

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: PARKS AND RECREATION

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MESABI TRAIL CORRIDOR

§ 90.01 PURPOSE.

The purpose of §§ 90.01 *et seq.*, which is enacted pursuant to M.S. Chapter 375.51, as it may be amended from time to time, is to secure the quiet, orderly, and suitable use and enjoyment by the public of the Mesabi Trail Corridor.
(Ord. 207-02, passed 12-30-2002)

§ 90.02 DEFINITIONS.

For the purpose of §§ 90.01 *et seq.*, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORITY. The elected members of the St. Louis and Lake Counties Regional Railroad Authority or the Itasca County Railroad Authority.

MOTOR VEHICLE. As defined in M.S. § 169A.03, as it may be amended from time to time, includes every vehicle which is self-propelled but does not include a vehicle moved solely by human power.

NATURAL RESOURCES. All flora and fauna within the Trail Corridor and the physical factors upon which they depend including the air, water, soil, and minerals.

NON-MOTORIZED VEHICLE. Any human powered mechanical device used for transportation.

OFF-ROAD RECREATIONAL VEHICLE. An off-highway motorcycle as defined in M.S. § 84.787, Subd. 7, as it may be amended from time to time; off-road vehicle as defined in M.S. § 84.797, Subd. 7, as it may be amended from time to time; snowmobile as defined in M.S. § 84.81, Subd. 3, as it may be amended from time to time; and all-terrain vehicle as defined in M.S. § 84.92, Subd. 8, as it may be amended from time to time.

PET. Any animal that is tamed and domesticated and kept as a companion.

POLLUTANT. Any substance, liquid, gas, or solid, which could cause contamination of any air, land, or water so as to create or cause a nuisance or render unclean or noxious or impure so as to be actually or potentially harmful or detrimental or injurious to public health, safety, welfare, or to wildlife.

RANGER. Those persons vested by the St. Louis and Lake County Regional Railroad Authority or the Itasca County Railroad Authority with the authority and primary duties to enforce laws, ordinances and regulations relating to the Trail and to issue permits referred to in §§ 90.01 *et seq.*

RIGHT-OF-WAY. Any and all land or real property within 8 feet from the sides of the designated Mesabi Trail, regardless of ownership.

TRAIL CORRIDOR. Any land or water area and all facilities thereon within the right-of-way of that certain trail designated as the Mesabi Trail.

WEAPON. Any device, including, but not limited to, firearms, bows, slings, and spring guns, from which a shot or projectile of any type can be discharged or propelled by means of an explosive gas, compressed air, or other means.

(Ord. 207-02, passed 12-30-2002)

§ 90.03 GENERAL CONDUCT WITHIN THE TRAIL SYSTEM.

It shall be unlawful for any person to:

- (A) Serve, possess, or consume any alcoholic beverage or beer within or upon the Trail Corridor unless authorized by written permit from a ranger;
 - (B) Deposit, scatter, drop, or abandon, in or on the Trail Corridor, bottles, cans, broken glass, hot coals, ashes, sewage, waste or other material, except in receptacles provided by the Authority for the purposes;
 - (C) Place any debris or other pollutant in or upon any body of water within the Trail Corridor;
 - (D) Start a fire in the Trail Corridor except in an area officially designated by the Authority and then only in fire rings, portable stoves and grills, or to leave a fire unattended or fail to fully extinguish a fire or scatter or leave unattended lighted matches, burning tobacco, paper, or other combustible material;
 - (E) Sell, solicit, advertise, including but not limited to placing or erecting any type of sign or advertisement, or conduct any commercial enterprise within the Trail Corridor unless authorized by resolution of the Authority;
 - (F) Discharge waste water or any other wastes on the Trail Corridor except into containers, drains, or dumping stations provided by the Authority for the purpose;
 - (G) Dig trenches, holes, or other excavations in the Trail Corridor without written authorization from a ranger;
 - (H) Operate or permit the use or operation of any loud speaker, sound amplifier, or other device for the production or reproduction of sound within the Trail Corridor for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment;
 - (I) Bring or allow a pet into or on the Trail Corridor, except on a leash not to exceed 6 feet in length;
 - (J) Leave the Trail Corridor and enter on private property without permission of the landowner;
 - (K) It shall be unlawful for a person to violate any provision of a use permit granted by a ranger; and/or
 - (L) It shall be unlawful for a person to use, without payment, any facility or area within the Trail Corridor for which a fee or charge has been established by resolution of the Authority.
- (Ord. 207-02, passed 12-30-2002) Penalty, see § 10.99

§ 90.04 PROTECTION OF NATURAL RESOURCES WITHIN THE TRAIL SYSTEM.

It shall be unlawful for any person to:

- (A) Intentionally remove, alter, injure, or destroy any tree, other plant, rock, soil, or mineral within the Trail Corridor;
 - (B) Kill, trap, hunt, or harass any species of wildlife within the Trail Corridor;
 - (C) Discharge any missile or other projectile from a weapon upon, over, or across the Trail Corridor;
 - (D) Possess any loaded weapon within the Trail Corridor; and/or
 - (E) Release or abandon within the Trail Corridor any animal or introduce any plant, chemical, or other agent without written authorization from a ranger.
- (Ord. 207-02, passed 12-30-2002) Penalty, see § 10.99

§ 90.05 CAMPING.

It shall be unlawful for any person to camp within the Trail Corridor except in areas provided and designated for that purpose by the Authority.
(Ord. 207-02, passed 12-30-2002) Penalty, see § 10.99

§ 90.06 HORSEBACK RIDING.

It shall be unlawful for any person to ride, lead, or allow a horse within the Trail Corridor, except where designated by resolution of the Authority.
(Ord. 207-02, passed 12-30-2002) Penalty, see § 10.99

§ 90.07 NON-MOTORIZED VEHICLES.

It shall be unlawful for any person to:

(A) Operate a bicycle on any area of the Trail Corridor except on bikeways and roadways. Bicycles shall be operated as close to the right-hand side of the bikeways and roadways as conditions permit;

(B) Operate or control roller blades, carts, wagons, strollers, wheelchairs, and other wheeled conveyances on any area of the Trail Corridor except on bikeways and roadways. Wheeled conveyances shall be operated as close to the right-hand side of the bikeways and roadways as conditions permit; and/or

(C) Operate or possess a non-motorized vehicle exceeding 36 inches in total width within the Trail Corridor.

(Ord. 207-02, passed 12-30-2002) Penalty, see § 10.99

§ 90.08 MOTOR VEHICLES.

