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**CHAPTER 8  
OFFENSES**

**NUISANCES AND PUBLIC HEALTH, SAFETY AND WELFARE**

**SECTION 801.01. PUBLIC NUISANCE AFFECTING HEALTH.** The following are hereby declared to be public nuisances affecting health:

1. Exposed decayed or unwholesome food, and decayed vegetable matter, unless contained within a composting area approved by the Council.
2. Diseased animals;
3. All ponds or pools of stagnant water;
4. Carcasses of animals not properly and legally buried or destroyed within 24 hours after death;
5. Accumulations of manure, refuse, open food packaging, or other debris;
6. The discharge, disposal, accumulation, or collection of sewage or industrial waste in violation of Chapter 6 of this Code;
7. Privy vaults or garbage cans which are not completely sealed, rodent-free and fly-tight or which are maintained so as to constitute a health hazard or to emit foul and disagreeable odors;
8. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
9. All noxious weeds, any weeds in excess of 10 inches in height, and other rank growths of vegetation upon public or private property;
10. Dense smoke, noxious fumes or gases and soot, or cinders, sufficient to make the occupancy of property uncomfortable to a person of ordinary sensibilities.;
11. All facilities or conditions contributing to the spread of a contagious disease;
12. Any trade or business not licensed by the City.
13. The influence from any cesspool, septic tank, drain field or sewage disposal system discharging upon the surface of the ground.
14. Breeding sites of the *aedes triseriatus* (tree hole mosquito), including unused tires (not mounted on wheels), pots, pans, cans, pails, bottles and other containers left outdoors in which water or debris may accumulate.

**SECTION 801.02. PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.** The following are hereby declared to be nuisances affecting public morals and decency.

1. All gambling devices, activities and premises in violation of law;
2. All houses kept for the purpose of prostitution or where prostitution occurs;

3. All places where alcoholic beverages are manufactured, disposed of, consumed, or kept for sale in violation of law, and all alcoholic beverages and property used for maintaining such a place;
4. Any vehicle used to transport illegal property, to conduct illegal activities, or for any other illegal purpose.

**SECTION 801.03. PUBLIC NUISANCES AFFECTING PEACE, SAFETY AND THE GENERAL WELFARE.** The following are declared to be nuisances affecting public peace and safety and the general welfare:

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 persons from having a clear view of all traffic approaching an intersection;
3. All wires, limbs of trees, or other obstructions which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
4. All excessive noises and vibrations;
5. Obstructions and excavations in, on or under public streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this Code or other applicable law;
6. Placing or storing on any street, sidewalk, alley, or public right-of-way any boxes, goods, wares, merchandise, building materials, machinery, sandwich board/commercial sign, business or trade article, except for the purpose of immediately transferring the same to some other proper place or sandwich boards/commercial signs that allow at least 36 inch clearance on the sidewalk (for purposes of compliance with the Americans with Disabilities Act) and are removed when the business is not open.
7. Any tree, shrub, bush, or other vegetation located on private property which obstructs routine use or travel on any public right-of-way;
8. Aerials or antennae erected or maintained in a dangerous manner;
9. 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;
10. 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;
11. Rain water, ice, or snow allowed to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;

12. Any barbed wire fence or other fence that may inflict harm to persons or property which is within 10 feet of a public sidewalk or way;
13. All dangerous, unguarded machinery in any public place, or situated or operated on private property so as to attract the public;
14. Waste water cast upon or permitted to flow upon streets or other public property;
15. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other like material;
16. Accumulation in the open of broken or unused metal, wood, lumber, cement, electrical fixtures, plumbing fixtures, building materials (but excluding building materials awaiting use in construction or improvement presently in progress on the same premises);
17. Property that has been disturbed by construction, grading, or other activity and is not seeded, sodded, or otherwise planted with a ground cover within 240 days, unless the 240 days expires between November 1 and May 15, in which case the ground cover must be established by the following July 15, unless the city approves a time extension;
18. The accumulation of any piles of wood that are not:
  - a. neatly stacked; or
  - b. stacked or secured in a stable manner to avoid collapse.
19. A structure, or a portion of a structure, located in a residential zoning district, if the exterior is not completed in accordance with city-approved construction plans within 180 days after the date that the city building permit was issued;
20. Construction materials, including piles of dirt, sand, and sod, left in the open on property more than 60 days after construction has been completed or a certificate of occupancy has been issued, whichever occurred first;
21. A truck or other vehicle whose wheels or tires deposit mud, dirt, sticky substances, litter or other material on any street or highway;
22. Discarded construction material or other litter at a construction site that is not placed in an adequate waste container or that is allowed to blow around or off the site;
23. Reflected glare or light from private exterior lighting exceeding five-tenth footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel and one footcandle when abutting any commercial or industrial parcel;
24. The placement of mailboxes and other delivery receptacles on public right of way, except those that comply with the following:

- a. Must be in compliance with united states postal service requirements for location and type, and
  - b. Must be installed as far back from the street pavement as reasonably practical to avoid snow plowing damage.
- 25. Gravel driveways maintained in such a manner that the gravel erodes into, or is placed in, a public street or a water resource such as a wetland, creek, pond, drainage ditch or swale, or lake;
- 26. Any well, hole, or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- 27. Obstruction to the free flow of water in a natural waterway or a public street drain, storm sewer, gutter, or ditch with trash or other materials;
- 28. Digging, excavations, placing culverts, placing dams, or doing any act which may alter or affect the drainage of public property streets, alleys or sidewalks; or alter or affect flows of the public storm sewer and drainage ditch system, without authorization by the City;
- 29. 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 such substance;
- 30. Garbage or refuse deposited on a public right-of-way or on adjacent private property;
- 31. Throwing, placing, or depositing dirt, sand, leaves, trash, lawn clippings, weeds, grass, snow, or other materials in the streets, sidewalks, other public ways and the gutters thereof;
- 32. Permitting dirt or mud from construction or landscaping activities to be carried or deposited unto nearby streets, sidewalks, other public ways and the gutters thereof;
- 33. Operation of any artificial lighting facilities upon any private property without an effective shade or equivalent device to protect nearby residential premises from being adversely affected thereby;
- 34. Any refrigerator, ice box, or freezer not in use with door latch intact which is accessible to children.
- 35. All other public conditions or things which are likely to cause injury, to the person or property of anyone, or which endanger the public health, safety or welfare;

## **SECTION 801.04. SPECIAL PROVISIONS – BUILDING MAINTENANCE AND APPEARANCE.**

**Subd. 1. Declaration of Nuisance.** Building fences, and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they (a) are unsightly, (b) decrease adjoining landowners' and occupants' enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhood patterns.

**Subd. 2. Standards.** A building, fence, or other structure is a public nuisance if it does not comply with the following requirements:

- A. No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.
- B. Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20 percent of:
  - 1. any one wall or other flat surface; or
  - 2. all door and window moldings, eaves, gutters, and similar projections on any one side or surface.
- C. No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.
- D. Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.
- E. Cornices, moldings, lintels, sills, bay or dormer windows, and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.
- F. Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.
- G. Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.
- H. Foundations must be structurally sound and in good repair.

## **SECTION 801.05. ENFORCEMENT.**

**Subd. 1. Officers.** The Building Official and Health Officer shall enforce the provisions of this Chapter with reference to nuisances affecting public health. The Clerk, Building Official and sheriff shall enforce the provisions relating to nuisances affecting peace, safety, and the general welfare. The Sheriff's Department shall enforce the provisions relating to nuisances affecting public morals and shall assist the other designated officers in the enforcement of other provisions of this Chapter. Such officers shall have the power to inspect private property, including all interior areas within structures on private property, and take all reasonable precautions to prevent and abate the commission and maintenance of public nuisances.

**Subd. 2. Construction.** The provisions of Section 805.01, Subdivision 1, shall be construed to be directory only, and shall not be construed to create a duty on the part of the City or its officers or employees to any person. The City and its officers and employees shall not be liable for any failure to enforce the provisions of this Chapter.

## **SECTION 801.06 ABATEMENT.**

**Subd. 1. General.** Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the City, the officer shall notify, in writing, the owner or occupant of the premises of such fact and order that such nuisance be terminated and abated. The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding 30 days, within which the nuisance is to be abated and shall state that the City may proceed to abate the nuisance unless, within the specified time, the affected persons shall abate the nuisance or the affected person shall demand a hearing by notifying the Clerk in writing. A hearing shall be held within 30 days after any such demand, before the Council. The Council may rescind, modify or affirm the abatement order. If the owner, occupant or agent fails or neglects to comply with the requirements of the notice or order from the officer or Council, then the officer shall proceed to report his findings to the Council, and the Council may thereafter direct the appropriate staff to abate the nuisance and report the nuisance to the appropriate law enforcement authority. If abatement by the City requires that City-authorized personnel enter the interior of any structure on the property, the City shall, except in an emergency, first apply to the appropriate court for permission to so enter and abate.

**Subd. 2. Emergency Abatement.** When the officer charged with enforcement determines that a nuisance constitutes a serious and imminent danger to the public safety or health, the officer may summarily abate the nuisance after a reasonable attempt to notify the owner or occupant of the property. The officer shall immediately thereafter notify in writing the owner or occupant of the premises of the action taken. The notice shall be served in person or by registered or certified mail. The officer shall also immediately notify the Council of the action taken.

