TITLE IX: GENERAL REGULATIONS

Chapter

CHAPTER 90: GENERAL PROVISIONS

Section

§ 90.01 PUBLIC PARKS.

(A) *Adoption.* The Council may by resolution adopt, and from time to time amend, rules and regulations governing public parks. It is unlawful to violate rules and regulations as are conspicuously sign-posted in the parks.

(B) *Unlawful acts.* In addition to the foregoing, it is unlawful for any person to:

(1) Conduct any activity or use of any city park which will unreasonably interfere with, or detract from the general public enjoyment of the city park other than its intended use; or

(2) Be within the confines of any city park during the hours of 10:00 p.m. and 8:00 a.m., except as otherwise herein provided.

(C) *Permit required.* The use of Memorial Park, Rice or East Granite Park, and Campsite Park by any group of individuals numbering 25 or greater, for any purpose whether private or public in nature, shall be by permit only. The permit shall be issued by the City Clerk upon application and satisfaction of the requirements hereinafter specified, provided that the application is filed at least three days prior to the date of the use.

(1) Groups using the park will clean up the grounds where the use occurred, and the grounds will be left in the same condition as before the use, normal wear and tear of both the grounds and other facilities provided excepted.

(2) The application for a permit shall show the nature of the use, or type of event planned, the planned location of the use, the date or dates of use, the number of individuals involved and the estimated time period of the use.

(D) *Exception.* This section shall not apply to persons using designated camping areas, restroom facilities and access roads to and from the camping areas after the hours stated above, nor shall the hours apply to holders of permits as provided for in division (C) above.
(2003 Code, § 8.43) Penalty, see § 10.99

§ 90.02 BATHING AND SKATING.

(A) *Declared unsafe.* The City Manager, in his or her discretion, shall, during certain portions of the year, declare to be unsafe all bathing, skating or swimming in or upon any portion of the Minnesota River within the city limits. This warning shall be published for one week in the official newspaper of the city, and thereafter, it is unlawful to bathe, swim or skate in or upon any portions of the Minnesota River within the city limits.

(B) *Length of time.* The published notice shall state the length of time that it is unlawful to bathe, skate or swim in or on that portion of the Minnesota River within the city limits, but in no event shall the time period extend longer than 30 days without republication.
(2003 Code, § 8.44) Penalty, see § 10.99

§ 90.03 OBSTRUCTIONS ON PUBLIC PROPERTY.

(A) *Obstructions.* It is unlawful for any person to place, deposit, display or offer for sale, any fence, goods or other obstructions upon, over, across or under any public property without first having obtained a written permit from the Council, and then only in compliance in all respects with the terms and conditions of the permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.

(B) *Fires.* It is unlawful for any person to build or maintain a fire upon public property.

(C) *Dumping on public property.* It is unlawful for any person to throw or deposit on public property any nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products, or to empty any water containing salt or other injurious chemicals thereon. It is a violation of this section to place or store any building materials or waste resulting from building construction or demolition on public property without first having obtained a written permit from the Council.

(D) *Signs and other structures.* It is unlawful for any person to place or maintain a sign, advertisement or other structure on public property without first having obtained a written permit from the Council.

(E) *Snow or ice on public property.* It is unlawful for any person not acting under a contract with the city to dump snow or ice on public property.

(F) *Continuing violation.* Each day that any person continues in violation of this section shall be a separate offense and punishable as such.

(G) *Condition.*

(1) Before granting any permit under any of the provisions of this section, the Council may impose the insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding the persons and property.

(2) The insurance or bond shall also protect the city from any suit, action or cause of action arising by reason of the obstruction.
(2003 Code, § 8.45) Penalty, see § 10.99

§ 90.04 JUNK CARS, FURNITURE, HOUSEHOLD FURNISHINGS AND APPLIANCES STORED ON PUBLIC OR PRIVATE PROPERTY.

(A) It is unlawful to park or store any unlicensed, unregistered or inoperable motor vehicle, household furnishings or appliances, or components hereof, on any property, public or private, unless housed within lawfully erected building or unless located on the premises of a duly recognized automobile dealer, an impound lot, whether private or public, the premises of a vehicle repair shop or facility, the premises of a service station (gasoline station), a towing company storage lot, or other facilities which are duly screened or fenced and authorized for storage of the items upon express written consent of the city.

(B) Any violation of this section is declared to be a nuisance and upon ten days' written notice to the owner or occupant of the premises on which the material is found, the city may remove the same and certify the cost of removal against the premises as any other special assessment.
(2003 Code, § 8.46) (Ord. 57, passed 1-26-1996) Penalty, see § 10.99

§ 90.05 PROHIBITED USE AND PARKING OF MOBILE HOMES, RECREATIONAL CAMPING VEHICLES, TRAILERS, BOATS AND BOAT TRAILERS.

(A) *Definitions.* The terms ***MOBILE HOME***, ***RECREATIONAL CAMPING VEHICLES*** and ***TRAILER*** shall mean and include the following definitions.

CAMPING TRAILER. A folding structure, mounted on wheels and designed for travel, recreation and vacation uses.

MOTOR HOME. A portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

PICK-UP COACH. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

TRAILER. Any vehicle designed for carrying property or passengers on its own structure and for being drawn by a motor vehicle, but does not include a trailer drawn by a truck-tractor semi-trailer combination or an auxiliary axle on a motor vehicle which carries a portion of the weight of the motor vehicle to which it is attached.

TRAVEL TRAILER. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified "travel trailer" by the manufacturer of the trailer.

(B) *Unlawful acts.*

(1) It is unlawful for any person to park a mobile home, recreational camping vehicle, boat and boat trailer or other trailer upon public or private property for human habitation except in a licensed mobile home park.

(2) It is unlawful for any person to park or store a mobile home, recreational camping vehicle, boat or boat trailer, or other trailer on all portions of any lot in any "Residence District" (R-1, R-2 and RM) except as follows:

(a) Within a garage or other accessory building duly approved and authorized by the city code;

(b) Upon those portions of the property not lying within either the "setback area" as defined by the city code, or that portion of the property lying between the street and the front line or that side of the home facing the street; and

(c) Upon those areas of the property that have been specifically improved pursuant to the city code for driveway purposes, whether paved or unpaved (herein "driveway").

(C) *Trailer parking.*

(1) The limitations contained in this section do not apply to parking of a trailer, whether attached to a towing vehicle or not, which trailer is used for commercial purposes and the parking of the trailer, when the same is actively engaged in commercial activity and is at an adjacent site, but only to the extent that the commercial activity necessitates the use of the trailer and only for periods during which the commercial activity is actually occurring.

(2) Trailers shall not be left unattended unless the same have proper reflectors or other safety hazard markers.
(2003 Code, § 8.47) (Ord. 81, passed 12-18-1998) Penalty, see § 10.99

§ 90.06 ABANDONING A MOTOR VEHICLE.

It is unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of the property. For the purpose of this section, a ***MOTOR VEHICLE*** is as defined in M.S. Chapter 169, as it may be amended from time to time.
(2003 Code, § 8.48) Penalty, see § 10.99

CHAPTER 91: ANIMAL REGULATIONS

Section

§ 91.01 DEFINITIONS.

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

ANIMAL. Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. *ANIMALS* shall be classified as follows.

(1) *DOMESTIC ANIMALS.* Those animals commonly accepted as domesticated household pets. Unless otherwise defined, the animals shall include dogs, cats, caged birds, gerbils, hamsters,

guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians and other similar animals.

(2) ***NON-DOMESTIC ANIMALS.*** Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety and welfare of people. Unless otherwise defined, the animals shall include:

(a) Any member of the large cat family (family Felidae), including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats;

(b) Any naturally wild member of the canine family (family Canidae), including wolves, foxes, coyotes, dingoes and jackals, but excluding commonly accepted domesticated dogs;

(c) Any crossbreeds, such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet;

(d) Any member or relative of the rodent family, including any skunk (whether or not de-scented), raccoon, squirrel or ferret, but excluding those members otherwise defined as commonly accepted as domesticated pets;

(e) Any poisonous, venomous, constricting or inherently dangerous member of the reptile or amphibian families, including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators; and

(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this chapter, including, but not limited to, bears, deer, monkeys and game fish.

AT LARGE. Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain or otherwise restrained or confined.

CAT. Both male and female and includes any animal of the feline kind.

DANGEROUS ANIMAL. An animal which has caused injury to a person, or which animal, by its actions, exhibits a propensity for causing imminent danger to persons.

DOG. Both male and female and includes any animal of the dog kind.

FARM ANIMALS. Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, the animals shall include members of the equestrian family (horses and mules), bovine family (cows and bulls), sheep, poultry (chickens and turkeys), fowl (ducks and geese), swine (including Vietnamese pot bellied pigs), goats, bees and other animals associated with a farm, ranch or stable.

OWN. To have a property interest in, or to, harbor, feed, board, keep or possess.

ORDINANCE 170, SECOND SERIES

AN ORDINANCE OF THE CITY OF GRANITE FALLS, MINNESOTA, AMENDING CITY CODE CHAPTER 91, ANIMAL REGULATIONS, BY AMENDING SECTION 91.01, DEFINITIONS, FARM ANIMALS, AS FOLLOWS:

The City of Granite Falls does ordain as follows:

Section 1. Chapter 91, Section 91.01, Definitions, Farm Animals, is amended to read as follows:

FARM ANIMALS. Those animals associated with a farm or performing work in an agricultural setting. Unless otherwise defined, the animals shall include members of the equestrian family (horses and mules), bovine family (cows and bulls), sheep, poultry (chickens and turkeys), foul (ducks and geese), swine (excluding Vietnamese pot bellied pigs), goats, bees and other animals associated with a farm, ranch or stable.