It shall be unlawful for any person to:

(A) Operate a motor vehicle or off-road recreational vehicle within the Trail Corridor except where designated and authorized by resolution of the Authority;

(B) To park or leave a motor vehicle within the Trail Corridor except snowmobiles where authorized by resolution of the Authority; and/or

(C) The city may operate a motor vehicle or 4-wheeler on the trail during the time of special events, required maintenance by street sweeper and law enforcement for emergencies.

(Ord. 207-02, passed 12-30-2002) Penalty, see § 10.99

§ 90.09 MOTORIZED WHEELCHAIRS.

(A) Wheelchairs are allowed for use within the Trail Corridor by those persons with a disability requiring the use of a wheelchair.

(B) Motorized wheelchairs shall not exceed 36 inches in width and shall be operated as close to the right-hand side of the bikeways and roadways as conditions will permit. (Ord. 207-02, passed 12-30-2002) Penalty, see § 10.99

§ 90.10 MEETINGS, SPEECHES, DEMONSTRATIONS, AND PARADES.

It shall be unlawful for any person or persons to conduct public meetings, assemblies, parades, or gatherings on the trail which would in anyway interfere with or obstruct travel in the Trail Corridor, except with a written permit from a ranger. (Ord. 207-02, passed 12-30-2002) Penalty, see § 10.99

§ 90.11 OPERATIONS AND ENFORCEMENT.

(A) Licensed peace officers are authorized to enforce the provisions of §§ 90.01 *et seq.* Rangers shall, in connection with their duties imposed herein, diligently enforce the provisions of §§ 90.01 *et seq.*, and may, in addition to any authority imposed by statute, issue citations and eject from the Trail Corridor persons acting in violation of §§ 90.01 *et seq.*

(B) Any part of the Trail Corridor may be declared closed to the public or to certain uses at any time, as the Authority of ranger shall find reasonably necessary.

(C) A ranger shall have the authority to revoke for good cause any permit. Any permit or reservation may be revoked upon the violation by the permittee of any ordinance, rule, or regulation of the Trail.

(D) Nothing in §§ 90.01 *et seq.* shall prevent employees or agents of the Authority from performing their assigned duties.

(E) If any provision of §§ 90.01 *et seq.* is held to be invalid, the invalidity shall not affect the validity of any other provision of §§ 90.01 *et seq.*

(F) The Authority shall have the right to issue rules and regulations to enhance or supplement §§ 90.01 *et seq.*
(Ord. 207-02, passed 12-30-2002)

§ 90.12 VIOLATIONS.

A person guilty of violating any provision of §§ 90.01 *et seq.* shall be guilty of a petty misdemeanor punished as that term is defined by M.S. § 609.02, Subd. 4a, as it may be amended from time to time.

(Ord. 207-02, passed 12-30-2002) Penalty, see § 10.99

§ 90.13 EFFECTIVE DATE.

(A) Sections 90.01 *et seq.* shall be effective upon passage by the St. Louis and Lake Counties Regional Railroad Authority, the Itasca County Railroad Authority, the St. Louis County Board of Commissioners, and the Itasca County Board of Commissioners.

(B) Sections 90.01 *et seq.* shall be effective upon passage and publication.
(Ord. 207-02, passed 12-30-2002)

CAMPING

§ 90.25 PUBLIC CAMPING AREAS TO BE DESIGNATED.

(A) There shall be no tent camping or trailer camping or other camping in any public area within the city limits of the City of Nashwauk except in those areas specifically designated by official city signage as public camping areas.

(B) Any violation of this section shall constitute a petty misdemeanor and shall be punishable by the maximum fine as authorized by state law as amended from time to time.

(C) The section becomes effective upon its passage and publication according to law.
(Ord. 190, passed 9-7-1993) Penalty, see § 10.99

CHAPTER 91: ANIMALS

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

(3) **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, non-domestic 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 descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or 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.

(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, 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 the male and female of the felidae species commonly accepted as domesticated household pets.

DOG. Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

OWNER. Any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

RELEASE PERMIT. A permit issued by the Animal Control Officer or other person in charge of the pound for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee to the City Clerk/Treasurer in accordance with the

regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established by City Council from time to time.

§ 91.02 DOGS AND CATS.

(A) *Running at large prohibited.* 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) *License required.*

(1) All dogs over the age of 6 months kept, harbored, or maintained by their owners in the city, shall be licensed and registered with the city. Dog licenses shall be issued by the City Clerk/Treasurer upon payment of the license fee as established by City Council from time to time. The owner shall state, at the time application is made for the license and upon forms provided, his or her name and address and the name, breed, color, and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against distemper and rabies, as evidenced by a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated.

(2) It shall be the duty of each owner of a dog subject to this section to pay to the City Clerk/Treasurer the license fee established by City Council from time to time.

(3) Upon payment of the license fee as established by City Council from time to time, the Clerk/Treasurer shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it the year for which it is issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate shall be issued by the City Clerk/Treasurer. A charge shall be made for each duplicate tag in an amount established by City Council from time to time. Dog tags shall not be transferable from 1 dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the city before the expiration of the license period.

(4) The licensing provisions of this division (B) shall not apply to dogs whose owners are nonresidents temporarily within the city, nor to dogs brought into the city for the purpose of participating in any dog show. If the animal owned is a service animal which is capable of being properly identified as from a recognized school for seeing eye, hearing ear, service or guide animals, and the owner is a blind or deaf person, or a person with physical or sensory disabilities, then no license shall be required.

(5) The funds received by the City Clerk/Treasurer from all dog licenses and metallic tags fees as established by City Council from time to time, shall first be used to defray any costs incidental to the enforcement of this chapter; including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs.

(C) *Cats.* Cats shall be included as controlled by this division insofar as running-at-large, pickup, impounding, boarding, licensing and proof of anti-rabies vaccine is concerned. All other provisions of this section shall also apply to cats unless otherwise provided.

(D) *Vaccination.*

(1) All dogs and cats kept harbored, maintained, or transported within the city shall be vaccinated at least once every 3 years by a licensed veterinarian for:

(a) Rabies - with a live modified vaccine; and

(b) Distemper.

(2) A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Clerk/Treasurer, the Animal Control Officer or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have 7 days in which to present the certificate(s) to the City Clerk/Treasurer or officer. Failure to do so shall be deemed a violation of this section.

Penalty, see § 91.99

§ 91.03 NON-DOMESTIC ANIMALS.

It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the city. Any owner of a non-domestic animal at the time of adoption of this code 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 section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

Penalty, see § 91.99

§ 91.04 FARM ANIMALS.

