIABILITY.

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

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

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

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

§ 91.43. FUTURE ABATEMENTS.

For properties for which there have been one or more notices issued within the prior 6-month period, compliance with § 91.39 and § 91.40 shall not be required. For those properties, the first notice issued within a 6-month period shall contain a general notice that the City may abate future violations without providing additional specific notice of the violation.

Amended: Ordinance 67, 3rd Series

OPEN BURNING

§ 91.60 DEFINITIONS.

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

(A) ***FIRE CHIEF, FIRE MARSHAL,*** **and** ***ASSISTANT FIRE MARSHALS.*** The Fire Chief, Fire Marshal, and Assistant Fire Marshals of the Fire Division which provides fire protection services to the City.

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

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

(D) ***RECREATIONAL FIRE SITE.*** An area of no more than a three foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks, or ferrous metal only and which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a "recreation fire site" as defined herein. Recreational fire sites shall not be located closer than 25 feet to any structure.

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

(F) ***WOOD.*** Dry, clean fuel only such as twigs, branches, limbs, "presto logs," charcoal, cord wood or untreated dimensional lumber. The term does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue, or preservatives. Clean pallets may be used for recreational fires when cut into three foot lengths.

§ 91.61 PROHIBITED MATERIALS.

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

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

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

(D) No person shall conduct, cause or permit open burning of any leaves or grass clippings, except as provided in § 91.71.

§ 91.62 PERMIT REQUIRED FOR OPEN BURNING.

No person shall start or allow any open burning on any property in the City without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in § 91.60 and for the burning of leaves as defined in § 91.70.

§ 91.63 PURPOSES ALLOWED FOR OPEN BURNING.

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

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

(2) Ground thawing for utility repair and construction;

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

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

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

(B) Fire Training permits can only issued by the Minnesota Department of Natural Resources.

§ 91.64 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.

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

(B) An open burning permit shall require the payment of a fee. Permit fees shall be in the amount established by resolution, which may be amended from time to time.

§ 91.65 PERMIT PROCESS FOR OPEN BURNING.

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

§ 91.66 PERMIT HOLDER RESPONSIBILITY.

(A) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or the permit holder's competent representative. The open burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan.

(B) The open burn fire shall be completely extinguished before the permit holder or the permit holder's representative leaves the site. No fire may be allowed to smolder with no person present. It is the responsibility of the permit holder to have a valid permit, as required by this Subchapter, available for inspection on the site by the Police Division, Fire Division, MPCA representative, or DNR forest officer.

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

§ 91.67 REVOCATION OF OPEN BURNING PERMIT.

The open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief, Fire Marshal, or Assistant Fire Marshals. Reasons for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.

§ 91.68 DENIAL OF OPEN BURNING PERMIT.

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

§ 91.69 BURNING BAN OR AIR QUALITY ALERT.

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

§ 91.70 BURNING OF LEAVES.

(A) The burning of leaves will only be permitted under the following conditions:

(1) Such burning of leaves will only be permitted October 1 through November 15.

(2) A responsible person shall be in constant attendance until the fire is completely extinguished.

(3) Burning will only be allowed between the hours of 8:00 a.m. and 8:00 p.m. All fires are to be extinguished by 8:00 p.m.

(4) Such fires shall not be less than five feet from any property line.

(5) The burning of leaves is prohibited on City streets, alleys, sidewalks, boulevards, riverbanks, or any public property by private citizens.

(6) No open burning of leaves shall take place during an air pollution alert warning or emergency declared by the Minnesota Environmental Protection Agency.

(7) The Council may temporarily discontinue burning between October 1 and November 15 due to unsafe conditions (such as, excessive dryness, and the like). At the Council's discretion, the last day of burning may be extended through December 1.

(B) This Section pertains only to the burning of leaves. It is unlawful for any person to burn rubbish, trash, or other material.

§ 91.71 RULES AND LAWS ADOPTED BY REFERENCE.

The provisions of M.S. §§ 88.16 to 88.22 and the Minnesota State Fire Code, including Rules and Standards 7510.3510, as the Code and rules and standards may be amended from time to time, are hereby adopted by reference and made a part of this Subchapter as if fully set forth at this point.

Amended: Ordinance 23, 3rd Series

§ 91.80 OTHER PUBLIC NUISANCES: It is hereby determined that the storage or accumulation of dilapidated fences, trash, rubbish, junk, building materials, and demolition materials, upon any private property within the city tends to result in blighted and deteriorated neighborhoods, the spread of vermin and disease, and is contrary to the public peace, health, safety, and general welfare of the community.

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

(1) ***BUILDING MATERIALS***. Building materials shall include, without limitation, lumber, bricks, concrete, cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure.

(2) ***DEMOLITION MATERIALS.*** Demolition materials shall include, without limitation, debris resulting from the demolition of buildings such as concrete, stone, plaster, bricks, concrete blocks, and other materials that are a result of the demolition and construction operations.

(3) ***DILAPIDATED FENCES.*** A dilapidated fence is any fence, in whole or in part, which has fallen on the ground, or because of decay or disrepair has deteriorated to such an extent that it presents a danger of imminent collapse on its own, or as a result of normal weather conditions.

(4) ***JUNK.*** Junk shall include, without limitation, parts of machinery or motor vehicles, unused furniture, stoves, refrigerators or other appliances, unused televisions or other electronics, remnants of wood, metal, or any other cast off material of any kind, whether or not the same could be put to any reasonable use.

(5) ***TRASH AND RUBBISH***. Trash and rubbish shall include any and all forms of debris not herein otherwise classified.

(B) PUBLIC NUISANCE. The storage or accumulation of (1)building materials, (except for a business located in a proper zoning district which customarily sells building materials) (2) demolition materials, (3) dilapidated fences, (4) junk, and (5)trash and rubbish, upon any private property within the City is hereby declared a public nuisance and subject to the penalties and abatement of this Chapter.

§ 98.81 INOPERABLE MOTOR VEHICLES.

(A) DECLARATION OF NUISANCE. Any motor vehicle described in this Section shall constitute a hazard to the health and welfare of the residents of the City as such motor vehicles can harbor noxious diseases, furnish a shelter and breeding ground for vermin, and present physical danger to the safety and well-being of children and citizens. Motor vehicles also contain various fluids which, if released into the environment, can and do cause significant health risks to the City.

(B) INOPERABLE MOTOR VEHICLES. It shall be unlawful to keep, park, store, or abandon any motor vehicle that is not in operating condition, partially dismantled, used for repair or parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operation within the State, pursuant to Minn. Stat. § 168B.011, subd. 3, as it may be amended from time to time.

(C) SCREENING. This Section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road, or alley, and which does not foster complaint from a resident of the City. Secure privacy fencing is permissible.

Amended: Ordinance 63, 3rd Series