

CHAPTER 93: NUISANCES

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PUBLIC NUISANCES

§ 93.01 PUBLIC NUISANCE DEFINED.

Whoever does an act or fails to perform a legal duty therefore intentionally doing any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

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

(B) Interfere with, obstructs, or deposits garbage or refuse upon or otherwise renders dangerous for passage, any public highway or right-of-way or waters used by the public; or

(C) Is guilty of any other act or omission declared by law or this code to be a public nuisance and for which no sentence is specifically provided.

(Prior Code, § 570.01) Penalty, see § 10.99

§ 93.02 PUBLIC NUISANCES AFFECTING HEALTH.

The following are declared to be nuisances affecting health:

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

(B) All disease animals running at large;

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

(D) Accumulations of manure, refuse or other debris;

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

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

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

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

(I) Open or controlled burning in violation of state statutes and regulations;

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

(K) All ponds or pools of stagnant water, except holding ponds, and ponds used for the containment of runoff; and

(L) Any offensive trade or business as defined by statute not licensed by the Council.
(Prior Code, § 570.02) Penalty, see § 10.99

§ 93.03 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

The following are, by this subchapter, declared to be nuisances affecting public morals and decency:

(A) All gambling devices, slot machines and punch boards kept in violation of law;

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

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

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

(E) Any vehicle use for the transportation of intoxicating liquor, or for promiscuous sexual intercourse or any other immoral or illegal purpose.
(Prior Code, § 570.03) Penalty, see § 10.99

§ 93.04 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

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

(A) (1) Any accumulation of snow or ice upon any public sidewalk is hereby declared to constitute a public nuisance. The owner or resident of any property abutting any public sidewalk shall have the obligation of all ice and snow removal. All ice and snow from the sidewalk shall be removed within 24 hours after the ice or snow has ceased to fall thereon.

(2) No person shall remove snow from private driveways or parking lots and deposit snow onto or across any public street.

(3) It shall be the responsibility of the owner or resident of any property to remove snow around mailboxes.

(4) The City of Greenfield is authorized to remove any snow or ice remaining on any public sidewalks of the city more than 24 hours after the snows cease to fall upon the public sidewalks. The city shall determine the cost of the snow removal, and the owner of the lot abutting the public sidewalk from which the city has removed snow shall be charged for those cost(s). If the charges are not paid within 90 days after a bill of charges has been mailed to the owner, the City Council shall assess and levy, and cause to be collected, the amount of the charges as a special assessment upon and against the lands and buildings involved, in the manner as provided by law for the levy and collection of other special assessments, payable in 1 sum and assessed, levied and collected in the city;

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

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

(D) All unnecessary noises and annoying vibrations;

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

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

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

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

(I) (1) Nuisance lighting regulations applies to all outdoor lighting, unless specifically excluded by this subchapter.

(2) The light sources to which this division applies include, but are not limited to searchlights, floodlights, motion detection lights, spotlights, building lights, streetlights and illuminated signs.

(3) The lighting applications to which this division applies include, but are not limited to buildings, structures, recreational and sports facilities, parking lots, private roads, driveways, landscaping and lots.

(4) All installed light sources must be hooded/shielded and directed so that the light source is not visible from the public right-of-way or from an abutting or adjacent residence so as to prevent glare and trespass light.

(a) Trespass light shall not exceed 0.5 foot candles as measured on the property line of an abutting adjacent lot.

(b) No lighting shall be installed at heights greater than 20 feet in any district.

(c) Lights required for outdoor use shall be hooded and directed away from adjacent streets and properties so as to avoid any view of the light source;

(J) 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;

(K) Any barbed wire fence less than 6 feet above the ground and within 3 feet of a public sidewalk or way;

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

(M) Wastewater cast upon or permitted to flow upon streets or other public property;

(N) 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, which creates visual blight or which may be conducive to fire, or which endangers the comfort, repose, health or safety or welfare of the public, or results in the rank growth of vegetation among the items so accumulated;

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

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

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

(R) Entry upon the premises of another if the person entering has been given oral or written notice not to, or if the premises are clearly marked with "No Trespassing" signs posted so as to be in plain view along all routes of access to the premises, unless the entry is upon official business of a government agency or public utility;

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

(T) 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;

(U) 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 police 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 police 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;

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

(Prior Code, § 570.04) (Am. Ord. O-14-02, passed 12-3-2002; Am. Ord. O-8-03, passed 12-16-2003) Penalty, see § 10.99

§ 93.05 NUISANCES AFFECTING PUBLIC PROPERTY.

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

(Prior Code, § 570.05) Penalty, see § 10.99

§ 93.06 DUTIES OF CITY OFFICERS.