Section 2. This ordinance to become effective from and after its passage and publication according to law.

Adopted by the City Council of the City of Granite Falls, Minnesota, this 7th day of July 2014, by the following vote: Aye: Galow, Otaibi, Nordaune, Smiglewski and Peterson. Nay: Schaub and Peterson.

ATTEST:

Joan M. Taylor, City Clerk

David Smiglewski, Mayor

This Ordinance published in the *Granite Falls-Clarkfield Advocate Tribune* on the 9th day of July 2014.

OWNER. Any person or persons, firm, association or corporation owning, keeping or harboring an animal.
(2003 Code, § 8.05-1) (Ord. 136, passed 11-23-2006)

§ 91.02 RUNNING AT LARGE.

(A) It shall be unlawful for the dog or cat of any person who owns, harbors or keeps a dog or cat, to run at large. A person, who owns, harbors or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading "Dogs or Cats Prohibited".

(B) It is unlawful for the owner of any animal to permit the animal to run at large. Any dog shall be deemed to be running at large with the permission of the owner unless it is on a durable leash secured to an object which it cannot move and on the premises of the owner, or on a leash and under the control of an accompanying person of suitable age and discretion, or effectively confined within a motor vehicle, building or enclosure. Any cat shall be deemed to be running at large with the permission of the owner unless it is on the premises of the owner, or effectively confined within a motor vehicle, building or enclosure.
(2003 Code, § 8.05-2) Penalty, see § 10.99

§ 91.03 LICENSE REQUIRED.

It is unlawful for the owner of any animal (except farm animals otherwise lawfully maintained within any agriculturally zoned area of the city) three months of age or more to fail to obtain a license from the city for the animal(s).
(2003 Code, § 8.05-3) (Ord. 136, passed 11-23-2006) Penalty, see § 10.99

§ 91.04 LICENSE ISSUANCE, TERM AND RENEWAL.

(A) All animal licenses shall be issued only upon presentation of a certificate issued by a veterinarian, licensed to practice veterinary medicine in the state, showing rabies immunization, distemper vaccination or vaccination for other commonly accepted disorders and/or diseases as are commonly associated with and for which vaccination is routinely employed for the type of animal involved, consistent with standard veterinary practice, for at least the term of the license and so certified by the veterinarian.

(B) All animal licenses shall be for the duration set forth in the resolution adopting fees, but must be renewed upon exploration of the applicable immunization period stated in the veterinarian's certificate originally presented by presentation of a new certificate.

(C) If three or more citations have been previously issued for violation of any provisions of this section or other applicable state law with respect to the animal for which licensure is being sought, the licensure shall be denied and the animals shall not be possessed within the corporate limits absent licensure.
(2003 Code, § 8.05-4) (Ord. 136, passed 11-23-2006)

§ 91.05 ADOPTION OF FEES.

All fees for the licensing, impounding and maintenance of animals, including penalties for late application, may be fixed and determined by the Council, adopted by resolution, and uniformly enforced. The fees may from time to time be amended by the Council by resolution. A copy of the resolution setting forth currently effective fees shall be kept on file in the office of the City Clerk and open to inspection during regular business hours.
(2003 Code, § 8.05-5)

§ 91.06 TAG REQUIRED.

All licensed animals shall wear a collar and have a tag firmly affixed thereto evidencing a current license. A duplicate for a lost tag may be issued by the city upon presentation of the receipt showing the payment of the duplicate license fee. Tags shall not be transferable, and no refund shall be made on any license fee because of leaving the city or death of the animal before the expiration of the license.
(2003 Code, § 8.05-6)

§ 91.07 ANIMAL POUND.

(A) Any animal found in the city without a license tag, running at large or otherwise in violation of this chapter, shall be placed in the animal pound, and an accurate record of the time of the placement shall be kept on each animal.

(B) Every animal so placed in the animal pound shall be held for redemption by the owner for at least five business days.

(C) Impoundment records shall be preserved for at least six months and shall show:

(1) The description of the animal by species, breed, sex, approximate age and other distinguishing traits;

(2) The location at which the animal was seized;

(3) The date of seizure;

(4) The name and address of the person from whom any animal three months of age or over was received; and

(5) The name and address of the person to whom any animal three months of age or over was transferred.

(D) If unclaimed, the animal shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under authority of M.S. § 35.71, as it may be amended from time to time; provided, however, that if a tag affixed to the animal, or a statement by the animal's owner after seizure specifies that the animal should not be used for research, the animal shall not be made available to any such institution but may be destroyed after the expiration of the ten-day period.

(E) A person claiming an interest in an animal in custody under this section may prevent disposition of the animal by posting security in an amount sufficient to provide for the animal's actual costs of care and keeping.

(F) The security must be posted within ten days of the seizure inclusive of the date of the seizure. (2003 Code, § 8.05-7) (Ord. 125, passed 2-7-2005)

§ 91.08 NOTICE OF IMPOUNDING.

(A) Upon impounding an animal under this section, notice shall be given the owner or person claiming interest in the animal by delivering or mailing it to a person claiming an interest in the animal or by posting a copy of it at the place where the animal is taken into custody or by delivering it to a person residing on the property, and telephoning, if possible.

(B) The notice shall include:

(1) A description of the animal seized; the authority and purpose for the seizure; the time, place and circumstances under which the animal was seized; and the location, address, telephone number and contact person where the animal is kept;

(2) A statement that a person claiming an interest in the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure or impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal;

(3) A statement that all actual costs of the care, keeping and disposal of the animal are the responsibility of the person claiming an interest in the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law; and

(4) A form that can be used by a person claiming an interest in the animal for requesting a hearing under this section.
(2003 Code, § 8.05-8)

§ 91.09 RIGHT TO HEARING AND RELEASE FROM ANIMAL POUND.

(A) Upon request of a person claiming interest in the animal, which request must be made within ten days of the date of seizure, a hearing shall be held within five business days of the request to determine the validity of the seizure and impoundment.

(B) If the seizure was done pursuant to a warrant under M.S. § 343.22, as it may be amended from time to time, the hearing must be conducted by the judge who issued the warrant. If the seizure was done under M.S. § 343.29, as it may be amended from time to time, the city may either:

(1) Authorize a licensed veterinarian with no financial interest in the matter or professional association with either party; or

(2) Use the services of a hearing officer to conduct the hearing.

(C) A person claiming interest in the animal who is aggrieved by a decision of a hearing officer under this section may seek a court order governing the seizure or impoundment within five days of the notice of the order.

(1) The judge or hearing officer may authorize the return of the animal, if the judge or hearing officer finds that:

(a) The animal is physically fit; and

(b) The person claiming an interest in the animal can and will provide the care required by law for the animal.

(2) The person claiming an interest in the animal is liable for all actual costs of the care, keeping and disposal of the animal, except if a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs shall be paid in full or a mutually satisfactory arrangement for payment must be made between the city and the person claiming an interest in the animal before return of the animal to the person.

(a) If such an animal is owned by a resident of the city, the cost shall include the purchase of a license, if unlicensed, payment for the animal's maintenance while in custody, and may include an immunization fee of any such animal for rabies.

(b) If such an animal is owned by a person not a resident of the city, the cost shall include payment for the animal's maintenance while in custody, and may include an immunization fee of any such animal for rabies.
(2003 Code, § 8.05-9) (Ord. 65, passed 5-31-1996)

§ 91.10 SEIZURE BY A CITIZEN.

It is lawful for any person to seize and impound an animal so found running at large and shall within six hours thereafter notify the Chief of Police of the seizure. It shall be the duty of the Chief of Police to place the animal in the city pound. If the name of the owner of the animal so seized is known to the person who first takes the animal into custody, he or she shall inform the Chief of Police of the name of the owner, and the address, if known.
(2003 Code, § 8.05-10) Penalty, see § 10.99

§ 91.11 IMMOBILIZATION OF ANIMALS.

For the purpose of enforcement of this section any peace officer, or person whose duty is animal control, may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing and catching an animal.
(2003 Code, § 8.05-11)

§ 91.12 OTHER UNLAWFUL ACTS.

(A) The provisions of this section shall not apply to guide dogs accompanying a blind person or to a person with dogs engaged in search or rescue activities on behalf of the public.

(B) It is unlawful for the owner or custodian of any animal to:

(1) Fail to have the license tag issued by the city firmly attached to a collar worn at all times by the licensed animal;

(2) Own a dangerous animal;

(3) Interfere with any police officer, or other city employee, in the performance of his or her duty to enforce this section;

(4) Fail to keep his or her dog from barking, howling or whining;

(5) Fail to keep his or her cat from emitting loud or unusual noise;

(6) Allow the animal to frequent school grounds, parks or public places;

(7) Allow the animal to chase vehicles;

(8) Allow the animal to molest or annoy any person away from the property of his or her owner or custodian;

(9) Allow the animal to damage any lawn, garden or other property, private or public, or to urinate or defecate on private property without the consent of the owner or possessor of the property;

(10) Fail to immediately remove any feces left by the animal on any sidewalk, gutter, street, park land or other public or private property and to dispose of the feces in a sanitary manner in a proper receptacle located on property owned or possessed by the owner or custodian;

(11) It shall be illegal for any person to own, possess, harbor or offer for sale any non-domestic animal within the city limits. Any owner of such an animal at the time of adoption of this provision shall have 30 days in which to remove the animal from the city, after which time the city may impound the animal as provided for in this chapter. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, a licensed show or exhibition or a wildlife rehabilitation facility permitted by state and/or federal authority, provided there is no objection thereto by registered property owners located within 100 feet of the wildlife rehabilitation facility; and

(12) Farm animals shall only be kept in an agricultural district of the city. An exception shall be made to this division (B)(12) for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, a licensed show or exhibit or by permit issued by the City Council for an undeveloped area or areas within the city other than a residential zone. Harboring, possessing or releasing farm animals within the city limits in districts other than the agricultural districts of the city, or as otherwise herein provided, shall be an unlawful act.
(2003 Code, § 8.05-12) (Ord. 83, passed 4-9-1999; Ord. 136, passed 11-23-2006) Penalty, see § 10.99

§ 91.13 SUMMARY DESTRUCTION.