Farm animals shall only be kept in an agricultural district of the city, or on a residential lot of at least 10 acres in size provided that no animal shelter shall be within 300 feet of an adjoining piece of property. An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

§ 91.05 IMPOUNDING.

(A) *Running at large.* Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. The Animal Control Officer or

police officer shall not enter the property of the owner of an animal found running at large or the owner of an unlicensed animal unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction to search for and seize the animal. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

(B) *Biting animals.* Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the city pound for a period of not less than 10 days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the county in which this city is located, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

(C) *Reclaiming.* All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least 5 regular business days, unless the animal is a dangerous animal as defined under § 91.11 in which case it shall be kept for 7 regular business days or the times specified in § 91.11, and except if the animal is a cruelly-treated animal in which case it shall be kept for 10 regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

(1) Payment of the release fee and receipt of a release permit as established by City Council from time to time.

(2) Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in the pound; and

(3) If a dog is unlicensed, payment of a regular license fee as established by City Council from time to time, and valid certificate of vaccination for rabies and distemper shots is required.

(D) *Unclaimed animals.* At the expiration of the times established in division (C) of this section, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the animal by complying with all provisions in this section, or the officer may sell the animal to the University of Minnesota, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Clerk/Treasurer.

(E) In the event that the city pays for the impoundment of an animal, the city shall have a civil cause of action against the owner of the animal. In addition, if the owner of the animal owns real estate, the city can assess those fees on the real estate taxes. The fees are a

one-time assessment to the taxes, and the city shall notify the Itasca County Auditor of the amount of fees to be assessed.

(Ord. –, passed –) Penalty, see § 91.99

§ 91.06 KENNELS.

(A) *Definition of kennel.* The keeping of 3 or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a “kennel;” except that a fresh litter of pups may be kept for a period of 3 months before that keeping shall be deemed to be a “kennel.”

(B) *Kennel as a nuisance.* Because the keeping of 3 or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of 3 or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the city. Penalty, see § 91.99

§ 91.07 NUISANCES.

(A) *Habitual barking.* It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least 5 minutes with less than 1 minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

(B) *Damage to property.* It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.

(C) *Cleaning up litter.* The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of the feces in a sanitary manner whether on their own property, on the property of others or on public property.

(D) *Warrant required.* The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, to search for and seize the animal.

(E) *Other.* Any animals kept contrary to this section are subject to impoundment as provided in § 91.05. Penalty, see § 91.99

§ 91.08 SEIZURE OF ANIMALS.

Any police officer or Animal Control Officer may enter upon private property and seize any animal with the permission of the owner of the property, if that person is also the owner of the animal, provided that the following exist:

(A) There is an identified complainant other than the police officer or Animal Control Officer making a contemporaneous complaint about the animal;

(B) The officer reasonably believes that the animal meets either the barking dog criteria set out in § 91.07(A); the criteria for cruelty set out in § 91.13; or the criteria for an at large animal set out in § 91.01(E);

(C) The officer can demonstrate that there has been at least 1 previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;

(D) The officer has made a reasonable attempt to contact the owner of the animal and the property to be entered and those attempts have either failed or have been ignored;

(E) The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, to search for and seize the animal. If the officer has the permission of the owner, a property manager, landlord, innkeeper, or other authorized person to enter the property or has obtained a pass key from a property manager, landlord, innkeeper, or other authorized person to have that key shall not be considered unauthorized entry, and a warrant to search for and seize the animal need not be obtained; and

(F) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.

§ 91.09 ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY.

If, in the reasonable belief of any person or the Animal Control Officer or police officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner whether or not the animal is on the property of its owner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under § 91.05. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with § 91.05(C).

§ 91.10 DISEASED ANIMALS.

(A) *Running at large.* No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of the city, even though the animal be properly licensed under this section, and a warrant to search for and seize the animal is not required.

(B) *Confinement.* Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person, the Animal Control Officer or a police officer. The officer shall have a qualified

veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

(C) *Release.* If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.

Penalty, see § 91.99

§ 91.11 DANGEROUS ANIMALS.

(A) *Attack by an animal.* It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

(B) *Destruction of dangerous animal.* The Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

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

(1) **DANGEROUS ANIMAL.** An animal which has:

(a) Caused bodily injury or disfigurement to any person on public or private property;

(b) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;

(c) Exhibited unusually aggressive behavior, such as an attack on another animal;

(d) Bitten one or more persons on two or more occasions; or

(e) Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(2) **POTENTIALLY DANGEROUS ANIMAL.** An animal which has:

(a) Bitten a human or a domestic animal on public or private property;

(b) When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or

(c) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

(3) **PROPER ENCLOSURE.** Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the

animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

(a) Have a minimum overall floor size of 32 square feet.

(b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed 2 inches, support posts shall be 1¼-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.

(c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than 2 inches.

(d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than 2 inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

(4) **UNPROVOKED.** The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

(D) *Designation as potentially dangerous animal.* The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in division (C)(2). When an animal is declared potentially dangerous, the Animal Control Officer shall cause 1 owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

(E) *Evidence justifying designation.* The Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

(1) That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(2) That the animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(F) *Authority to order destruction.* The Animal Control Officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing 1 or more of the following findings of fact:

(1) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or

(2) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

(G) *Procedure.* The Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner: The Animal Control Officer shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing before the City Council for a review of this determination.

(1) If no appeal is filed, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction, unless the animal is already in custody or the owner consents to the seizure and destruction of the animal.

(2) If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than 3 weeks after demand for the hearing. The records of the Animal Control or City Clerk's office shall be admissible for consideration by the Animal Control Officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the Animal Control Officer take the animal into custody for destruction, if the animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Animal Control Officer. If the owner does not immediately make the animal available, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction.

(3) No person shall harbor an animal after it has been found by to be dangerous and ordered into custody for destruction.

(H) *Stopping an attack.* If any police officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

(I) *Notification of new address.* The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Animal Control Officer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification shall be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any.

Penalty, see § 91.99

§ 91.12 DANGEROUS ANIMAL REQUIREMENTS.

(A) *Requirements.* If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:

(1) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in § 91.11(C)(3);

(2) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in M.S. § 347.51 as may be amended from time to time;

(3) Provide and show proof annually of public liability insurance in the minimum amount of \$300,000;

(4) If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed 6 feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;

(5) If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. § 347.51 as it may be amended from time to time, and shall have a microchip implant as provided by M.S. § 347.151, as it may be amended from time to time;

(6) All animals deemed dangerous by the Animal Control Officer shall be registered with the county in which this city is located within 14 days after the date the animal was so deemed and provide satisfactory proof thereof to the Animal Control Officer.

