

**CHAPTER 6:**  
**HEALTH AND SAFETY; NUISANCES**

Section

**General Provisions**

- 4-6-1 Assessable current services
- 4-6-2 Tree diseases

**Nuisances**

- 4-6-10 Definitions
- 4-6-11 Public nuisance
- 4-6-12 Public nuisances affecting health
- 4-6-13 Public nuisances affecting morals and decency
- 4-6-14 Public nuisances affecting peace and safety
- 4-6-15 Nuisance parking and storage
- 4-6-16 Inoperable motor vehicles
- 4-6-17 Building maintenance and appearance
- 4-6-18 Duties of city officers
- 4-6-19 Abatement
- 4-6-20 Recovery of cost

**Enforcement and Penalties**

- 4-6-30 Penalties
- 4-6-31 Enforcement
- 4-6-32 General Penalty

**Weeds**

- 4-6-40 Jurisdiction
- 4-6-41 Definitions; Exclusions
- 4-6-42 Owners responsible for trimming and removal
- 4-6-43 Filing complaint
- 4-6-44 Notice of violations
- 4-6-45 Non-compliance letter
- 4-6-46 Appeals
- 4-6-47 Destruction Order; Liability for costs
- 4-6-48 Effective Date

## **GENERAL PROVISIONS**

### **4-6-01 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 in the public right-of-way or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in Minnesota Statute sections 463.15 through 463.26 as they may be amended from time to time; installation or repair of water service lines; street sprinkling, street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

B. Snow, ice, dirt and rubbish.

1. Duty of owners and occupants. The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. The owner and occupant shall not allow snow, ice, dirt or rubbish to remain on the walk longer than 24 hours after its deposit thereon. The owner and occupant of any property are responsible for clearing the snow, ice, dirt or rubbish down to the pavement. Failure to comply with this section shall 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 24 hours after any matter has been deposited thereon or after the snow has ceased to fall. The City Administrator or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel. Notwithstanding any provisions of this section to the contrary, upon removal of all snow, ice, dirt and rubbish by the City, the City Administrator shall prepare and send a bill to the property owner of the abutting property for the cost of the removal services. The property owner shall then have 60 days to pay such bill, after which time such interest or penalty may be added to the bill as otherwise authorized by the City Council. At the time of preparing assessments in accordance with subdivision F, the City Administrator shall cause all unpaid and outstanding balances to be assessed as unpaid special charges in accordance with Minnesota Statutes, Section 429.101.

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. 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.

E. 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 Minnesota Statute section 514.67, as it may be amended from time to time.

F. Assessment. On or before November 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 benefited as a special assessment under the authority of Minnesota Statute section 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.

#### **4-6-2 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 *Hylurgopinus 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;

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 subdivision A of this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in 4-6-17 and 4-6-18.

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 November 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 Minnesota Statute section 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.

## **NUISANCES**

### **4-6-10 DEFINITIONS.**

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

**PRIZE FIGHTING:** May include any activity or event, regardless of how named or described, or any other form of entertainment, where the primary practice involves individuals engaged in physical contact by striking an opponent with the hands, feet, head, or body. This shall include, but not be limited to, any event or contest where kicking, punching, martial arts, submission holds, knockouts, technical knockouts, and/or cage fighting are permitted.

### **4-6-11 PUBLIC NUISANCE.**

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

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

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

C. Is guilty of any other act or omission declared by law or 4-6-11, 4-6-12, or 4-6-13, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.

#### **4-6-12 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;
- K. Any offensive trade or business as defined by statute not operating under local license;
- L. Yard Waste Composting: Purpose. Properly managed yard waste composting provides valuable nutrients for gardens. Improperly managed operations can cause objectionable odors, rodent harborages, and unsightly waste piles. The purpose of this section is to describe acceptable composting operations.

##### **1. Requirements for properly managed private compost operations.**

- a. Notwithstanding the provisions of 4-2-9 relating to Private Composting, compost piles and containers shall be located in rear yards only and at least two feet from the hard surface of an alley. Compost piles and containers may be no closer than 40 feet from any residential dwelling located on an adjacent property. Said 40 feet is to be measured horizontally to the foundation of the nearest living space within the

structure to the nearest edge of the proposed compost pile location.

b. Composted yard waste must be managed so as to prevent the scattering of yard waste or other material beyond the pile or container.

c. Composted yard waste must be periodically mixed to promote rapid biological degradation.

d. Compost containers and piles must be maintained in a manner to prevent them from becoming habitat for rodents.

e. Only yard waste that will readily decompose within one year may be composted. Unmanaged piles of leaves do not inherently meet the composting requirements of this section.

f. Only the yard waste and vegetable matter which are produced on the premises can be composted on the premises. Property owner must have a demonstrated use for the compost.