If an animal is diseased, vicious, dangerous, rabid or exposed to rabies and the animal cannot be impounded after a reasonable effort or cannot be impounded without serious risk to the person attempting to impound, the animal may be destroyed in a humane manner.
(2003 Code, § 8.05-13)

§ 91.14 RABIES CONTROL, GENERALLY.

(A) Every animal which bites a person shall be promptly reported to the Chief of Police and shall thereupon be securely quarantined at the direction of the Chief of Police for a period of 14 days, and shall not be released from the quarantine except by written permission of the city.

(1) In the discretion of the Chief of Police, the quarantine may be on the premises of the owner or at the veterinary hospital of his or her choice.

(2) If the animal is quarantined on the premises of the owner, the city shall have access to the animal at any reasonable time for study and observation of rabies symptoms.

(3) In the case of a stray animal or, in the case of an animal whose ownership is not known, the quarantine shall be at the animal pound, or at the discretion of the Chief of Police the animal may be confined in a veterinary hospital designated by him or her.

(B) The owners, upon demand made by any city employee empowered by the Council to enforce this section, shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for the purpose of supervised quarantine. The expenses of the quarantine shall be borne by the owner and the animal may be reclaimed by the owner if adjudged free of rabies upon payment of fees set forth in this section and upon compliance with licensing provisions set forth in this section.

(C) When an animal under quarantine and diagnosed as being rabid or suspected by a licensed veterinarian as being rabid dies or is killed, the city shall immediately send the head of the animal and rabies data report to the State Health Department for pathological examination and shall notify all persons concerned of the results of the examination.

(D) The city shall issue a proclamation and that action when rabies is suspected or exists as is required by state statutes.
(2003 Code, § 8.05-14)

§ 91.15 REPORTS OF BITE CASES.

It is the duty of every physician, or other practitioner, to report to the Chief of Police the names and addresses of persons treated for bites inflicted by animals, together with other information as will be helpful in rabies control.
(2003 Code, § 8.05-15)

§ 91.16 RESPONSIBILITY OF VETERINARIANS.

It is the duty of every licensed veterinarian to report to the Chief of Police his or her diagnosis of an animal observed by him or her as a rabies suspect.
(2003 Code, § 8.05-16)

§ 91.17 POLICE DOGS, SEEING-EYE DOGS.

The provisions of this chapter shall not apply to the ownership or use of seeing-eye dogs by blind persons, or dogs used in police activities of the city, such as canine corps or tracking dogs used by or with the permission of the Police Department.
(2003 Code, § 8.05-17)

§ 91.18 ANIMALS IN HEAT.

Except for controlled breeding purposes, every female animal in heat shall be kept confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel, in a manner so that the female animal cannot come in contact with other animals.
(2003 Code, § 8.05-18) Penalty, see § 10.99

§ 91.19 LIMITATION ON NUMBER OF ANIMALS IN RESIDENTIAL AREAS.

No more than three animals, which are required to be licensed, may be kept, harbored or possessed per dwelling unit within a residentially zoned area of the city.
(2003 Code, § 8.05-19) Penalty, see § 10.99

§ 91.20 EXCEPTION TO NUMBER OF ANIMALS ALLOWED IN RESIDENTIAL AREAS.

A person wishing to keep more than three animals within a residentially zoned area within the city may apply to the city's duly designated representative for a permit.
(2003 Code, § 8.05-20)

§ 91.21 MULTIPLE ANIMAL PERMIT PROCEDURE.

(A) Application for a multiple animal permit must be made to the city, accompanied by the required license fees for each animal, or proof that license fees are paid current. There shall be no separate fee for the multiple animal permit.

(B) The city's duly authorized representative shall notify the occupants of all properties within 350 feet, who shall then each have 15 days from the date of the notification to file any comments in writing that they may desire.

(C) Notwithstanding the filing or lack of filing of the comments, the city shall retain sole discretion as to the issuance of such a multiple animal permit.

(D) In addition to consideration of past complaints made by neighboring property owners, the city shall also make an examination as to the suitableness of the site, to include appropriate fencing, screening and other facilities, and shall review any and all applicable records as to past difficulties with respect to the harboring or maintenance of animals by the applicant, including, but not limited to, charges filed or complaints made for animals running at large, animals emitting noise complained about by neighbors or otherwise.

(E) Within 30 days after the application has been submitted, the city shall issue its determination to either authorize a multiple animal permit or deny the same.

(F) In the event of a denial, the applicant may petition review and consideration by the Council. The petition for review shall be made within ten days after the initial determination to either grant or deny the permit that has been made by the city. Any permit issued shall be valid for one calendar year running from the date of issue and must be reviewed annually thereafter upon proper request being made to the city as if the permit were to be issued for the first time.

(G) If the permit holder fails to comply with any statements made in the application or with any reasonable conditions imposed on the permit, or violates any other applicable provisions of the city code, the multiple animal permit is subject to summary revocation by the city. Maintaining more than three animals without the permit is a violation of the city code, except as hereinafter provided.
(2003 Code, § 8.05-21)

§ 91.22 GRANDFATHER CLAUSE.

Any dwelling unit possessing more than three animals shall have six months from the effective date to come into compliance with the requirements hereof; however, any person harboring more than three animals within a residentially zoned area may continue to do so, provided the animals are otherwise duly licensed, during the six-month period following the effective date.
(2003 Code, § 8.05-22) (Ord. 95, passed 9-14-2001)

§ 91.23 FEEDING OF DEER PROHIBITED.

(A) *Prohibition.* No person shall feed deer within any area of the city. For the purpose of this division (A), ***FEEDING*** shall mean provision of any grain, fodder, salt licks, fruit, vegetables, nuts or other edible materials, either on the ground or at a height which may reasonably be expected to

intentionally result in deer feeding. Food sources, such as fruit trees and other live vegetation, shall not be considered as deer feeding. This prohibition shall not apply to veterinarians, city officials or other individuals authorized in the course of their duties who either have deer in their custody or under their control, nor shall this prohibit any food being placed upon property for the purposes of trapping or otherwise taking deer where the trapping or taking is pursuant to a permit issued by the State Department of Natural Resources.

(B) *Penalty*. Violation of this section shall be petty misdemeanor.
(2003 Code, § 8.05-23) (Ord. 104, passed 9-20-2002) Penalty, see § 10.99

CHAPTER 92: CEMETERY PROVISIONS

Section

Granite Falls City Cemetery

GRANITE FALLS CITY CEMETERY

§ 92.01 PURPOSE.

The grounds of the Granite Falls City Cemetery are sacredly devoted to the interment of human dead, and a strict observance of the decorum which should characterize such a place will be required. All lots are held as burial places for the human dead and for no other purposes.

(A) *Description; name.* A cemetery has been established and is continued upon land owned by the City of Granite Falls, in the County of Chippewa, State of Minnesota, described as follows:

> The Northeast Quarter of the Southeast Quarter (NE-1/4 of SE-1/4) of Section Twenty-seven (27), Township One Hundred Sixteen (116), Range Thirty-nine (39);
>
> AND ALSO,
>
> a tract of land described as follows: Beginning at a point 80 rods North of the Southeast Corner of Section Twenty-seven (27), Township One Hundred Sixteen (116), Range Thirty-nine (39), thence West along the North line of the South Half of the Southeast Quarter (S-1/2 of SE-1/4) of said Section Twenty-seven (27) 80 rods; thence South 1 rod; thence East 80 rods; thence North 1 rod to the place of beginning. and the same shall be called the "Granite Falls City Cemetery".

(B) *Mausoleum.* A facility for the temporary storage of human casketed remains, also known as the "Granite Falls Mausoleum", has been constructed and established and is continued upon land leased by the city, described as follows:

> A tract of land in the County of Yellow Medicine, State of Minnesota, described as follows: Commencing on the point of intersection of the East right-of-way line of Sixth Street, in the City of Granite Falls, Minnesota, and the South right-of-way line of Fourteenth Avenue; thence due South along the Easterly right-of-way line of said Sixth Street as vacated approximately seventy (70) feet more or less to a point, said point being also described as a point ten (10) feet South of the Southwesterly corner of the Wing-Bain Funeral Home as now constructed and maintained, this being the point of beginning; thence continuing Southerly along said Easterly right-of-way line of Sixth Street vacated thirty (30) feet; thence due Easterly on a line parallel to the South line of Fourteenth Avenue thirty-two (32) feet; thence Northerly on a line parallel to the Easterly right-of-way line of Sixth Street vacated thirty (30) feet; thence Westerly to the point of beginning, together with the ingress and egress thereto over and across that portion of vacated Sixth Street line between Blocks Fifty-three (53) and Fifty-four (54) in Pillsbury's Second Addition to the city lying adjacent to the above-described property.