The Public Works Director and the County Sheriff's Department shall enforce the provisions relating to nuisances affecting public safety. These officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

(Prior Code, § 570.06)

§ 93.07 ABATEMENT.

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

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

(2) *Notice of Council hearing.*

(a) Written notice of any Council hearing to determine or abate nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail.

(b) If the premises are not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of Council hearing, notice of Council hearing shall be served by posting it on the premises.

(3) *Notice of Council order.* Except for those cases determined by the city to require summary enforcement, written notice of any 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 of the fact and order that the nuisance be terminated or abated. If the notice of violation is not complied with within the time specified, the enforcing officer shall report that fact immediately to the Council.

(2) Thereafter, the Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the Council, the city may seek injunctive relief by serving a copy of the Council order and notice of motion for summary enforcement.

(C) *Emergency procedures; summary enforcement.*

(1) In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) above will permit a continuing nuisance to unreasonably endanger public health, safety or welfare, the Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer charged with enforcement shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The enforcement officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the Council meeting to consider the question of summary enforcement.

(2) (a) The Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) above and may order that the nuisance be immediately terminated or abated.

(b) If the nuisance is not immediately terminated or abated, the 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.

(Prior Code, § 570.07)

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

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

(B) *Assessments.* If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, any unpaid charges by the city for the cost of elimination of the nuisance may be collected as a special assessment pursuant to state law.

(Prior Code, § 570.08)

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

(2) *Removal by city.* The City Clerk 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 Clerk or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel.

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

(D) *Installation and repair of water service lines.* Whenever the city installs or repairs water service lines serving private property under Chapter 50 of this code, the City Clerk 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 Clerk.

(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 Clerk 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. No person shall enter private property to repair a sidewalk, except with the permission of the owner or after obtaining an administrative warrant. The City Clerk 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 Clerk, 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 Clerk.

(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 October 31 of each year, the City Clerk 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. Penalty, see § 10.99

§ 93.10 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;

(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 nuisance may be abated as provided in this chapter.

(C) *Record of costs.* The City Clerk 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 Clerk 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

NOXIOUS WEEDS

§ 93.20 DEFINITIONS.

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

DESTRUCTION ORDER. The notice served by the City Council or designated city official on the property owner of the violation.

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

- (1) Noxious weeds and rank vegetation shall include, but not be limited to:

Garlic mustard (<i>Alliaria petiolata</i>)
Canada Thistle (<i>Cirsium arvense</i>)
Field bindweed (<i>Convolvulus arvensis</i>)
Purple loosestrife (<i>Lythrum salicaria</i>)
Poison Ivy (<i>Toxicodendron radicans</i> ; <i>Rhus radicans</i>)
Common or European Buchthorn (<i>Rhamnus carthartica</i>)
Glossy or alder buckthorn (<i>Rhamnus frangula</i> ; <i>Frangula alnus</i> ; all varieties and cultivars)
Velvetleaf (<i>Abutilon theophrasti</i>)
Hoary alyssum (<i>Berteroa incana</i>)
Spotted knapweed (<i>Centaurea masculosa</i> ; <i>C. biebersteinii</i>)
Absinthe wormwood (<i>Artemisia absinthium</i>)
Yellow starthistle (<i>Centaurea solstitialis</i>) Annual sunflower (<i>Helianthus annuus</i>)
Common St. Johnswort (<i>Hypericum perforatum</i>)
Kochia (<i>kochia scoparia</i>)
Sericia or Chinese lespedeze (<i>Lespedeza cuneata</i>)
Wild parsnip (<i>Pastinaca sativa</i>)

Grecian foxglove (<i>Digitalis lanata</i>)
Hemp, Marijuana (<i>Cannabis sativa</i>)
Plumeless thistle (<i>Carduus acanthoides</i>)
Musk thistle (<i>Carduus nutans</i>)
Bull thistle (<i>Cirsium vulgare</i>)
Leafy spurge (<i>Euphorbia esula</i> ; <i>E. podperae</i>)
Perennial sowthistle (<i>Sonchus arvensis</i>)
Tall buttercup (<i>Ranunculus acris</i>)
White cocle; white champion (<i>Silene latifolia</i> ssp. <i>Alba</i> ; <i>S. alba</i> ; <i>Lychnis alba</i>)
Eastern black nightshade (<i>Solanum ptycanthum</i>)
Common cocklebur (<i>Xanthium strumarium</i>)

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

(3) **RANK VEGETATION** includes the uncontrolled, uncultivated growth of annuals and perennial plants.

(4) The term **NOXIOUS WEEDS** does not include shrubs, trees, cultivated plants or crops, or designated planted or seeded prairie restoration.