2. Informational materials. The city shall offer technical assistance and informational materials on the proper operation and maintenance of a composting operation.

3. Violations. It is unlawful to carry out composting operations in violation of the requirements of this section and section 4-2-9. Violation may be abated as a public nuisance under section 4-6-18 of this code.

#### **4-6-13 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 prize fighting, and all apparatus used in those occupations;

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

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

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

#### **4-6-14 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.**

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

- A. Intentionally Omitted
- B. All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;
- C. All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
- D. 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 including, but not limited to, all limbs of trees which are less than eight feet (8') above the surface of any public sidewalk or nine feet (9') above the surface of any street, and all wires across public streets, alleys or sidewalks which are strung less than fifteen feet (15') above the surface of the ground;
- E. All obnoxious noises in violation of Minn. Rules Chapter 7030, as they may be amended from time to time which are hereby incorporated by reference into this code;
- F. 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 there from and complies with all applicable state laws and regulations;
- G. No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. When a peace officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a peace officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped;
- 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, satellite signal receivers, or television antennae erected or maintained in a dangerous manner;
- J. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;
- K. All hanging signs, awnings and other similar structures over streets and sidewalks, so

situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;

L. The allowing of rain water, ice, or snow to fall from any building or structure upon any street, sidewalk, or alley or to flow or fall onto adjacent private property. Dumping, plowing, blowing, or otherwise depositing snow from one private property onto any other private property;

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

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

O. Waste water or sanitary sewage, as defined in 8-2-2-1, cast upon or permitted to flow upon streets or other public or private properties;

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

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

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

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

#### T. Discharge of Consumer Fireworks

1. Prohibited Acts. The use, display, possession, discharge or sale of any fireworks not expressly permitted by M. S. Section 624.21 is strictly prohibited.

2. Permitted Acts; Limitations. The use, display or discharge of permitted Consumer Fireworks must be conducted in a manner that minimizes the risk of fire or injury to other persons or property. The use, display, or discharge of those non-explosive, non-aerial pyrotechnic entertainment devices only containing the limited amounts of pyrotechnic chemical compositions described in and permitted by Minnesota Statute section 624.20, Subdivision 1(c), hereinafter "Consumer Fireworks," is strictly prohibited in the area on, below, above or within or in close proximity to:



a. Public property, including schools, parks, sidewalks, roadways, streets, rights of way, highways, alleys, bicycle and pedestrian paths, schools, lakes, rivers, and waterways located in whole or in part within the City limits.

b. Private property within the City limits that has conspicuously posted a written sign or notice that no fireworks discharge is allowed.

c. Within five hundred (500) feet of any premises on which Consumer Fireworks are held for sale, display, distribution or storage.

d. Any property, area, structure or material that by its physical condition or the physical conditions in which it is set would constitute a fire or personal safety hazard;

U. The depositing of garbage or refuse, including leaves, branches, and other yard waste, on a public street, alley, right-of-way, fountain, body of water, or on adjacent private property;

V. The posting or affixing of any notice, poster or sign to any street sign, lamppost, tree, utility pole, public structure or building, except as authorized by law;

W. Dumping, plowing, or otherwise depositing snow from private premises onto any public alley, street, or highway right of way in the City;

X. Accumulating and storing building material, lumber, or firewood in such a manner as to become infested with rodents.

1. Stored items must be stored on an impervious surface, such as a poured concrete slab, or must be elevated above the ground.

2. Firewood piles and other materials may only be located in the rear yards and side yards. Such wood piles and other materials may not encroach on any required rear or side yard set backs and must be a minimum of one foot from buildings used for habitation;

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

Z. Noises prohibited.

1. General prohibition. No person shall make or cause to be made 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. Any noise plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, that is observed by at least two people, one of whom is a peace officer, shall be prima facie evidence of a violation of this section. This general prohibition is not limited by the specific restrictions of this section.

2. Defective vehicles or loads. No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.

3. Loading, unloading, unpacking. No person shall create loud or excessive noise in loading, unloading, or unpacking any vehicle.

4. Radios, phonographs, paging systems, and the like. No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for the production or reproduction of sound in a distinct and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, 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.

5. Schools, churches, hospitals, and the like. No person shall create any excessive noise on a street, alley or public grounds adjacent to any school, institution of learning, church or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.

Hourly restriction of certain operations.

1. 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 maintenance 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 10:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

2. Refuse hauling. No person shall collect or remove garbage or refuse in any residential district except between the hours of 7:00 a.m. and 8:30 p.m. on Mondays. When Monday is a legal holiday, residential garbage collection shall occur on the Tuesday immediately following the holiday.

3. 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 10:00 p.m. on any weekend or holiday.

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 or alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. It shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

AA. Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one footcandle when abutting any commercial or industrial parcel.