(2003 Code, § 2-42-1) (Ord. 2, passed 5-29-1987)

§ 92.02 OFFICERS AND DUTIES.

The city shall manage, operate and maintain the City Cemetery and additions thereto subject to any limitations and restrictions set forth here or as contained in any applicable law. The Council shall be ex officio trustees of the cemetery and mausoleum. The Council shall perform all the duties required as trustees of cemeteries as defined by the laws of this state. The City Clerk shall perform all the duties required of secretaries of cemeteries as defined by the statutes of this state. The cemetery has been platted and subdivided into blocks, which have been subdivided into lots, which, in turn, have been divided into grave sites.

(2003 Code, § 2-42-2) (Ord. 2, passed 5-29-1987)

§ 92.03 CEMETERY LAWN SYSTEM AND BURIAL PROCEDURES.

(A) No deceased person shall be interred in the City Cemetery until a city official has located the lot in which burial is to be made; that the lot is not being used beyond its capacity; and before making a proper record of the name and age of the deceased person and the exact location of the grave.

(1) No temporary storage shall be made in the mausoleum without prior notification to and permission from the city.

(2) No more than one burial, including cremation burials, shall be permitted on any one burial site; provided, however, that any one of the following combinations shall be permitted:

(a) One non-cremation and one cremation burial;

(b) Two baby burials;

(c) One adult and one baby burial; or

(d) Two cremation burials.

(B) If a second burial is made on any burial site, it shall be marked by a flush marker, only one elevated monument per burial site shall be permitted. In order to compensate for additional work and record-keeping where there is a second burial on a burial site, an additional charge of one-half the then cost of a burial site shall be paid to the city for the second burial on a site.

(C) The owner of a site, his or her spouse or children, may be buried in a burial site without written approval. No other burials shall be permitted in a site without first obtaining the written consent of the owner and filing a copy thereof with the city, subject, however, to rules, regulations or city code provisions to the contrary. The owner, for this purpose, shall be the owner as the same appears on the cemetery records of the city.

(D) Only one monument shall be allowed on a family plot, except in areas within the cemetery in which multiple markers already exist. In those areas, the size of the monument or memorial is to be governed by the size of the lot and shall not exceed one-half the length of the rear line of the lot. Markers must be set level with the ground at the head of each grave. Foundations for monuments shall be concrete, built to provide at least four inches of wash all around the base or first masonry course, and the foundation must not extend into adjoining lots nor into walkway areas. Grave markers may be laid flush with the ground with at least four-inch concrete flushing or wash. No site shall be graded higher than the general level of the cemetery, except so as to allow for one-year setting. No mound shall be built over any grave. No fence and no stone or cement coping shall be constructed around any site.
(2003 Code, § 2-42-3) (Ord. 2, passed 5-29-1987)

§ 92.04 SALE OF CEMETERY LOTS AND MAUSOLEUM RENTAL.

Values upon all unsold lots in the City Cemetery and additions thereto are fixed and established as hereinafter set by resolution and are open to public inspection in the office of the City Clerk. Conveyance of burial lots shall be made by deed from the city to the purchaser, which deed shall be recorded in the office of the County Recorder. No title to any cemetery grave site, or portion thereof, shall be transferred by the owner thereof, except as authorized by M.S. § 306.29, as the same may be supplemented or amended from time to time. Whenever the title to any cemetery lot, or any portion thereof, is to be transferred by the owner thereof, the city shall have the first right to repurchase the same by paying to the owner the price originally paid to the city therefor; provided, however, that this

right of repurchase by the city shall not apply when a conveyance is made to the city for the purpose of transferring title in turn to a spouse, sister or brother of the owner, or to a descendant of the owner or a descendant of the owner's spouse, sister or brother. Repurchase by the city under all other circumstances not otherwise specified herein, shall be in accordance with provisions of M.S. Chapter 306, as supplemented or amended from time to time, the price to be paid, however, not to exceed that originally paid to the city. The Council shall also, from time to time, determine the rental price for space in the City Mausoleum.
(2003 Code, § 2-42-4) (Ord. 2, passed 5-29-1987)

§ 92.05 CARE AND MAINTENANCE.

The city shall provide general care for the cemetery and mausoleum which shall include maintenance of roadways, mowing grass, trimming and caring for trees and removing fallen trees. This shall not include providing special care such as watering lawns or vases temporarily placed on graves. The city shall have the right to remove trees, shrubs, plants or any structures now located upon any burial site, which has or shall become by reason of age or otherwise, unsightly or detrimental to the site upon which they are located or any adjacent site or avenue, and shall have the right to remove any such which may be placed on a site contrary to the provisions of these regulations. Artificial flowers may be placed in approved urns or vases and must be securely fastened to the urn or vase so that they will not fall or be blown from the container and cause problems with mowing. No artificial flowers, flags or decorations of similar nature shall be placed upon or attached to any grassed area, any tree or shrub, or any monument or marker; the flowers improperly placed may be removed by the city. Owners are responsible for filling sunken grave sites.
(2003 Code, § 2-42-5) (Ord. 2, passed 5-29-1987)

§ 92.06 CONDUCT IN CEMETERY.

It is unlawful for any person to deface, mutilate or otherwise injure any monument or enclosure or to injure or remove any shrubbery, trees, plants or flowers on the ground. Motorcycles and bicycles are excluded from cemetery areas and no dogs will be allowed. The discharge of firearms is prohibited, except at military funerals. Children will not be permitted to run at will through the grounds. Boisterous or unseemly conduct will not be permitted in the cemetery.
(2003 Code, § 2-42-6) (Ord. 2, passed 5-29-1987) Penalty, see § 10.99

§ 92.07 WINTER BURIALS AND USE OF MAUSOLEUM.

No burials shall take place in the winter, except when all costs incurred at the cemetery, including opening of roads, location of grave site or burial place, marker inspections, and damages to markers are assumed by the relatives of the deceased. It shall be the responsibility of the relatives of the deceased to make arrangements with a private contractor for all necessary snow removal. The charge for locating

the lot, plot or burial place and inspecting in order to determine the extent of damages, if any, to adjacent markers as the result of snow removal operations shall be set by resolution. Temporary "winter" storage of human remains shall be made available in the City Holding Vault (mausoleum) to those requesting interment in the City Cemetery. The fee for use of the Holding Vault will be set by resolution.
(2003 Code, § 2-42-7) (Ord. 2, passed 5-29-1987)

§ 92.08 ADDITIONAL RULES AND REGULATIONS.

The Council shall have the authority to adopt additional rules and regulations from time to time, governing the use, operation, maintenance and care of the City Cemetery and Mausoleum. These rules and regulations shall be adopted by resolution which, for purposes of enforcement, shall be deemed to be incorporated herein by reference.
(2003 Code, § 2-42-8) (Ord. 2, passed 5-29-1987)

CHAPTER 93: FAIR HOUSING

Section

§ 93.01 PURPOSE.

(A) Discrimination in housing and real property based upon race, color, creed, religion, national origin, sex, sexual orientation, marital status, familial status, disability and status in regard to public assistance adversely affects the health, welfare, peace and safety of the community.

(B) People subject to the discrimination suffer depressed living conditions, poverty and hopelessness, which injures the public health and places a burden upon the public finances to ameliorate these conditions.

(C) It is the purpose of this chapter to foster equal opportunity for all obtaining housing without regard to race, color, creed, religion, national origin, sex, sexual orientation, marital status, familial status, disability and status in regard to public assistance.
(Ord. 121, passed 1-5-2003)

§ 93.02 DEFINITIONS.

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

SEXUAL ORIENTATION. Having or being perceived as having an emotional, physical or sexual attachment to another person without regard to the sex of that person, or having or being perceived as having an orientation for the attachment, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness. ***SEXUAL ORIENTATION*** does not include a physical or sexual attachment to children by an adult.

STATUS WITH REGARD TO PUBLIC ASSISTANCE. The condition of being a recipient of federal, state or local assistance, including medical assistance, or being a tenant receiving federal, state or local subsidies, including rental assistance or rent supplements.

UNFAIR DISCRIMINATORY PRACTICE. Any act described in § 93.03. The word ***DISCRIMINATE*** includes segregate or separate.
(Ord. 121, passed 1-5-2003)

§ 93.03 UNFAIR HOUSING DISCRIMINATION.

It is an unfair discriminatory practice:

(A) For an owner, lessee, sublessee, assignee or managing agent of, or other person having the right to sell, rent or lease any real property, or any agent of these:

(1) To refuse to sell, rent or lease or otherwise deny to or withhold from any person or group of persons any real property because of their race, color, creed, religion, national origin, sex, sexual orientation, marital status, familial status, disability or status in regard to public assistance;

(2) To discriminate against any person or group of persons because of their race, color, creed, religion, national origin, sex, sexual orientation, marital status, familial status, disability or status in regard to public assistance in the terms, conditions or privileges of the sale, rental or lease of any real property or in the furnishing of facilities or services in connection therewith; or

(3) In any transaction involving real property to print, circulate or post, or cause to be printed, circulated or posted, any advertisement or sign, or use any form of application for the purchase, rental or lease of real property, or make any record or inquiry in connection with the prospective purchase, rental or lease of any real property which expresses, directly or indirectly, any limitation, specification or discrimination as to race, color, creed, religion, national origin, sex, sexual orientation or status in regard to public assistance, or any intent to make the limitation, specification or discrimination.