(7) If the animal is a dog, the dog must be licensed and up to date on rabies vaccination. If the animal is a cat or ferret, it must be up to date with rabies vaccination.

(B) *Seizure.* As authorized by M.S. § 347.54, as it may be amended from time to time, the Animal Control Officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

(C) *Reclaiming animals.* A dangerous animal seized under § 91.12(B), may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to animal control that each of the requirements under § 91.12(B), is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under § 91.11(F), and the owner is liable to the city for costs incurred in confining and impounding the animal.

(D) *Subsequent offenses.* If an owner of an animal has subsequently violated the provisions under § 91.11 with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in § 91.11(F). If the owner is found to have violated the provisions for which the animal was seized, the Animal Control Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of § 91.12(C). If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under § 91.11(F) and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

§ 91.13 BASIC CARE.

All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in a humane manner will be subject to the penalties provided in this section.

§ 91.14 BREEDING MORATORIUM.

Every female dog or female cat in heat shall be confined in a building or other enclosure in a manner that it cannot come in contact with another dog or cat except for planned breeding. Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new owner.

§ 91.15 ENFORCING OFFICER.

The Council is hereby authorized to appoint an animal control officer(s) to enforce the provisions of this section. In the officer's duty of enforcing the provisions of this section, he or she may from time to time, with the consent of the City Council, designate assistants.

§ 91.16 POUND.

Every year the Council shall designate an official pound to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary, for destruction.

§ 91.17 INTERFERENCE WITH OFFICERS.

No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs, cats or other animals and convey them to the pound while engaged in that operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this chapter, or in any other manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter.

Penalty, see § 91.99

§ 91.18 FEEDING WATERFOWL AND PIGEONS.

(A) *Policy and purpose.* Waterfowl waste deposited near bodies of water or within the watershed can have deleterious effects upon the environmental conditions within those bodies of water and waterfowl waste may carry bacteria and viruses that cause disease. By enactment of this section, the City Council intends to protect the public health, safety, and welfare of the citizens of Nashwauk from such effect. The City Council also deems that pigeons are a nuisance in that their waste and nesting cause problems for landowners and citizens of the city.

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

WATERFOWL. Includes, but is not limited to, geese, ducks, and sea gulls.

PIGEON. Includes all non-domesticated pigeons.

(C) *Feeding prohibited.* No person may feed waterfowl on private or public property in the city or place or permit to be placed on the ground, shoreline, body of water, or structure any food, food by-products, garbage, or animal food, which may reasonably be expected to intentionally result in waterfowl feeding. The feeding of pigeons is prohibited except for pigeon control programs contracted for by the City Council. No person shall feed a non-domesticated pigeon nor place feed in a place or manner that a reasonable person would expect to result in feeding a non-domesticated pigeon. This section does not apply to domesticated pigeons such as those kept for racing, entertainment, performance or agricultural purposes.

(D) *Exceptions.* The prohibition against feeding waterfowl shall not apply to the following persons:

- (1) Veterinarians who have custody of or manage waterfowl;
 - (2) Persons who, acting within the scope and course of their employment with any governmental entity, have custody of or manage waterfowl;
 - (3) Persons who are trapping or taking waterfowl where such trapping or taking is authorized pursuant to a permit issued by the Minnesota Department of Natural Resource; and
 - (4) Persons contracted by the city for a pigeon control program.
- (Ord. 212-06, passed 7-27-2006; Am. Ord. 231-16, passed 6-28-2016) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) *Separate offenses.* Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable under this section.

(B) *Misdemeanor.* Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable as provided in § 10.99.

(C) *Petty misdemeanor.* Violations of §§ 91.02, 91.07, 91.13 and 91.14 are petty misdemeanors punishable as provided in § 10.99.

(D) A first violation of § 91.18 shall result in a written warning from city staff. A subsequent violation of § 91.18 shall be a petty misdemeanor.

(Ord. 212-06, passed 7-27-2006; Am. Ord. 231-16, passed 6-18-2016)

CHAPTER 92: STREETS AND SIDEWALKS

Section

Digging Permits

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| 92.01 | Permit required |
| 92.02 | Fee |
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| 92.04 | Application |
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| 92.15 | Obstructions prohibited |
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DIGGING PERMITS

§ 92.01 PERMIT REQUIRED.

No person or corporation shall cause the surface or base of any city street or alley to be cut, dug up, or modified in any way without first having obtained a permit from the City Clerk/Treasurer.

(Ord. 151, passed 11-16-1982) Penalty, see § 10.99

§ 92.02 FEE.

The fee for a "digging" permit shall be an amount set by City Council from time to time for each separate cut into a street or alley.

(Ord. 151, passed 11-16-1982)

§ 92.03 ENDORSEMENT REQUIRED.

No permit shall be valid until endorsed by the delegate of the City Council, who in most cases will be the Street Commissioner.

(Ord. 151, passed 11-16-1982; Am. Ord. 154, passed 9-27-1983)

§ 92.04 APPLICATION.

Each applicant for a permit shall execute a form provided by the City Clerk/Treasurer and agree to the following provisions of his or her permit.

(A) The applicant shall, within a reasonable time, repair and replace the street or alley to its original condition using reasonably available technique of construction.

(B) Each permittee shall comply with city standards for backfill, resurfacing material, and cleanup of a completed job.

(C) Appropriate signs and barricades shall be installed to protect the public.

(D) The applicant shall hold the city harmless from the claims from persons injured from the construction.

(Ord. 151, passed 11-16-1982) Penalty, see § 10.99

§ 92.05 CITY MAY ELECT TO PERFORM WORK.

Should the applicant fail to repair the street or alley as required by §§ 92.01 *et seq.* and his or her permit, the city may elect to make repairs and the cost of the repair shall be reimbursed by the applicant and paid to the city, forthwith.

(Ord. 151, passed 11-16-1982)

§ 92.06 BOND.

(A) (1) The city may require a bond or deposit to be made by applicants whose financial responsibility is not established by readily identifiable factors, such as size or age of a corporation or land holdings of a local business or individual.

(2) The bond shall be in an amount set by City Council from time to time.

(B) The minimum deposit shall be equal to the estimated cost of the entire project.
(Ord. 151, passed 11-16-1982; Am. Ord. 154, passed 9-27-1983)

§ 92.07 EFFECTIVE DATE.

Sections 92.01 *et seq.* shall be in force and effect from and after its passage and publication according to law.

(Ord. 151, passed 11-16-1982)

§ 92.08 VIOLATIONS.

Digging without a permit shall be a misdemeanor.
(Ord. 154, passed 9-27-1983) Penalty, see § 10.99

OBSTRUCTIONS

§ 92.15 OBSTRUCTIONS PROHIBITED.