AB. Graffiti not removed within 72 hours. Graffiti shall mean any unauthorized writing, printing, marks, signs, symbols, figures, designs, inscriptions, or other drawings which are scratched, scrawled, painted, drawn or otherwise placed on any exterior surface of a building, wall, fence, sidewalk, curb, dumpsters or other permanent structures on public or private property and which has the effect of defacing the property.

#### **4-6-15 NUISANCE PARKING AND STORAGE.**

A. *Declaration of nuisance.* The outside parking and storage on residentially-zoned property of large numbers of vehicles, materials, supplies or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it (a) obstructs views on streets and private property, (b) creates cluttered and otherwise unsightly areas, (c) prevents the full use of residential streets for residential parking, (d) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (e) decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood, and (f) otherwise adversely affects property values and neighborhood patterns.

##### **B. Unlawful storage.**

1. A person must not place, store, or allow the placement or storage of ice fish houses, skateboard ramps, playhouses, trampolines, tree houses, or other similar structures in the front-yard area of residential property.

2. A person must not store dumpsters on private property or in the public right-of-way for longer than three (3) months without the written permission of the City Administrator.

3. In addition to the unlawful storage provisions of 10-4-4-B, a person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in connection with a business, outside on residential property, unless shielded from public view.

#### **4-6-16 INOPERABLE MOTOR VEHICLES.**

A. It shall be unlawful to keep, park, store or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of 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 with the state, pursuant to Minnesota Statute section 168B.011, Subdivision 3, as it may be amended from time to time.

B. 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.

C. Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that such vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin and present physical danger to the safety and well-being of children and citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.

#### **4-6-17 BUILDING MAINTENANCE AND APPEARANCE.**

A. Declaration of nuisance. Buildings, fences and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they (a) are unsightly, (b) decrease adjoining landowners and occupants' enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhood patterns.

B. Standards. A building, fence or other structure is a public nuisance if it does not comply with the following requirements:

1. No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.

2. Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:

- a. Any one wall or other flat surface; or

- b. All door and window moldings, eaves, gutters, and similar projections on any one side or surface.

3. No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.

4. Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.

5. Cornices, moldings, lintels, sills, bay or dormer windows and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.

6. Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.

7. Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.

8. Foundations must be structurally sound and in good repair.

#### **4-6-18 DUTIES OF CITY OFFICERS.**

For purposes of 4-6-17 and 4-6-18, the City Police Department or Police Department whose services are contracted for by the City or person designated by the City Council, may enforce the provisions relating to nuisances. Any peace officer or designated person 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 person shall 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 the entry, as provided in 4-6-30.

#### **4-6-19 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 or designated person 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 Minnesota Statute section 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 Minnesota Statute section 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

B. Procedure. Whenever a peace officer or designated person determines that a public nuisance is being maintained or exists on the premises in the city, the officer or person designated 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 or designated person 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 or obtain an administrative search and seizure warrant and abate the nuisance.

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 or designated person 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 or designated person 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.

#### **4-6-20 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. After notice and hearing as provided in Minnesota Statute section 429.061, as it may be amended from time to time, 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 November 1 following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under Minnesota Statute section 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.

## **ENFORCEMENT AND PENALTIES**

### **4-6-30 PENALTY.**

Violation of any provision of this chapter, including maintaining a nuisance after being notified in writing by first class mail of a violation of any provision of this chapter, shall be a misdemeanor and punished as provided in 4-6-33.

### **4-6-31 ENFORCEMENT.**

A. Any licensed peace officer employed or whose services are contracted for by the City, the County Sheriff, any Deputy County Sheriff, or the Minnesota State Patrol (MSP), shall have the authority to enforce any provision of this chapter.

B. As permitted by Minnesota Statute section 626.862, as it may be amended from time to time, the City Administrator shall have the authority to administer and enforce this code. In addition, under that statutory authority, certain individuals designated within the code or by the City Administrator or City Council shall have the authority to administer and enforce the provisions specified. All and any person or persons designated may issue a citation in lieu of arrest or continued detention to enforce any provision of the code.

C. The City Administrator and any city official or employee designated by this code who has the responsibility to perform a duty under this code may with the permission of a licensee of a business or owner of any property or resident of a dwelling, or other person in control of any premises, inspect or otherwise enter any property to enforce compliance with this code.

D. If the licensee, owner, resident, or other person in control of a premises objects to the inspection of or entrance to the property, the City Administrator, peace officer, or any employee or official charged with the duty of enforcing the provisions of this code may, upon showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code

enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions only, and no criminal charges shall be made as a result of the warrant.