(B) For a real estate broker, real estate salesperson or employee or agent thereof:

(1) To refuse to sell, rent or lease, or refuse to offer for sale, rental or lease, any real property to any person or group of persons, or refuse to negotiate for the sale, rental or lease of any real property to any person or group of persons because of their race, color, creed, religion, national origin, sex, sexual orientation, marital status, familial status, disability or status in regard to public assistance, or represent that real property is not available for inspection, sale, rental or lease when in fact it is so available, or otherwise deny or withhold any real property or any facilities of real property to or from any person or group of persons because of their race, color, creed, religion, national origin, sex, sexual orientation, marital status, familial status, disability or status in regard to public assistance;

(2) To discriminate against any person because of race, color, creed, religion, national origin, sex, sexual orientation, marital status, familial status, disability or status in regard to public assistance, in the terms, conditions or privileges of the sale, rental or lease of real property or in the furnishing of facilities or services in connection therewith; or

(3) To print, circulate or post, or cause to be printed, circulated or posted, any advertisement or sign, or use any form of application for the purchase, rental or lease of real property, or make any record or inquiry in connection with the prospective purchase, rental or lease of any real property which expresses, directly or indirectly, any limitation, specification or discrimination as to race, color, creed, religion, national origin, sex, sexual orientation or status in regard to public assistance, or any intent to make the limitation, specification or discrimination.

(C) For a person, bank, banking organization, mortgage company, insurance company or other financial institution or leader to whom application is made for financial assistance or for the purchase, lease, acquisition, construction, rehabilitation, repair or maintenance of any real property or any agent or employee thereof:

(1) To discriminate against any person or group of persons because of their race, color, creed, religion, national origin, sex, sexual orientation, marital status, familial status, disability or status in regard to public assistance, or of the prospective occupants or tenants of the real property in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions or privileges of the financial assistance or in the extension of services in connection therewith; or

(2) To use any form of application for the financial assistance, or make any record or inquiry in connection with applications for the financial assistance which expresses, directly or indirectly, any limitation, specification or discrimination as to race, color, creed, religion, national origin, sex, sexual orientation, marital status, familial status, disability or status in regard to public assistance, or any intent to make the limitations, specifications or discrimination.

(D) For any real estate broker or real estate salesperson, for the purpose of inducing a real property transaction from which the person, that person's firm, or any of its members, may benefit financially to represent that a change has occurred or will or may occur in the composition with respect to race, color, creed, religion, national origin, sex, sexual orientation, marital status, familial status, disability or status in regard to public assistance, of the owners or occupants in the block, neighborhood or area in which the real property is located, including, but not limited to, lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other public facilities.

(Ord. 121, passed 1-5-2003) Penalty, see § 10.99

§ 93.04 REPRISALS.

It is an unfair discriminatory practice for any employer, labor organization, employment agency, lessor, public accommodation, public service or educational institution, or owner, lessor, lessee, sublessee, assignee or managing agent of any real property or any real estate broker, real estate salesperson or employee or agent thereof to intentionally engage in any reprisal against any person because that person associated with a person or group of persons of a different race, color, creed, religion, sexual orientation or national origin.
(Ord. 121, passed 1-5-2003) Penalty, see § 10.99

§ 93.05 EXCEPTIONS.

The provisions of § 93.03 shall not apply to:

(A) Rooms in a temporary or permanent residence home run by a non-profit organization if the discrimination is by sex;

(B) The rental by a resident owner or occupier of a one-family accommodation of a room or rooms in the accommodation to another person or persons if the discrimination is by sex, marital status, status with regard to public assistance, sexual orientation or disability. Nothing in this chapter shall be construed to require any person or group of persons selling, renting or leasing property to modify the property in any way or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this chapter be construed to relieve any person, regardless of any disability, in a written lease, rental agreement or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations of the lease, agreement or contract; or

(C) The rental by a residential owner of a unit in a dwelling containing not more than two units, if the discrimination is on the basis of sexual orientation.
(Ord. 121, passed 1-5-2003)

§ 93.06 CONSTRUCTION.

Nothing in this chapter shall be construed to mean the city condones, recommends or sanctions any particular sexual lifestyle, nor that the city authorizes or recognizes same sex marriages.
(Ord. 121, passed 1-5-2003)

§ 93.07 CRIMINAL CODE; EFFECT.

Nothing in this chapter alters the provision of M.S. Chapter 609, as it may be amended from time to time, or any other law relating to criminal penalties applicable to the actions described within this chapter.
(Ord. 121, passed 1-5-2003)

CHAPTER 94: FIRE PREVENTION AND PROTECTION

Section

§ 94.01 UNIFORM FIRE CODE ADOPTED.

(A) The current edition of the Uniform Fire Code, as supplemented and amended from time to time, is hereby adopted as though set forth verbatim herein.

(B) One copy of the Code shall be marked "CITY OF GRANITE FALLS - OFFICIAL COPY" and kept on file in the office of the City Clerk and open to inspection and use by the public.
(2003 Code, § 8.23-1) (Ord. 94, passed 5-11-2001) Penalty, see § 10.99

§ 94.02 STORAGE OF FLAMMABLE AND EXPLOSIVE MATERIAL FOR RESALE OR REDISTRIBUTION.

(A) Subject to all applicable conditions of the Uniform Fire Code, flammable liquids, liquified petroleum gas and explosive and blasting agents shall be authorized only in the I-1 Limited Industry and I-2 General industry Districts, except as hereinafter specifically provided.

(B) In the C-1 Highway/Auto Commerce District, liquified petroleum gas (hereinafter LP) only shall be allowed in storage tanks, not to exceed 500 gallons in capacity. Storage containers of LP which are not used directly for the purpose of supplying heat to a building in the R-1 Low Density Residence, R-2 Medium Density Residence, R-M Multiple Dwelling Residence, A Agriculture, C-1 Highway/Auto Commerce, C-2 Downtown Commerce, and F Flood Zone Districts shall not be allowed, except as otherwise expressly provided herein.

(C) In the I-1 Limited Industry and I-2 General Industry Districts, storage containers not exceeding 500 gallons shall be authorized without the necessity of a special use permit. Storage containers containing more than 501 gallons shall require a special use permit.

(D) It is further provided that in the I-1 Limited Industry and I-2 General Industry Districts, the installation of storage tanks shall be no closer than 400 feet from any residential district, and in the C-1 Highway/Auto Commerce, the installation shall be no closer to any residential district than authorized or permitted by current National Fire Protection Association (NFPA) standard(s) for the storage and handling of LP. Where any such authorized LP storage installations are located on property adjacent to any property zoned or developed for residential usage, the installations shall be visibly screened from the residential property consistent with any applicable provisions of the State Fire Code.

(E) All applications under this chapter shall be investigated by the State Fire Marshal, the City Fire Chief, the City Building Inspection Department and other individuals as may be required or designated, either by the city or otherwise by law, or their designees.

(F) Installation of any such tanks, regardless of location, shall require a building permit. (2003 Code, § 8.23-2) (Ord. 94, passed 5-11-2001) Penalty, see § 10.99

§ 94.03 STORAGE OF LIQUIFIED PETROLEUM GAS FOR ON-SITE HEATING PURPOSES.

LP storage tanks where the LP is used for the purpose of supplying heat for the principal and accessory use buildings located on the property is allowed in all zoning districts, subject to the following conditions.

(A) A building permit is required.

(B) Storage containers of 500 gallons and less are permitted without special use permit. Storage containers of 501 gallons or more are permitted only as provided in division (C) below.

(C) Storage containers containing 501 gallons to a total of 2,000 gallons may be allowed only for governmental or other similar institutional uses, such as community centers, courthouses, jail facilities, hospitals, schools and related uses, and only upon issuance of a special use permit, the same to be issued as otherwise provided in the city code upon notice and hearing as may be routinely required for issuance of special use permits in general. Quantities may be in multiple tanks with the total gallons on any one particular site not to exceed 2,000 gallons.

(D) Placement and setbacks of all the containers shall comply with the Uniform Fire Code and National Fire Protection Association (NFPA) standard(s).

(E) All installations requiring a special use permit shall be inspected by the City Fire Chief, or other individuals as may be required or designated, either by the city or otherwise by applicable law, or their designees, and shall also be inspected by the City Building Inspection Department.

(F) Containers over 500 gallons, as provided in division (C) above, shall be screened from adjoining properties with the type and manner of screening to be approved at the time of the issuance of the special use permit and the designated screening shall be made an express condition of the issuance of the permit.

(G) The City Building Inspection Department shall be authorized to promulgate and enforce a set of uniform policies for the installation and placement of all the storage tanks as hereinabove allowed. (2003 Code, § 8.23-3) (Ord. 94, passed 5-11-2001) Penalty, see § 10.99

§ 94.04 GRANDFATHER CLAUSE.

Any storage tanks currently located within the corporate limits of the city must be in compliance with the Uniform Fire Code and applicable National Fire Protection Association standards. (2003 Code, § 8.23-4) (Ord. 94, passed 5-11-2001) Penalty, see § 10.99

CHAPTER 95: HEALTH AND SAFETY; NUISANCES

Section

GENERAL PROVISIONS

§ 95.001 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. 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, 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 may 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 may 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 may report the facts to the City Council, and the City Council may 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. If the bill remains unpaid, after notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, the City Clerk may list the total unpaid charges along with all other charges, as well as other charges for current services to be assessed under M.S. § 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable. The City Council may then certify the charges against the property under that statute and other pertinent statutes to the County Auditor for collection along with current taxes the following year or in annual installments as the City Council may determine in each case.