(A) No person shall obstruct a city sidewalk by placing vehicles on the sidewalk.

(B) No person shall cause shrubs, which are not to exceed 6 feet, bushes or branches of trees to hinder the use of the sidewalk by pedestrians. Shrubbery must be kept trimmed so to not be a hindrance to a user of the sidewalk.

(C) Violations of this section are subject to an administrative fine or a misdemeanor.
(Ord. 92-09, passed 8-26-2009)

CHAPTER 93: HEALTH AND SAFETY; NUISANCES

Section

General Provisions

93.01 Assessable current services

93.02 Tree diseases

Nuisances

93.15 Public nuisance

93.16 Public nuisances affecting health

Nashwauk, MN Code of Ordinances

- 93.17 Public nuisances affecting morals and decency
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Weeds

- 93.35 Short title
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- 93.55 Definitions
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- 93.57 Permit required for open burning
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- 93.62 Revocation of open burning permit
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- 93.64 Burning ban or air quality alert
- 93.65 Rules and laws adopted by reference

GENERAL PROVISIONS

§ 93.01 ASSESSABLE CURRENT SERVICES.

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

CURRENT SERVICE. Shall mean 1 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.*

(a) The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians.

(b) No owner or occupant shall allow snow, ice, dirt, or rubbish to remain on the walk longer than 24 hours after its deposit thereon.

(c) Failure to comply with this section shall constitute a violation.

(2) *Removal by city.*

(a) The City Clerk/Treasurer 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.

(b) The City Clerk/Treasurer 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/Treasurer.

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

(2) *Inspections; notice.*

(a) The City Council or its designee shall make inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians or vehicles.

(b) If it is found that any sidewalk or alley abutting on private property is unsafe and in need of repairs, the City Council shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property, ordering the owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so, the city will do so and that the expense thereof must be paid by the owner, and if unpaid it will be made a special assessment against the property concerned.

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

(F) *Personal liability.*

(1) 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.

(2) As soon as the service has been completed and the cost determined, the City Clerk/Treasurer, 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/Treasurer.

(G) *Damage to public property.*

(1) 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.

(2) 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 the damage.

(3) 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.*

(1) On or before September 1 of each year, the City Clerk/Treasurer 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.

(2) 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 10, as the City Council may determine in each case.

Penalty, see § 10.99

§ 93.02 TREE DISEASES.

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

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

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

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

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

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

(B) *Abatement of nuisance.*

(1) It is unlawful for any person to permit any public nuisance as defined in division (A) of this section to remain on any premises the person owns or controls within the city.

(2) The City Council may by resolution order the nuisance abated.

(3) Before action is taken on that resolution, the City Council shall publish notice of its intention to meet to consider taking action to abate the nuisance.

(4) This notice shall be mailed to the affected property owner and published once no less than 1 week prior to the meeting.

(5) The notice shall state the time and place of the meeting, the street affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs.

(6) At the hearing or adjournment thereof, the City Council shall hear any property owner with reference to the scope and desirability of the proposed project.

(7) The City Council shall thereafter adopt a resolution confirming the original resolution with modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

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

(D) *Unpaid charges.*

(1) On or before September 1 of each year, the City Clerk/Treasurer shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section.

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

Penalty, see § 10.99

NUISANCES

§ 93.15 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 §§ 93.16, 93.17, or 93.18, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.

Penalty, see § 10.99

§ 93.16 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

- (A) Exposed accumulation of decayed or unwholesome food or vegetable matter;
- (B) All diseased animals running at large;
- (C) All ponds or pools of stagnant water;
- (D) Carcasses of animals not buried or destroyed within 24 hours after death;
- (E) Accumulations of manure, refuse, or other debris;
- (F) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- (G) The pollution of any public well or cistern, stream or lake, canal, or body of water by sewage, industrial waste, or other substances;
- (H) All noxious weeds and other rank growths of vegetation upon public or private property;
- (I) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- (J) All public exposure of people having a contagious disease; and
- (K) Any offensive trade or business as defined by statute not operating under local license.

Penalty, see § 10.99

§ 93.17 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

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

- (A) All gambling devices, slot machines, and punch boards, except as otherwise authorized by federal, state, or local law;
- (B) Betting, bookmaking, and all apparatus used in those occupations;
- (C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- (D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place; 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 § 10.99

§ 93.18 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

Nashwauk, MN Code of Ordinances

(A) (1) Unreasonable acceleration of any motor vehicle on any street, private road, public or private parking lot, or driveway within the corporate limits of the City of Nashwauk is prohibited. Unreasonable acceleration is movement of a motor vehicle in such a way as to endanger the safety of persons or property or in a way as to frighten or abruptly distract persons within sight or hearing of the movement, whether or not any person has heard or seen the movement. The acceleration includes, but is not limited to, acceleration which spins a tire or tires resulting in the sound of squealing or screeching, gears to grind, soil to be thrown, engine backfire, fishtailing, or skidding, and the use of "U" turns done rapidly or when the turn exceeds 180 degrees. The acceleration may also include the unreasonable use of brakes.

(2) As required by M.S. § 169.693, no person shall operate a motor vehicle in the city in violation of the motor vehicle noise limits of the Minnesota Pollution Control Agency.

(3) No owner, driver, or operator of a motor vehicle shall operate or permit the use of operation of any vehicle radio, stereo, compact disc player, receiver, tape deck, or any similar device used for the production of sound in any public or private place in a manner or at a noise level which is plainly audible by any person from a distance of 50 feet from the source, knowing or having reasonable ground to know that it will alarm, anger, or disturb others or otherwise affect the peace and quiet of any person who may witness or hear it.

(4) (a) Any violation of this division (A) shall be punishable by a misdemeanor.

(b) Noise of a volume as to be clearly audible at a distance of 50 feet away from the location where the noise is occurring shall be prima facie evidence of a violation of this division (A).

(5) This division (A) becomes effective on the date of its publication, or upon the publication of summary of this division (A) as provided by M.S. § 412.191, Subd. 4, as it may be amended from time to time, which meets the requirements of M.S. § 331A.01, Subd. 10, as it may be amended from time to time.

(Ord. 208-03, passed 7-14-2003)

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

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

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

(3) 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;

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

(5) 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;

(6) 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;

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

(8) 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;

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

(10) 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;

(11) 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;

(12) 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;

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

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

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

(16) 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;

(17) 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;

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

(19) 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;

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

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

Penalty, see § 10.99

§ 93.19 DUTIES OF CITY OFFICERS.

