

CHAPTER 94: NUISANCES

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§ 94.01 PUBLIC NUISANCE DEFINED.

Whoever by his or her act or failure to perform a legal duty 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 this chapter to be a public nuisance and for which no sentence is specifically provided.

(Ord. 801.01, passed 5-2-2006) Penalty, see § 10.99

§ 94.02 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;

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- (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.
(Ord. 801.01, passed 5-2-2006) Penalty, see § 10.99

§ 94.03 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;
- (B) Betting, bookmaking and all apparatus used in these 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 a place; and
- (E) Any vehicle used for the transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.
(Ord. 801.01, passed 5-2-2006) Penalty, see § 10.99

§ 94.04 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 12 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 annoying vibrations;

(E) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds except under the 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 use of the street or sidewalk;

(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 rainwater, 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 cast upon or permitted to flow upon streets or other public properties;

(M) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, household furnishings, propane tanks, building materials not currently being used on site, 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 that accumulation;

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

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

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

(Q) The depositing of garbage, leaves, brush, tree limbs, branches, grass clippings or other refuse on a public right-of-way or on adjacent private property; and

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

(Ord. 801.01, passed 5-2-2006) Penalty, see § 10.99

§ 94.05 ABANDONED OR DISABLED OR UNLICENSED VEHICLES DECLARED PUBLIC NUISANCE.

(A) *Legislative intent.*

(1) The unsheltered storage of old, unused, stripped or junked automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, equipment, junk or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured is hereby declared to be a nuisance and dangerous to the public health and safety.

(2) The unsheltered storage of these property items throughout the city tend to impede traffic in the streets, interfere with the enjoyment of and reduce the value of private property, invite plundering, create fire hazards and other safety and health hazards to children as well as adults, interfere with the comfort and well-being of the public and create, extend and aggravate urban blight.

(3) As such, the City Council determines that, in order to protect the public health, safety and welfare, these conditions must be regulated, abated or prohibited.

(B) *Nuisance on private property.*

(1) The unsheltered storage of old, unused, stripped or junked automobiles not in good and safe operating condition, and of any other vehicles, boats, trailers, snowmobiles, four-wheelers, machinery, implements, equipment, junk or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured is hereby declared to be a nuisance.

(2) (a) Nothing in this section shall restrict the activities of duly established junk or salvage yards.

(b) This section does not apply to vehicles or property in an enclosed building, on the premises of a business enterprise operated in a lawful manner when necessary to the operation of a business enterprise, or in a storage or depository maintained in a lawful location and manner by the city.

(3) For purposes of this section, *JUNK* shall mean worn out or discarded material of little or no value including, but not limited to, household appliances or parts thereof, tools, discarded building materials, tin cans, broken glass, broken furniture, mattresses, box springs, boxes, crates, cardboard, tires or any other unsightly debris, including wood or brush piles, the accumulation of which has an adverse effect upon neighborhood or city property, value, health, safety or general welfare.

(C) *Abandoned motor vehicles.*

(1) No person shall place, park, permit to remain, store or leave upon an open space area of any premises located anywhere in the city any motor vehicle unless it conforms with all of the following requirements:

- (a) The vehicle must have affixed to it a valid current motor vehicle license;
- (b) The vehicle must not lack essential parts rendering it inoperable;
- (c) The vehicle must not be in a wrecked, partially dismantled or junked condition; and
- (d) The vehicle must be parked on a surface consisting of crushed rock, cement or blacktop.

(2) If a motor vehicle fails to meet any of the above requirements, the owner or possessor of the motor vehicle shall be responsible to remove the motor vehicle to a duly licensed junkyard or other authorized place of deposit or storage within ten working days of a written demand by the city.

(3) For purposes of this section, *MOTOR VEHICLE* means every vehicle that is self-propelled.

(D) *City authorized to impound.* If notice is given by the city pursuant to division (C)(2) above, and the vehicle or other offending nuisances has not been removed in the required ten-day period, then the city may proceed to impound the vehicle or other nuisances under this chapter, and to dispose of it according to the procedures in divisions (E), (F), (G) and (H) below.

(E) *Impound facility.*

- (1) The City Council shall designate a storage facility as the impound facility.
- (2) The place shall be reasonably safe from theft and vandalism.

(3) The city may contract with any individual or corporation for the use of a facility as the designated facility.

(4) All costs of removal to and storage at the designated facility shall be the responsibility of the registered owner of the vehicle or other nuisances impounded.

(F) *Notice of taking.*

(1) When a motor vehicle or other offending nuisance is impounded under this chapter, the city shall give notice of the taking within five days. The notice shall:

(a) Set forth the date and place of the taking, a description of the nuisance property taken, the year, make, model and serial number of the vehicle, if easily obtained, and the place where the vehicle is being held; and

(b) Inform the owner and any lien holders of an abandoned, junk or unauthorized vehicle, or other offending nuisance property taken, of their right to reclaim the vehicle or other property. The notice shall also state that failure to exercise that right shall be deemed as a waiver by them of all rights, title and interest in the vehicle or other property and consent to the sale of the vehicle or other property at a public auction pursuant to this section.