PROPERTY OWNER. The holder of the legal title.
(Ord. O-3-05, passed 6-21-2005; Am. Ord. O-1-08, passed 6-17-2008)

§ 93.21 OWNER'S RESPONSIBILITY FOR TRIMMING AND REMOVAL.

All property owners within the corporate limits of the city shall be required and be financially responsible for the removal, cutting or disposal and elimination of noxious weeds and rank vegetation, including lawn grasses, or other uncontrolled plant growth on their property. (Ord. O-3-05, passed 6-21-2005; Am. Ord. O-1-08, passed 6-17-2008) Penalty, see § 10.99

§ 93.22 COMPLAINT PROCESS.

The Mayor or his or her authorized designee, shall make an inspection within 3 days of a complaint location to determine if a violation of this subchapter has occurred. Written notification in the form of a destruction order shall be forwarded to the property owner. The written notice shall be sent by certified mail, return receipt requested. Within 10 days after the mailing of the notice, the property owner shall remove the noxious weeds, rank vegetation or long grasses. The city may cause the noxious weeds, rank vegetation or long grasses to be removed following the 10-day period.

(Ord. O-3-05, passed 6-21-2005; Am. Ord. O-1-08, passed 6-17-2008)

§ 93.23 NOTICE OF VIOLATIONS.

The Mayor or his or her authorized designee, shall make an inspection within 3 days of a complaint location to determine if a violation of this subchapter has occurred. Written notification in the form of a destruction order shall be forwarded to the property owner. The written notice shall be sent by certified mail, return receipt requested. Within 10 days after the mailing of the notice, the property owner shall remove the noxious weeds or rank vegetation. The city may cause the noxious weeds to be removed following the 10-day period.

(Ord. O-3-05, passed 6-21-2005) Penalty, see § 10.99

§ 93.24 APPEALS.

The property owner may appeal by filing written notice of objection with the City Administrator-Clerk within 5 days of the notice. It is the property owner's responsibility to demonstrate that the matter in question is not in violation of this subchapter, and should not be subject to destruction under this subchapter.

(Ord. O-3-05, passed 6-21-2005) Penalty, see § 10.99

§ 93.25 LIABILITY.

Property owners shall be liable for all costs of removal, cutting or destruction of noxious weeds, long grasses or rank vegetation. The city shall bill the property owners for employees' hourly rate, equipment and supplies that may be used. The City Council shall assess the property owner any amount unpaid 90 days after the date of the invoice.

(Ord. O-3-05, passed 6-21-2005; Am. Ord. O-1-08, passed 6-17-2008) Penalty, see § 10.99

§ 93.26 EFFECTIVE DATE.

This subchapter shall have full force and effect upon its passage and publication.
(Ord. O-3-05, passed 6-21-2005)

OPEN BURNING

§ 93.40 DEFINITIONS.

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

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

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

RECREATIONAL FIRE. A fire set with approved starter fuel no more than 3 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 1 recreational fire is allowed on any property at 1 time.

RECREATIONAL FIRE SITE. An area of no more than a 3-foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only an which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a **RECREATION FIRE SITE** as defined herein. Recreational fire sites shall not be located closer than 25 feet to any structure.

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

WOOD. 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 3-foot lengths.

§ 93.41 PROHIBITED MATERIALS.

(A) No person shall conduct, cause or permit open burning oils, petrol 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, sheet rock, wiring, paint or paint fillers.

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

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

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

Penalty, see § 10.99

§ 93.42 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 § 93.40.

Penalty, see § 10.99

§ 93.43 PURPOSES ALLOWED FOR OPEN BURNING.

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

- (1) Elimination of fire of health hazard that cannot be abated by other practical means.
- (2) Ground thawing for utility repair and construction.
- (3) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading or other alternative methods are not practical.
- (4) Disposal of diseased trees generated on-site, diseased or infected nursery stock, diseased bee hives.
- (5) Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical.

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

Penalty, see § 10.99

§ 93.44 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.

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

(B) An open burning permit shall require the payment of a fee. Permit fees shall be in the amount established by City Council in an ordinance, as it may be amended from time to time.

Penalty, see § 10.99

§ 93.45 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.

§ 93.46 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 his or her 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 his or her 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 Department, Fire Department, M.P.C.A. representative or DNR forest officer.

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

Penalty, see § 10.99

§ 93.47 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.

Penalty, see § 10.99

§ 93.48 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.

§ 93.49 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 M.P.C.A. has declared an Air Quality Alert.

Penalty, see § 10.99

§ 93.50 RULES AND LAWS ADOPTED BY REFERENCE.

The provisions of M.S. §§ 88.16 to 88.22, as they 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.