(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 § 95.999

§ 95.002 TREE DISEASES AND SHADE TREE PEST CONTROL.

(A) *Declaration of policy.* The health of the trees in the city is threatened by shade tree pests, and the loss or ill health of trees growing upon public and private property substantially depreciates the value of property within the city and impairs the safety, good order, general welfare and convenience of the public. In addition to and in accordance with M.S. §§ 89.001, 89.01 and 89.51 through 89.64, as those sections may be amended from time to time, the provisions of this section are adopted to attempt to control and prevent the spread of these shade tree pests.

(B) *Jurisdiction.* The city shall have control of all street trees, shrubs and other plantings now or hereafter in any street, park, public right-of-way or easement, or other public place within the city limits, and shall have the power to plant, care for, maintain, remove and replace the trees, shrubs and other plantings.

(C) *Declaration of a shade tree pest.* The Council may declare any vertebrate or invertebrate animal, plant pathogen or plant threatening to cause significant damage to a shade tree or community forest in the community, to be a shade tree pest and prescribe control measures to effectively eradicate, control or manage the shade tree pest including necessary time lines for action.

(D) *Public nuisances declared.* A shade tree pest declared by Council occurring within a declared control zone is a public nuisance.

(E) *Shade tree pest nuisances are unlawful.* It is unlawful for any person to permit any public nuisance as defined in this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in this section.

(F) *Definition of control areas.* Upon declaring a shade tree pest, the Council may define one or more locations within the geographic boundaries of the city to be within a shade tree pest control area provided those locations are characterized by biologic, composition, environmental and size factors favorable to successful application of the control measures prescribed by Council.

(G) *Tree Inspector.* The Council may appoint a Tree Inspector to coordinate the activities of the city relating to the control and prevention of damage by shade tree pests. The Tree Inspector will recommend to the Council the details of any program for the declaration, control and prevention of shade tree pests. The Tree Inspector is authorized to enforce or cause to be enforced the duties incident to such a program adopted by the Council. The term ***TREE INSPECTOR*** includes any person designated by Council or the Tree Inspector to carry out activities authorized in this section.

(H) *Abatement of shade tree pest nuisances.*

(1) In abating a nuisance declared by ordinance under divisions (B) and (C) above, the organism, condition or plant and any tree, wood or material identified as injurious to the health of shade trees shall be removed or effectively treated so as to destroy and prevent as fully as possible the spread of the shade tree pest. The abatement procedures shall be carried out in accordance with the control measures and areas prescribed by ordinance according to divisions (C) above and (K)and (O) below.

(2) In addition, should the appropriate abatement procedure be removal and the tree(s) and/or hedge(s) be within the limits of a highway in a rural area within the city's jurisdiction, M.S. § 160.22, as it may be amended from time to time, shall be complied with as necessary.

(I) *Reporting discovery of shade tree pest.* Any owner or occupier of land or any person engaged in tree trimming or removal who becomes aware of the existence of public nuisance caused by a shade tree pest as defined under division (C) above shall report the same to the city.

(J) *Registration of tree care firms.* Any person, firm or corporation that provides tree care, tree trimming or removal of trees, limbs, branches, brush or shrubs for hire must be registered with the State Commissioner of Agriculture under M.S. § 18G.07, as it may be amended from time to time.

(K) *Inspection and application of control measures.*

(1) The Tree Inspector is authorized to cause premises and places within the city to be inspected to determine whether shade tree pests exist thereon and to investigate all reported incidents of shade tree pests. The Tree Inspector shall have the power to take all reasonable precautions to prevent the maintenance of public nuisances and may enforce the provisions relating to abatement in this section.

Diagnosis of shade tree pests may be by the presence of commonly recognized symptoms or by tests as may be recommended by the Commissioner of the State Department of Agriculture or the Commissioner of the State Department of Natural Resources.

(2) Except in situations of imminent danger to human life and safety, the Tree Inspector shall not enter private property for the purpose of inspecting or preventing maintenance of public nuisances without the permission of the owner, resident or other person in control of the property, unless the Tree Inspector has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.

(3) No person, firm or corporation shall interfere with the Tree Inspector acting under his or her authority while engaged in activities authorized by this section.

(L) *Standard abatement procedure.* Except as provided in divisions (M) and (O) below, whenever a Tree Inspector determines with reasonable certainty that a public nuisance as described by this section is being maintained or exists on premises in the city, the Tree Inspector is authorized to abate a public nuisance according to the following procedure.

(1) The Tree Inspector will notify in writing the owner of record or occupant of the premises of the fact and order that the nuisance be terminated or abated. The notice must be given in person or by mail. Failure of any party to receive the mail does not invalidate the service of the notice. A copy of the notice shall be filed with the City Clerk.

(2) The notice of abatement shall state that unless the public nuisance is abated by the owner or occupant, it will be abated by the city at the expense of the owner or occupant. The notice shall specify the control measures to be taken to abate the nuisance, and provide a reasonable amount of time to abate the nuisance. The notice will also state that the owner or occupant has the right to appeal the determination that a public nuisance exists by submitting a request in writing to the City Clerk within seven days after service of the notice, or before the date by which abatement must be completed, whichever comes first.

(3) If no timely appeal is submitted, and the notice of abatement and its prescribed control measures are not complied with within the time provided by the notice or any additional time granted, the Tree Inspector or designated person shall have the authority to obtain permission or an administrative search warrant, enter the property and carry out abatement in accordance with the notice of abatement.

(M) *High cost abatement.* If the Tree Inspector determines that the cost of abating a nuisance will exceed $5,000 based on a reasonable, good faith estimate, the written notice referred to in division (L) above must provide that if the nuisance is not abated within the reasonable amount of time provided, the matter will be referred to the City Council for a hearing. The date, time and location of the hearing must be provided in the notice.

(N) *Appeal procedure.* If the City Clerk receives a written request for a hearing on the question of whether a public nuisance in fact exists, the City Council shall hold a hearing within seven calendar days following receipt by the Clerk of the written request. At least three days' notice shall be given to the

individual who made the written request for the hearing. The Council may modify the abatement notice or extend the time by which abatement must be completed. Each owner, agent of the owner, occupant and lien holder of the subject property or properties in attendance, if any, shall be given the opportunity to present evidence at the hearing. After holding the hearing, the City Council may issue an order requiring abatement of the nuisance.

(O) *Abatement procedure in event of imminent danger.*

(1) If the Tree Inspector determines that the danger of infestation to other shade trees is imminent and delay in control measures may put public health, safety or welfare in immediate danger, the Tree Inspector may provide for abatement without following divisions (L) or (M) above. The Tree Inspector must reasonably attempt to notify the owner or occupant of the affected property of the intended action and the right to appeal the abatement and any cost recovery at the next regularly scheduled City Council meeting.

(2) 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.

(P) *Recovery of cost of abatement; liability and assessment.*

(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. As soon as the work has been completed and the cost determined, the City Clerk 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 Clerk.

(2) After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, the City Clerk may list the total unpaid charges, along with all other charges, as well as other charges for current services to be assessed under M.S. § 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable. The City Council may then certify the charges against the property under that statute and other pertinent statutes to the County Auditor for collection along with current taxes the following year or in annual installments as the City Council may determine in each case.

(Q) *Penalty.*

(1) Any person, firm or corporation who violates any provision of this section shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this section, including state statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than $1,000, or both.

(2) Upon conviction of a 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.

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

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

(R) *Declared shade tree pests, control measures and control areas.*

(1) *Oak Wilt.* Oak Wilt is declared a shade tree pest, and is defined as any living or dead tree, log, firewood, limb, branch, stump or other portion of a tree from any species of the genus Quercus existing within the control area defined that has bark attached and that exceeds three inches in diameter or ten inches in circumference and contains to any degree any spore or reproductive structures of the fungus Ceratocystis fagacaarum. Control measures prescribed for abating Oak Wilt Disease are:

(a) *Installation of a root graft barrier.* A root graft barrier can be ordered installed to prevent the underground spread of Oak Wilt Disease. The city will mark the location of the root graft barrier. The barrier disrupts transmission of the fungus within the shared vascular systems of root grafted trees. The barrier is created by excavating or vibratory plowing a line at least 42 inches deep between any oak tree infected with Oak Wilt Disease and each nearby and apparently healthy oak tree within 50 feet of the infected tree;

(b) *Removal and disposal of trees on property zoned for residential and commercial use.* On property that is zoned residential and commercial the city may mark for removal trees that have the potential to produce spores of the fungus Ceratocvstis fagacearum. After, and in no case before the installation of the root graft barrier and no later than May 1 of the year following infection, all marked trees must be felled. The stump from the felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked. If, however, after the city prescribes the location for a root graft barrier, the city determines that installation of the barrier is impossible because of the presence of pavement or obstructions such as a septic system or utility line, the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from the felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked;

(c) *Removal and disposal of trees on all other property.* On all other property the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from the felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked;

(d) *Wood disposal.* All wood more than three inches in diameter or ten inches in circumference from the felled trees must be disposed of by burying or debarking or chipping or sawing into wane-free lumber or by splitting into firewood, stacking the firewood and immediately covering the

woodpile with unbroken 4-mil or thicker plastic sheeting that is sealed into the ground until October 1 of the calendar year following the calendar year in which the tree was felled or by burning before May 1 of the year following infection. Wood chips from infected trees may be stockpiled or immediately used in the landscape; and

(e) *Control area.* The control area for Oak Wilt Disease is defined as all lands within the boundaries of the city.