(2) The notice for abandoned, junk or unauthorized vehicles or other property shall be sent by mail to the registered owner, if any, and to all readily identifiable lien holders of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in the official newspaper. Published notices may be grouped together for convenience and economy.

(G) *Right to reclaim.*

(1) The owner or any lien holder of an abandoned, junk or unauthorized vehicle or other offending property shall have the right to reclaim the vehicle upon payment of towing and storage charges resulting from taking the vehicle or other property into custody within 20 days after the day of the notice.

(2) (a) Nothing in this section shall be construed to impair any lien of a garage keeper under the laws of this state, or the right of a lien holder to foreclose.

(b) For the purposes of this section, **GARAGE KEEPER** is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

(H) *Disposal of unclaimed motor vehicles by public sale.*

(1) *Sale of abandoned vehicle.*

(a) An abandoned, junk or unauthorized motor vehicle or other offending property and contents taken into custody and not reclaimed under this section shall be sold to the highest bidder at public auction or sale, following the expiration of the reclamation period for the vehicle.

(b) The purchaser shall be given a receipt in a form prescribed by the Register of Motor Vehicles, which shall be sufficient title to dispose of the vehicle.

(c) The receipt shall also entitle the purchase to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership.

(2) *Proceeds from sale.*

(a) From the proceeds of the sale of an abandoned, junk or unauthorized motor vehicle or other offending property, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle or other property, and all administrative notice and publication costs incurred pursuant to this section.

(b) Any remainder from the sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in the general fund of the city.

(3) *Disposal of vehicles not sold.* When no bid has been received for an abandoned, junk or unauthorized vehicle or other property, the city may dispose of it in compliance with Minnesota law.

(4) *Contract on disposal.*

(a) The city may contract with a qualified person for the collection, storage, incineration, volume reduction, transportation or other services necessary to prepare abandoned, junk or unauthorized vehicles, other offending property including other scrap metal for recycling or other methods of disposal.

(b) 1. Where the city enters into a contract with a person duly licensed by the Minnesota Pollution Control Agency, the Agency shall review the contract to determine whether it conforms to the Agency's plan for solid waste disposal.

2. A contract that does so conform may be approved by the Agency.

3. Where the city enters into a contract with a person duly authorized by the Minnesota Pollution Control agency, the Agency shall review the contract to determine whether it conforms to the Agency's plan for solid waste disposal for the purpose of obtaining reimbursement.

(c) 1. If the city utilizes its own equipment and personnel for disposal of the abandoned, junk or unauthorized vehicles or other offending property, it shall be entitled to reimbursement for the cost thereof along with its other costs as herein provided.

2. However, the city may dispose of no more than five vehicles using its own resources without advertising for or receiving bids for the disposal in any 120-day period.

(I) *Persons who may not purchase - exception.*

(1) (a) No employee of the city, who is a member of the administrative staff, department head, a member of the Council, or an advisor serving the city in a professional capacity, may be a purchaser of a vehicle under this section.

(b) Other city employees may be purchasers, if they are not directly involved in the sale, if they are the highest bidder, and if at least one-week's published or posted notice of sale has been given.

(2) It is unlawful for any person to be a purchaser of a vehicle under this section if the purchase is prohibited by the terms of this section.

(Ord. 801.01, passed 5-2-2006) Penalty, see § 10.99

Cross-reference:

Abandoned motor vehicles, see § 90.01

§ 94.06 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 are:

(1) Unsightly;

(2) Decrease adjoining landowners and occupants' enjoyment of their property and neighborhood; and

(3) 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 or be left in an unfinished condition for more than 30 days.

(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.
(Ord. 801.01, passed 5-2-2006) Penalty, see § 10.99

§ 94.07 DUTIES OF CITY OFFICERS.

(A) The Police Department shall enforce the provisions of this chapter relating to nuisances affecting public safety.

(B) The Police Department shall enforce provisions relating to other nuisances and shall assist the other designated officers in the enforcement of provisions relating to nuisances affecting public safety.

(C) These officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.
(Ord. 801.01, passed 5-2-2006)

§ 94.08 ABATEMENT.

(A) *Notice.* Written notice of violation, notice of the time, date, place and subject to 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.*

(a) 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.

(b) 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 Council hearing.*

(a) Written notice of any City 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.

(b) If the premises is not occupied, the owner of records 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.

(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.*

(1) 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 or the fact and order that the nuisance be terminated or abated.

(2) 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.

(3) If the notice of violation is not complied with within the time specified, the enforcing officer shall report that fact forthwith to the Council.

(4) 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 not abated within the time prescribed by the Council the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement.

(5) 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) above, and may order that the nuisance be immediately terminated or abated.

(6) If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(C) *Immediate abatement.* Nothing in this section of this chapter 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.

(Ord. 801.01, passed 5-2-2006) Penalty, see § 10.99

§ 94.09 RECOVERY OF COST.

(A) *Personal liability.*

(1) The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs.

(2) As soon as the work has been completed and the cost determined, the City Administrator-Clerk or other official designated by the Council shall prepare a bill for the cost and mail it to the owner.

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

(B) *Assessment.*

(1) If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the Administrator-Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid 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.

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(2) The 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 Council may determine in each case. (Ord. 801.01, passed 5-2-2006)