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

§ 93.20 ABATEMENT.

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

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

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

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

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

(B) *Procedure.*

(1) Whenever a peace officer determines that a public nuisance is being maintained or exists on the premises in the city, the officer shall notify in writing the owner of record or occupant of the premises of the fact and order that the nuisance be terminated or abated.

(2) The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated.

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

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

(C) *Emergency procedure; summary enforcement.*

(1) In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) of this section will permit a

continuing nuisance to unreasonably endanger public health, safety, or welfare, the City Council may order summary enforcement and abate the nuisance.

(2) To proceed with summary enforcement, the officer shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety, or welfare.

(3) The officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement.

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

(5) 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 § 10.99

§ 93.21 RECOVERY OF COST.

(A) *Personal liability.*

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

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

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

(B) *Assessment.*

(1) If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Clerk/Treasurer shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other the charges as well as other charges for current services to be assessed under M.S § 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable.

(2) 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 10, as the City Council may determine in each case.

Penalty, see § 10.99

WEEDS

§ 93.35 SHORT TITLE.

This subchapter shall be cited as the “Weed Ordinance.”

§ 93.36 JURISDICTION.

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

§ 93.37 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.

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 2 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; and

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

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

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

All property owners shall be responsible for the removal, cutting, or disposal and elimination of weeds, grasses, and rank vegetation or other uncontrolled plant growth on their property, which at the time of notice, is in excess of 12 inches in height.

Penalty, see § 10.99

§ 93.39 FILING COMPLAINT.

(A) 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/Treasurer.

(B) 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.

§ 93.40 REGULATION OF GRASS, WEEDS, AND TREES.

(A) *Duty of property owners to cut grass and weeds and maintain trees and shrubs.* Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of the property nearest to the street to the center of the street. If the grass or weeds in such a place attain a height in excess of 12 inches, it shall be prima facie evidence of a failure to comply with this section.

(B) *Notification.* The city shall send a seven day service of notice by first class mail to the registered tax payer's address of each lot. The date of the letter's postmark shall serve as day one of the notice.

(C) *City may order work done.* The city may, in cases of failure to comply with this section, perform the work with employees of the city, keeping an accurate account of the cost thereof for each lot, piece or parcel of land abutting upon the street.

(D) *Assessment.* If the maintenance work is performed by the city as set forth in division (C) above, the City Clerk shall forthwith, upon completion thereof, ascertain the cost attributable to each lot, piece or parcel of abutting land. The City Clerk shall, at the next regular meeting thereof, present the certificate to the Council and obtain its approval thereof. When the certificate has been approved, it shall be extended as to the cost therein stated as a special assessment against the abutting land and the special assessment shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments are certified and collected.

(Ord. 242-17, passed 7-11-2017)

§ 93.41 APPEALS.

(A) (1) 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.

(2) 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.

§ 93.42 ABATEMENT BY CITY.

In the event that the property owner shall fail to comply with the “Destruction Order” within 7 regular business days and has not filed a notice within 48 hours to the City Clerk/Treasurer 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.

§ 93.43 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/Treasurer 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

§ 93.55 DEFINITIONS.

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

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

OPEN BURNING. The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct, or chimney, except a “recreational fire” as defined herein. Mobile cooking devices such as manufactured hibachis,

charcoal grills, wood smokers, and propane or natural gas devices are not defined as **OPEN BURNING**.

RECREATIONAL FIRE.

(1) A fire set with approved starter fuel no more than 3 feet in height, contained within the border of a “recreational fire site” using dry, clean wood; producing little detectable smoke, odor, or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health, or safety hazards will not be created.

(2) No more than 1 recreational fire is allowed on any property at 1 time.

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

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

WOOD. Dry, clean fuel only such as twigs, branches, limbs, “presto logs,” charcoal, cord wood, or untreated dimensional lumber. The term does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue, or preservatives. Clean pallets may be used for recreational fires when cut into 3-foot lengths.

§ 93.56 PROHIBITED MATERIALS.

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

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

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

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

Penalty, see § 10.99

§ 93.57 PERMIT REQUIRED FOR OPEN BURNING.

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in § 93.55.

Penalty, see § 10.99

§ 93.58 PURPOSES ALLOWED FOR OPEN BURNING.

- (A) Open burn permits may be issued only for the following purposes:
- (1) Elimination of fire of health hazard that cannot be abated by other practical means;
 - (2) Ground thawing for utility repair and construction;
 - (3) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading, or other alternative methods are not practical;
 - (4) Disposal of diseased trees generated on site, diseased or infected nursery stock, diseased bee hives; and
 - (5) Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical.
- (B) Fire training permits can only issued by the Minnesota Department of Natural Resources.
- Penalty, see § 10.99

§ 93.59 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.

- (A) (1) 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.
- (2) 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 in this code, as it may be amended from time to time.
- Penalty, see § 10.99

§ 93.60 PERMIT PROCESS FOR OPEN BURNING.

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

§ 93.61 PERMIT HOLDER RESPONSIBILITY.

- (A) (1) 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.
- (2) Every open burn event shall be constantly attended by the permit holder or his or her competent representative.
- (3) The open burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan.
- (B) (1) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site.
- (2) No fire may be allowed to smolder with no person present.
- (3) 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) (1) 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.
- (2) The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees.
- Penalty, see § 10.99

§ 93.62 REVOCATION OF OPEN BURNING PERMIT.

- (A) The open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief, Fire Marshal, or Assistant Fire Marshals.
- (B) Reasons for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.
- Penalty, see § 10.99

§ 93.63 DENIAL OF OPEN BURNING PERMIT.

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

§ 93.64 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 § 10.99

§ 93.65 RULES AND LAWS ADOPTED BY REFERENCE.

The provisions of M.S. §§ 88.16 through 88.22 and the Minnesota Uniform Fire Code, Minn. Rules Ch. 1510, as these statutes and rules 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.

CHAPTER 94: ABANDONED PROPERTY

Section

General Provisions

94.01 Disposition of abandoned property

Abandoned Vehicles

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GENERAL PROVISIONS

§ 94.01 DISPOSITION OF ABANDONED PROPERTY.

(A) *Procedure.* Except for abandoned and junked vehicles, all property lawfully coming into possession of the city shall be disposed of as provided in this section which is adopted pursuant to M.S. § 471.195, as it may be amended from time to time. Abandoned and junked vehicles shall be disposed of according to the procedures of §§ 94.15 et seq.

(B) *Storage.* The department of the city acquiring possession of the property shall arrange for its storage. If city facilities are unavailable or inadequate, the department may arrange for storage at a privately-owned facility.