E. Every licensee, owner, resident or other person in control of property within the city shall permit at reasonable times inspections of or entrance to the property by the City Administrator or any other authorized city officer or employee only to enforce these code provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses or city service to the property. Mailed notice shall be given to the licensee, owner, resident or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident or other person in control of the property shall be given an opportunity to appear before the City Administrator to object to the termination before it occurs, subject to appeal of the Administrator decision to the City Council at a regularly scheduled or special meeting.

F. Nothing in this section shall be construed to limit the authority of the City to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety and welfare.

#### **4-6-32 GENERAL PENALTY.**

A. Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor under Minnesota Statute section 609.03, as it may be amended from time to time by the Minnesota Legislature.

B. Any person, firm or corporation who violates any provision of this code, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty for any petty offense is defined by Minnesota Statute section 609.0331, as it may be amended from time to time by the Minnesota Legislature.

C. In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

D. The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation.

E. In addition to any penalties provided for in this section or in 4-5-31, if any person, firm or corporation fails to comply with any provision of this code, the Council or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

#### **WEEDS**



#### **4-6-40 JURISDICTION.**

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

#### **4-6-41 DEFINITIONS; EXCLUSIONS.**

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

INSPECTOR. The person designated by the City Council to inspect properties located within the corporate limits of the city and to file the notices and letters required by this subchapter.

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

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

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

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

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

4. Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding 8 inches;

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

6. The term *weeds* does not include shrubs, trees, cultivated plants or crops.

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

#### **4-6-42 OWNERS RESPONSIBLE FOR TRIMMING AND REMOVAL**

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 8 inches in height.

#### **4-6-43 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.

#### **4-6-44 NOTICE OF VIOLATIONS.**

A. Upon receiving a complaint as described in 4-6-43, the Inspector shall inspect the subject property. If pursuant to this inspection a violation of this subchapter is observed, the Inspector shall send the Property Owner or the occupant of the subject property a Notice describing the violations under this subchapter and directing the Property Owner or the occupant to remove the violation within two (2) weeks. This Notice of Violations shall be served in writing by certified mail and filed with the City Administrator.

B. Certified mailings to the City Administrator or others is deemed filed on the date of posting to the United States Postal Service.

#### **4-6-45 NON-COMPLIANCE LETTER.**

A. If the Property Owner or occupant does not comply with the Notice of Violations, the Inspector shall send the Property Owner and occupant of the subject property a Non-Compliance Letter notifying the Property Owner and occupant that the City Council will consider the violations described in the Non-Compliance Letter and that the City Council has the authority to approve a Destruction Order directing a designated city staff person, its agents, representatives, or designees to remove the violations at the Property Owner's expense. The Non-Compliance Letter shall also notify the Property Owner of its right to appeal. This Non-Compliance Letter shall be served in writing by certified mail and filed with the City Administrator.

B. This Destruction Order may be approved by the City Council two (2) weeks after the Non-Compliance Letter was filed.

#### **4-6-46 APPEALS.**

A. The Property Owner has the right to appeal the Inspector's findings as described in the Notice of Violations or the Non-Compliance Letter.

B. Appeals by the Property Owner must be received in writing by the City Administrator no later than seven (7) days after the Non-Compliance Letter was filed. The Property Owner has the burden of demonstrating compliance with this subchapter.

C. Appeals by the Property Owner shall be considered by the City Council prior to approving a Destruction Order.

#### **4-6-47 DESTRUCTION ORDER; LIABILITY FOR COSTS.**

A. If after considering the violations described in the Notice of Violations and the Non-Compliance Letter and any appeals by the Property Owner, the City Council may approve a Destruction Order directing a designated city staff person, its agents, representatives, or designees to remove the violations to conform to this subchapter by all lawful means. The city may seek injunctive relief by serving a notice of motion for summary enforcement or obtain an administrative search and seizure warrant to remove the violation.

B. The Property Owner is liable for all costs of removal, cutting, or destruction of Weeds, Grasses, and Rank Vegetation.

C. The Property Owner is responsible for all collection costs associated with the Destruction Order, including but not limited to court costs, attorneys' fees, and interest on any unpaid amounts incurred by the city pursuant to this subchapter. If the city uses its municipal employees to remove the violations, it shall set and assign a reasonable per hour rate for employees, equipment, supplies, and chemicals that may be used.

D. All sums payable by the Property Owner are to be paid to the City Administrator and shall be deposited in a general fund as compensation for expenses and costs incurred by the city.

E. All sums payable by the Property Owner may be collected as a special assessment pursuant to Minnesota Statute Chapter 429, as amended from time to time.

F. The Property Owner or other responsible party in control of the property, upon the request of the designated city staff person, its agents, representatives, or designees, shall provide access to the property for the purpose of enforcing and assuring compliance with this subchapter after the procedures set forth in this subchapter have been followed.

#### **4-6-48 EFFECTIVE DATE.**

This ordinance shall be effective upon its adoption and publication.