(2) *Emerald Ash Borer.* Emerald Ash Borer is declared a shade tree pest and is defined as an insect that attacks and kills ash trees. The adults are small, iridescent green beetles that live outside of trees during the summer months. The larvae are grub or worm-like and live underneath the bark of ash trees.

(a) Control measures prescribed for abating Emerald Ash Borer are those provided in the document, *Minnesota Emerald Ash Borer Science Advisory Group Recommendations on Preparing for Emerald Ash Borer in Minnesota.*

(b) *Definition of control areas.* The control area for Emerald Ash Borer is defined as all lands within the boundaries of the city.

(3) *Dutch Elm Disease.* Dutch Elm Disease is declared a shade tree pest and is defined as a disease of elm trees caused by the fungus Ophiostoma ulmi or Ophiostoma novo-ulmi, and includes any living or dead tree, log, firewood, limb, branch, stump or other portion of a tree from any species of the genus Ulmus existing within the control area defined that has bark attached and that exceeds three inches in diameter or ten inches in circumference and could contain bark beetles or any spore or reproductive structures of the fungus Ophiostoma ulmi or Ophiostoma novo-ulmi.

(a) *Control measures.* Control measures prescribed for abating Dutch Elm Disease are:

1. *Use of fungicide.* Fungicides may be effective in preventing Dutch elm disease when injected into living trees that do not already show symptoms of Dutch elm disease. Fungicide injections on private lands are optional and, if performed, are at the landowner's expense.

2. *Removal and disposal of trees.* Prompt removal of diseased trees or branches reduces breeding sites for elm bark beetles and eliminates the source of Dutch elm disease fungus. Trees that wilt before July 15 must be removed within 20 days of detection. Trees that wilt after July 15 must be removed by April 1 of the following year. Diseased trees not promptly removed will be removed by the city at the landowner's expense. Wood may be retained for use as firewood or sawlogs if it is de-barked or covered from April 15 to October 15 with 4mm plastic. The edges of the cover must be buried or scaled to the ground.

(b) *Definition of control areas.* The control area for Dutch elm disease is defined as all lands within the boundaries of the city.

(S) *Shade tree disease.* Dutch Elm Disease, Oak Wilt Disease, Emerald Ash Borer or any other vertebrate or invertebrate animal, plant pathogen or plant in the community threatening to cause significant damage to a shade tree or community forest.
(Ord. 166, passed 3-17-2014)

NUISANCES

§ 95.015 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 §§ 95.016, 95.017 or 95.018, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.
Penalty, see § 95.999

§ 95.016 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; and

(L) All unnecessary and annoying vibrations.
Penalty, see § 95.999

§ 95.017 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

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

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

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

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

(D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place. For the purposes of this section, ***INTOXICATING LIQUOR*** shall mean any ethyl alcohol, distilled, fermented, spirituous, vinous or malt beverage containing more than 0.5% alcohol by volume; and

(E) Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.
Penalty, see § 95.999

§ 95.018 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

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

(A) All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;

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

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

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

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

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

(G) 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 the 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 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 or sidewalk or to flow across any sidewalk;

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

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

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

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

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

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

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

(T) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

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

(V) (1) *Noises prohibited.*

(a) *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. This general prohibition is not limited by the specific restrictions of this section.

(b) *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.

(c) *Loading, unloading, unpacking.* No person shall create loud or excessive noise in loading, unloading or unpacking any vehicle.

(d) *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 radio receiving 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.

(e) *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 the institution.

(2) *Hourly restriction of certain operations.*

(a) *Domestic power equipment.* No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power 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 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

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

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

(3) *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.

(W) 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; and

(X) 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.
Penalty, see § 95.999

§ 95.019 NUISANCE PARKING AND STORAGE.

(A) *Declaration of nuisance.* The outside parking and storage on residentially-zoned property of large numbers of vehicles and 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:

(1) Obstructs views on streets and private property;

(2) Creates cluttered and otherwise unsightly areas;

(3) Prevents the full use of residential streets for residential parking;

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

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

(6) Otherwise adversely affects property values and neighborhood patterns.

(B) *Unlawful parking and storage.*

(1) A person must not place, store or allow the placement or storage of ice fish houses, skateboard ramps, playhouses or other similar non-permanent structures outside continuously for longer than 24 hours in the front yard area of residential property unless more than 100 feet back from the front property line.

(2) 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 by an opaque cover or fence.

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

(a) No more than four vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. This maximum number does not include vehicles of occasional guests who do not reside on the property.

(b) Vehicles that are parked or stored outside in the front yard area must be on a paved or graveled parking or driveway area.

(c) Vehicles, watercraft and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property.
Penalty, see § 95.999

§ 95.020 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 M.S. § 168B.011(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, and which does not foster complaint from a resident of the city. A privacy fence is permissible.

(C) Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that the 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.
Penalty, see § 95.999

§ 95.021 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 unsightly; decrease adjoining landowners and occupants' enjoyment of their property and neighborhood; and 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, antennas, 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.

Penalty, see § 95.999

§ 95.022 DUTIES OF CITY OFFICERS.

For purposes of §§ 95.022 and 95.023, the Police Department, or Sheriff or person designated by the City Council under § 10.20, if the city has at the time no Police Department, 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 police 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 § 10.20.

§ 95.023 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 M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

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

(B) *Procedure.* Whenever a peace officer or designated person determines that a public nuisance is being maintained or exists on the premises in the city, the officer or person designated may notify in writing the owner of record or occupant of the premises of the fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the 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) above 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) above, 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.
Penalty, see § 95.999

§ 95.024 RECOVERY OF COST.

(A) *Personal liability.* The owner of premises on which a nuisance has been abated by the city or a person who has caused a public nuisance on a property not owned by that person shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk 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 Clerk.

(B) *Assessment.* After notice and hearing as provided in M.S. § 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 Clerk shall, on or before September 1 next 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 M.S. § 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.
Penalty, see § 95.999

WEEDS

§ 95.035 SHORT TITLE.

This subchapter shall be cited as the "Weed Ordinance".

§ 95.36 JURISDICTION.

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

§ 95.037 DEFINITIONS; EXCLUSIONS.

(A) For the purpose of this subchapter, 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, in cases of appeal, on the property owner of the ordinance violation that shall conform to M.S. § 18.83, Subd. 2, as it may be amended from time to time.

MEADOW VEGETATION. Grasses and flowering broad-leaf plants that are native to, or adapted to, the state, and that are commonly found in meadow and prairie plant communities, except weeds as defined herein.

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:

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

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

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

(d) Any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants, growing to a height exceeding 12 inches;

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

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

(g) Any other weed designated by M.S. § 18.77(8), as it may be amended from time to time, as noxious.

(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.

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

(A) 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 12 inches in height.

(B) These provisions shall not apply to an area established with meadow vegetation if:

(1) The prior vegetation is eliminated and the meadow vegetation is planted through transplanting or seed by human or mechanical means; and

(2) A sign is posted on the property in a location likely to be seen by the public, advising that a meadow or prairie is being established. This sign must be no smaller than ten inches square, no larger than one square foot, and no higher than three feet tall.
Penalty, see § 95.999

§ 95.039 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 Clerk. If the city makes the complaint, an employee, officer or Council member of the city shall file the complaint in all respects as set out above.

§ 95.040 NOTICE OF VIOLATIONS.

(A) Upon receiving notice of the probable existence of weeds in violation of this subchapter, a person designated by the City Council shall make an inspection and prepare a written report to the City Council regarding the condition. The City Council, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in the form of a "destruction order" to the property owner or the person occupying the property as that information is contained within the records of the City Clerk or any other city agency. The notice shall be served in writing by certified mail. The notice shall provide that within seven regular business days after the receipt of the notice that the designated violation shall be removed by the property owner or person occupying the property.

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

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

§ 95.041 APPEALS.

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

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

§ 95.042 ABATEMENT BY CITY.

In the event that the property owner shall fail to comply with the "Destruction Order" within seven regular business days and has not filed a notice within 48 hours to the City Clerk of an intent to appeal, the City Council may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means. No person shall enter the property to abate the nuisance, except with the permission of the owner, resident or other person in control of the property.

§ 95.043 LIABILITY.

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

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

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

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

OPEN BURNING

§ 95.060 DEFINITIONS.

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

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

RUNNING FIRE. An attended fire allowed to spread through surface vegetative matter under controlled conditions for the purpose of vegetative management, forest management, game habitat management or agricultural improvement.

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.

VEGETATIVE MATERIALS. Dry leaves, dry grass clippings, twigs, branches, tree limbs, untreated or unpainted wood that contains no glues or resins, and other similar materials. Paper and cardboard are not considered ***VEGETATIVE MATERIALS***.

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

§ 95.061 PROHIBITED MATERIALS.

(A) No person shall conduct, cause or permit open burning oils, petro fuels, rubber, plastics, chemically treated materials or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, 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 § 95.999

§ 95.062 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 § 95.060.
Penalty, see § 95.999

§ 95.063 PURPOSES ALLOWED FOR OPEN BURNING.

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

(1) Elimination of fire or 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; or

(6) Running fires.

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

(C) Permits for the operation of permanent tree and brush burning sites may only be issued by the State Department of Natural Resources (DNR).
Penalty, see § 95.999

§ 95.064 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 from time to time by the City Council.
Penalty, see § 95.999

§ 95.065 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, if he or she reasonably believes necessary, may 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.