(C) *Claim by owner.* The owner may claim the property by exhibiting satisfactory proof of ownership and paying the city any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.

(D) *Sale.* If the property remains unclaimed in the possession of the city for 60 days, the property shall be sold to the highest bidder at a public auction conducted by the City Clerk/Treasurer or his or her designee after 2 weeks' published notice setting forth the time and place of the sale and the property to be sold.

(E) *Disposition of proceeds.* The proceeds of the sale shall be placed in the general fund of the city. If the former owner makes application and furnishes satisfactory proof of ownership within 6 months of the sale, the former owner shall be paid the proceeds of the sale of the property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

ABANDONED VEHICLES

§ 94.15 FINDINGS AND PURPOSE.

M.S. Ch. 168B, and Minn. Rules Ch. 7035, as they may be amended from time to time, are hereby adopted by reference. Sections 94.15 through 94.25 of this code are adopted under the authority of M.S. § 168B.09, Subd. 2, as it may be amended from time to time. If any of these provisions are less stringent than the provisions of M.S. § 168B or Minn. Rules Ch. 7035, as it may be amended from time to time, the statute or rule shall take precedence.

§ 94.16 DEFINITIONS.

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

ABANDONED VEHICLE.

(1) A motor vehicle, as defined in M.S. § 169.01 as it may be amended from time to time, that:

(a) Has remained illegally:

1. For a period of more than 48 hours on any property owned or controlled by a unit of government, or more than 4 hours on that property when it is properly posted; or

2. On private property for a period of time, as determined under § 94.18(B), without the consent of the person in control of the property; and

(b) Lacks vital component parts or is in an inoperable condition that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.

(2) A classic car or pioneer car, as defined in M.S. § 168.10 as it may be amended from time to time, is not considered an abandoned vehicle.

(3) Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with M.S. § 161.242 as it may be amended from time to time, or that are licensed and maintained in accordance with local laws and zoning regulations, are not considered abandoned vehicles.

(4) A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ or court order is in effect.

DEPARTMENT. The Minnesota Department of Public Safety.

IMPOUND. To take and hold a vehicle in legal custody. There are 2 types of impounds: public and nonpublic.

IMPOUND LOT OPERATOR or **OPERATOR.** A person who engages in impounding or storing, usually temporarily, unauthorized or abandoned vehicles. **OPERATOR** includes an operator of a public or nonpublic impound lot, regardless of whether tow truck service is provided.

JUNK VEHICLE. A vehicle that:

- (1) Is 3 years old or older;
- (2) Is extensively damaged, with the damage including things as broken or missing wheels, motor, drive train or transmission;
- (3) Is apparently inoperable;
- (4) Does not have a valid, current registration plate; and
- (5) Has an approximate fair market value equal only to the approximate value of the scrap in it.

MOTOR VEHICLE or **VEHICLE.** Has the meaning given “motor vehicle” in M.S. § 169.01, as it may be amended from time to time.

MOTOR VEHICLE WASTE. Solid waste and liquid wastes derived in the operation of or in the recycling of a motor vehicle, including such things as tires and used motor oil, but excluding scrap metal.

MPCA or **AGENCY.** The Minnesota Pollution Control Agency.

NONPUBLIC IMPOUND LOT. An impound lot that is not a public impound lot.

PUBLIC IMPOUND LOT. An impound lot owned by or contracting with a unit of government under § 94.24.

UNAUTHORIZED VEHICLE. A vehicle that is subject to removal and impoundment pursuant to § 94.18(B), or M.S. § 169.041 as it may be amended from time to time, but is not a junk vehicle or an abandoned vehicle.

UNIT OF GOVERNMENT. Includes a state department or agency, a special purpose district, and a county, statutory or home rule charter city, or town.

VITAL COMPONENT PARTS. Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including such things as the motor, drive train and wheels.

§ 94.17 VIOLATION TO ABANDON MOTOR VEHICLE.

Any person who abandons a motor vehicle on any public or private property, without the consent of the person in control of the property, is guilty of a misdemeanor. Penalty, see § 10.99

§ 94.18 AUTHORITY TO IMPOUND VEHICLES.

(A) *Abandoned or junk vehicles.* The City Clerk/Treasurer or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle if the vehicle is on public property. If the abandoned or junk vehicle is located on private property, the vehicle shall not be removed or impounded until the provisions of § 94.18(C) are complied with.

(B) *Unauthorized vehicles.* The City Clerk/Treasurer, or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any unauthorized vehicle under M.S. § 169.041 as it may be amended from time to time. A vehicle may also be impounded after it has been left unattended in one of the following public or private locations for the indicated period of time:

(1) In a public location not governed by M.S. § 169.041 as it may be amended from time to time:

- (a) On a highway and properly tagged by a peace officer, 4 hours;
- (b) Located so as to constitute an accident or traffic hazard to the traveling public, as determined by a peace officer, immediately; or
- (c) That is a parking facility or other public property owned or controlled by a unit of government, properly posted, 4 hours; or

(2) On private property, only with the express permission of the owner of the property, a resident or other person in control of the premises:

- (a) That is single-family or duplex residential property, immediately;
- (b) That is private, nonresidential property, properly posted, immediately;
- (c) That is private, nonresidential property, not posted, 24 hours; or
- (d) That is any residential property, properly posted, immediately.

(3) If under division (B)(2) of this section, permission is not granted, then the city shall not remove and impound any vehicle until the procedure established in division (B)(2) of this section have been followed.

(C) If the vehicle is on private property, the City Clerk/Treasurer or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle on private property only with the permission of the owner of the property, a resident, or other person in control of the premises. If permission is denied, the city may declare the existence of the abandoned or junk vehicle to be a nuisance and proceed to abate the nuisance as provided for in §§ 92.15 through 92.21. Once the abatement procedure has been completed, the city may apply for an order from a court of competent jurisdiction authorizing the removal and impoundment of the vehicle and, after the order has been granted, the city may then remove and impound the vehicle.

§ 94.19 SALE; WAITING PERIODS.

(A) *Sale after 15 days.* An impounded vehicle is eligible for disposal or sale under § 94.23, 15 days after notice to the owner, if the vehicle is determined to be:

- (1) A junk vehicle, except that it may have a valid, current registration plate and still be eligible for disposal or sale under this subdivision; or
- (2) An abandoned vehicle.

(B) *Sale after 45 days.* An impounded vehicle is eligible for disposal or sale under § 94.23, 45 days after notice to the owner, if the vehicle is determined to be an unauthorized vehicle.

§ 94.20 NOTICE OF TAKING AND SALE.

(A) *Contents; notice given within 5 days.* When an impounded vehicle is taken into custody, the city or impound lot operator taking it into custody shall give notice of the taking within 5 days. The notice shall:

(1) Set forth the date and place of the taking; the year, make, model and serial number of the impounded motor vehicle if the information can be reasonably obtained; and the place where the vehicle is being held;

(2) Inform the owner and any lienholders of their right to reclaim the vehicle under § 94.21; and

(3) State that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under § 94.19 shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to § 94.23.

(B) *Notice by mail or publication.* The notice shall be sent by mail to the registered owner, if any, of an impounded vehicle and to all readily identifiable lienholders of record. The Department makes this information available to impound lot operators for notification purposes. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy.

(C) *Unauthorized vehicles; notice.* If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent under division (B) of this section, a second notice shall be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lienholders of record.

§ 94.21 RIGHT TO RECLAIM.

(A) *Payment of charges.* The owner or any lienholder of an impounded vehicle shall have a right to reclaim the vehicle from the city or impound lot operator taking it into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days, as applicable under § 94.19, after the date of the notice required by § 94.20.

(B) *Lienholders.* Nothing in this chapter shall be construed to impair any lien of a garagekeeper under the laws of this state, or the right of a lienholder to foreclose. For the purposes of this section, **GARAGEKEEPER** is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

§ 94.22 OPERATOR'S DEFICIENCY CLAIM; CONSENT TO SALE.

(A) *Deficiency claim.* The nonpublic impound lot operator has a deficiency claim against the registered owner of the vehicle for the reasonable costs of services provided in the towing, storage and inspection of the vehicle minus the proceeds of the sale or auction. The claim for storage costs may not exceed the costs of:

- (1) 25 days storage for a vehicle described in § 94.19(A); and
- (2) 55 days storage for a vehicle described in § 94.19(B).

(B) *Implied consent to sale.* A registered owner who fails to claim the impounded vehicle within the applicable time period allowed under § 94.19 is deemed to waive any right to reclaim the vehicle and consents to the disposal or sale of the vehicle and its contents and transfer of title.

§ 94.23 DISPOSITION BY IMPOUND LOT.

(A) *Auction or sale.*

(1) If an abandoned or unauthorized vehicle and contents taken into custody by the city or any impound lot is not reclaimed under § 94.21, it may be disposed of or sold at auction or sale when eligible pursuant to §§ 94.20 and 94.21.

(2) The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

(B) *Unsold vehicles.* Abandoned or junk vehicles not sold by the city or public impound lots pursuant to division (A) of this section shall be disposed of in accordance with § 94.24.

(C) *Sale proceeds; public entities.* From the proceeds of a sale under this section by the city or public impound lot of an abandoned or unauthorized motor vehicle, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred in handling the vehicle pursuant to this chapter. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in the treasury of the city.

(D) *Sale proceeds; nonpublic impound lots.* The operator of a nonpublic impound lot may retain any proceeds derived from a sale conducted under the authority of division (A) of this section. The operator may retain all proceeds from sale of any personal belongings and contents in the vehicle that were not claimed by the owner or the owner's agent before the sale, except that any suspected contraband or other items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency.

§ 94.24 DISPOSAL AUTHORITY.

The city may contract with others or may utilize its own equipment and personnel for the inventory of impounded motor vehicles and abandoned scrap metal and may utilize its own equipment and personnel for the collection, storage and transportation of these vehicles and abandoned scrap metal. The city may utilize its own equipment and personnel only for the

collection and storage of not more than 5 abandoned or unauthorized vehicles without advertising for or receiving bids in any 120-day period.

§ 94.25 CONTRACTS; REIMBURSEMENT BY MPCA.

(A) *MPCA review and approval.* If the city proposes to enter into a contract with a person licensed by the MPCA pursuant to this section or a contract pursuant to § 94.24, the MPCA may review the proposed contract before it is entered into by the city, to determine whether it conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules. A contract that does so conform may be approved by the MPCA and entered into by the city. Where a contract has been approved, the MPCA may reimburse the city for the costs incurred under the contract that have not been reimbursed under § 94.23. Except as otherwise provided in § 94.24, the MPCA shall not approve any contract that has been entered into without prior notice to and without a request for bids from all persons duly licensed by the MPCA to be a party to a disposal contract pursuant to M.S. § 116.07, as it may be amended from time to time; nor that does not provide for a full performance bond; or does not provide for total collection and transportation of abandoned motor vehicles, except that the MPCA may approve a contract covering solely collection or transportation of abandoned motor vehicles where the MPCA determines total collection and transportation to be impracticable and where all other requirements herein have been met and the unit of government, after proper notice and request for bids, has not received any bid for total collection and transportation of abandoned motor vehicles.

(B) *The city may perform work.* If the city utilizes its own equipment and personnel pursuant to its authority under § 94.24, and the use of the equipment and personnel conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules, the city may be reimbursed by the MPCA for reasonable costs incurred which are not reimbursed under § 94.23.

(C) *The city required to contract work.* The MPCA may demand that the city contract for the disposal of abandoned motor vehicles and other scrap metal pursuant to the MPCA's plan for solid waste disposal. If the city fails to contract within 180 days of the demand, the MPCA, through the Department of Administration and on behalf of the city, may contract with any person duly licensed by the MPCA for the disposal.

§ 94.26 OTHER PROPERTY TO BE IMPOUNDED.

(A) *Abandoned property to be impounded.* Any property found abandoned upon the highways, streets, alleys, sidewalks or other public property, or on private property visible from public property, shall be deemed to be a public nuisance. All property shall be considered abandoned if the property is not retrieved within 24 hours of the city receiving notice of the property's location. The failure of the owner to retrieve the property shall be considered an abandonment of that property. All abandoned property may be impounded by the city.

(B) *Notice to owners to redeem.* Within 7 working days of impounding property, the city shall provide notice to the owner of the impounded property, if identifiable, of the

impoundment. The notice shall set forth the description of the property that was impounded and shall direct the owner to redeem the property within 15 days from the date of the notice.

(C) *Redemption fee.* An owner who redeems impounded property shall pay to the city an administrative fee per property to cover the costs expended by the city for retrieving the property, notifying the owner and storing the property. The amount of the administrative fee will be determined by the City Council annually. The fee imposed by this section shall be in addition to any other fee or penalty that is imposed.

(D) *Disposition of unclaimed property.* Impounded property that is not redeemed within the time period set forth by division (B) above may be disposed of by the city. Where the owner of the property is identifiable, the city may dispose of the property 15 days after the impoundment.

(Ord. –, passed 5-8-2006)