§ 95.066 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, MPCA representative or DNR forest officer.

(C) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including, but not limited to, fire suppression and administrative fees.
Penalty, see § 95.999

§ 95.067 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 § 95.999

§ 95.068 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.

§ 95.069 BURNING BAN OR AIR QUALITY ALERT.

No recreational fire or open burn will be permitted when the city or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert.
Penalty, see § 95.999

§ 95.070 RULES AND LAWS ADOPTED BY REFERENCE.

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

§ 95.071 EXTERNAL SOLID FUEL-FIRED HEATING DEVICES (OUTDOOR WOOD BURNING STOVES).

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

EXTERNAL SOLID FUEL-FIRED HEATING DEVICE. A device designed for external solid fuel combustion so that usable heat is derived for the interior of a building, and includes solid fuel-fired stoves, solid fuel-fired cooking stoves and combination fuel furnaces or boiler which burn solid fuel. ***SOLID FUEL-FIRED HEATING DEVICES*** do not include natural gas-fired fireplace logs or wood burning fireplaces or wood stoves in the interior of a dwelling.

PERSON. An individual, partnership, corporation, company or other association.

STACKS or ***CHIMNEYS.*** Any vertical structure incorporated into a building and enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device, especially, the part of such a structure extending above a roof.

(B) *Requirements for operation.*

(1) Any dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities, or any use of an external solid fuel-fired heating device to burn solid fuels other than those solid fuels for which the external solid fuel-fired heating device was designed, is declared a public nuisance.

(2) No person may install, use or operate an external solid fuel fired heating device on a lot less than four acres in size.

(3) All stacks or chimneys must be so constructed to withstand high winds or other related elements and in accordance to the specifications of the manufacturer of the external solid fuel-fired heating device. The stack height shall be a minimum of 25 feet above ground level, but shall also extend at least as high as the height of the roofs of residents within 500 feet. All stacks or chimneys must be of masonry or insulated metal with a minimum six-inch flue.

(4) All external solid fuel-fired heating devices must be set back a minimum of 50 feet from all property lines.

(5) All external solid fuel-fired heating devices must be setback a minimum of ten feet from any principal or accessory structure.

(C) *Fuels.*

(1) Only fuels designed for burning in an external solid fuel-fired heating device may be burned. No garbage may be burned in an external solid fuel-fired heating device.

(2) The only fuel permitted to be burned is untreated fuel. Wood may not be treated, processed, stained, finished or painted - specifically prohibited woods include plywood, particle board and similar products. Other fuels, such as corn, shall not contain any additives, treatments or chemicals. No petroleum products or processed materials of any kind may be burned.
Penalty, see § 95.999

§ 95.999 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 § 10.99

CHAPTER 96: RIGHT-OF-WAY PROVISIONS

Section

§ 96.01 ELECTION TO MANAGE THE PUBLIC RIGHT-OF-WAY.

In accordance with the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects pursuant to this chapter to manage rights-of-way within its jurisdiction.

§ 96.02 DEFINITIONS AND ADOPTION OF RULES BY REFERENCE.

Minn. Rules Ch. 7819, as it may be amended from time to time, is hereby adopted by reference and is incorporated into this code as if set out in full. The definitions included in M.S. § 237.162, as they may be amended from time to time, Minn. Rules part 7819.0100 subps. 1 through 23, and Minn. Rules part 7560.0100 subps. 1 through 12 are hereby adopted by reference and are incorporated into this chapter as if set out in full.

§ 96.03 PERMIT REQUIREMENT.

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

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

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

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

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

(D) *Permit display.* Permits issued under this subchapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Clerk, Utilities Superintendent or other person designated by the Council.
Penalty, see § 10.99

§ 96.04 PERMIT APPLICATIONS.

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

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

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

(2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration;

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

(a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state, or a form of self-insurance acceptable to the Clerk, Utilities Superintendent or other person designated by the Council;

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

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

(d) Requiring that the Clerk, Utilities Superintendent or other person designated by the Council be notified 30 days in advance of cancellation of the policy or material modification of a coverage term; and

(e) Indicating comprehensive liability coverage, automobile liability coverage, worker's compensation and umbrella coverage established by the Clerk, Utilities Superintendent or other person designated by the Council in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.

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

(5) If the person is a corporation, a copy of the certificate required to be filed under M.S. § 300.06, as it may be amended from time to time as recorded and certified to by the Secretary of State; and

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

(B) Payment of money due the city for:

(1) Permit fees as may be established by the City Council, estimated restoration costs and other management costs;

(2) Prior obstructions or excavations;

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

(4) Franchise fees or other charges as may be established by the City Council.

§ 96.05 ISSUANCE OF PERMIT; CONDITIONS.

(A) *Permit issuance.* If the applicant has satisfied the requirements of this chapter, the Clerk, Utilities Superintendent or other person designated by the Council shall issue a permit.

(B) *Conditions.* The director may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee shall comply with all requirements of local, state and federal laws, including but not limited to M.S. § 216D.01 - 216D.09 (Gopher One Call Excavation Notice System), as it may be amended from time to time, and Minn. Rules Ch. 7560.

(C) *Trenchless excavation.* As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in M.S. Chapter 216D, as it may be amended from time to time, and Minn. Rules Ch. 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the city.

§ 96.06 PERMIT FEES.

Permit fees shall be in an amount as may be established by the City Council.

(A) *Excavation permit fee.* The city shall establish an excavation permit fee as may be established by the City Council, in an amount sufficient to recover the following costs:

(1) The city management costs; and

(2) Degradation costs, if applicable.

(B) *Obstruction permit fee.* The city shall establish the obstruction permit fee as may be established by the City Council, and shall be in an amount sufficient to recover the city management costs.

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

(D) *Non-refundable.* Permit fees as may be established by the City Council, that were paid for a permit that the Clerk, Utilities Superintendent or other person designated by the Council has revoked for a breach as stated in § 96.14 are not refundable.

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

(F) *State law.* All permit fees shall be established consistent with the provisions of Minn. Rules part 7819.0100, as it may be amended from time to time.
Penalty, see § 10.99

§ 96.07 RIGHT-OF-WAY PATCHING AND RESTORATION.

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

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

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

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

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

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

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

(F) *Degradation fee in lieu of restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee as may be established by the City Council; however, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

§ 96.08 SUPPLEMENTARY APPLICATIONS.

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

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

§ 96.09 DENIAL OF PERMIT.

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

§ 96.10 INSTALLATION REQUIREMENTS.

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

§ 96.11 INSPECTION.

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

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

(C) *Authority of Clerk, Utilities Superintendent or other person designated by the Council.*

(1) At the time of inspection, the Clerk, Utilities Superintendent or other person designated by the Council may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.

(2) The Clerk, Utilities Superintendent or other person designated by the Council may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the Clerk, Utilities Superintendent or other person designated by the Council that the violation has been corrected. If proof has not been presented within the required time, the Clerk, Utilities Superintendent or other person designated by the Council may revoke the permit pursuant to § 96.14.

§ 96.12 WORK DONE WITHOUT A PERMIT.

(A) *Emergency situations.*

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

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

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

§ 96.13 SUPPLEMENTARY NOTIFICATION.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the Clerk, Utilities Superintendent or other person designated by the Council of the accurate information as soon as this information is known.

§ 96.14 REVOCATION OF PERMITS.

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

(1) The violation of any material provision of the right-of-way permit;

(2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;

(3) Any material misrepresentation of fact in the application for a right-of-way permit;

(4) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or

(5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 96.11.

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

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

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

§ 96.15 MAPPING DATA; INFORMATION REQUIRED.

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

(B) *Service laterals.* All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. Rules 7560.0150, Subp. 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals, and the service lateral vertical locations in those cases where the city reasonably requires it. Permittees or other subcontractors shall submit to the city evidence of the installed service lateral locations. Compliance with this division (B) and with applicable Gopher State One Call Law, being M.S. Chapter 216D, as it may be amended from time to time, and Minn. Rules governing service laterals installed after December 31, 2005, shall be a condition of any city approval necessary for:

(1) Payments to contractors working on a public improvement project including those under M.S. Chapter 429, as it may be amended from time to time; and

(2) City approval of performance under development agreements, or other subdivision or site plan approval under M.S. Chapter 462, as it may be amended from time to time.

(C) *Appropriate method.* The city shall reasonably determine the appropriate method of providing the information. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

§ 96.16 LOCATION OF FACILITIES.

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

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

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

§ 96.17 DAMAGE TO OTHER FACILITIES.

(A) When the city does work in the right-of-way and finds it necessary to maintain, support, or move facilities to protect it, the Clerk, Utilities Superintendent or other person designated by the Council shall notify the local representative as early as is reasonably possible and placed as required.

(B) The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each facility owner shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each facility owner shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that owner's facilities.

§ 96.18 RIGHT-OF-WAY VACATION.

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

§ 96.19 INDEMNIFICATION AND LIABILITY.

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

§ 96.20 ABANDONED FACILITIES; REMOVAL OF ABANDONED FACILITIES.

Any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation or construction, unless this requirement is waived by the Clerk, Utilities Superintendent or other person designated by the Council.

§ 96.21 APPEAL.

A right-of-way user that has been denied registration; has been denied a permit; has had permit revoked; believes that the fees imposed are invalid; or disputes a determination of the city regarding § 96.15(B), may have the denial, revocation or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation or fee as imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

§ 96.22 RESERVATION OF REGULATORY AND POLICE POWERS.

A permittee's or registrant's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.