## **SECTION 801.07. RECOVERY OF COST.**

**Subd. 1. Personal Liability.** The owner of premises on which a nuisance has been abated by the City shall be personally liable for all costs to the City of the abatement, including administrative costs, legal fees and costs, engineering fees and costs, testing fees and costs and contractor costs. When the work has been completed and such costs determined, the Clerk or other official designated by the Council shall prepare a bill for the cost and mail it to the owner. The amount shall then be immediately due and payable at the office of the Clerk.

**Subd. 2. Assessment.** The Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minnesota Statutes, Section 429.101, against each separate lot or parcel to which the charges are attributable. The Council may then assess the charges against such property under that statute and other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the Council may determine in each case.

## **SECTION 802.01. CLEAN-UP OF CLANDESTINE DRUG LAB SITES.**

### **Subd. 1. General Provisions.**

- A. Purpose and Intent. The purpose of this Section is to reduce public exposure to health risks associated with hazardous chemicals or residue from a clandestine drug lab site. Professional testing and investigations show that chemicals used in the production of illicit drugs can condense, penetrate, and contaminate surfaces, furnishings, and equipment of surrounding structures. The Council finds that such sites, and the personal property within such sites, may contain suspected chemicals and residues that place people, particularly children or adults of child bearing age, at risk when exposed through inhabiting or visiting the site or being exposed to contaminated personal property.
- B. Interpretation and Application. The provisions of this Section must be construed to protect the public health, safety and welfare. When the conditions imposed by this Section conflict with comparable provisions imposed by another law, ordinance, statute, or regulation, the regulations that are more restrictive or that impose higher standards will prevail.

**Subd. 2. Definitions.** Unless the context clearly indicates otherwise, the words and phrases below are defined for the purpose of this Section as follows:

- A. “Chemical dump site” means a place or area where chemicals or other waste materials used in a clandestine drug lab operation have been located.
- B. “Clandestine drug lab operation” means the unlawful manufacture or attempt to manufacture a controlled substance.



- C. “Clandestine drug lab site” or “site” means a place or area where law enforcement personnel have determined that conditions associated with an unlawful clandestine drug lab operation exist. A clandestine drug lab site may include dwellings, accessory buildings, structures or units, a chemical dump site, a vehicle, boat, trailer, or other appliance.
- D. “Controlled substance” means a drug, substance or immediate precursor specified in Minnesota Statute §52.02, Schedules I through V, as may be amended. The term does not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.
- E. “Manufacture,” in places other than a pharmacy, includes the production, cultivation, quality control, or standardization, by mechanical, physical, chemical or pharmaceutical means, and the packing, re-packing, tableting, encapsulating, labeling, or filling of drugs.
- F. “Owner” means a person, firm, corporation or other entity who or which owns, in whole or in part, the land, building, structure, vehicle, boat, trailer or other location associated with a clandestine drug lab site. Unless information is provided to prove otherwise, the owner of real property is deemed to be the property taxpayer of record in the Wright County files, and the owner of a vehicle, boat or trailer is deemed to be the person listed as the owner on the most recent title to the vehicle, boat or trailer.

**Subd. 3. Declaration of Public Health Nuisance.** All dwellings, accessory structures, buildings, vehicles, boats, trailers, personal property, adjacent property or other locations, associated with a clandestine drug lab site are potentially unsafe due to health hazards and are declared to be a public health nuisance.

**Subd. 4. Law Enforcement Action.**

- A. Law enforcement authorities who identify conditions associated with a clandestine drug lab site that may place the public or occupants at risk for exposure to harmful contaminants and other associated conditions may:
  - 1. Promptly notify the county and Health Officer, county child protection division, the United States drug enforcement administration, and the site owner about the site and the conditions found;
  - 2. Treat, store, transport or dispose of all waste generated from the clandestine drug lab operation and found at the site in a manner consistent with the Minnesota Department of Health and Minnesota pollution control regulations;
  - 3. Issue a temporary declaration of public health nuisance for the affected site and post a copy of the declaration on all doorway entrances to the site or, in the case of bare land, in several conspicuous places on the property. This temporary declaration will expire after the Health Officer inspects the site and determines the appropriateness of issuing a permanent declaration of public health nuisance;
  - 4. Notify all people occupying the site that a temporary declaration of public health nuisance has been issued;

5. Require all people occupying the site to immediately vacate the site, remove all pets from the site, and not return without written authorization from the Health Officer;
  6. Notify the occupants vacating the site that the personal property at the site may be contaminated with dangerous chemical residue; and
  7. Put locks on each doorway entrance to the site to prohibit people from entering the site without authorization.
- B. The notification of the people and organizations mentioned above may be delayed to accomplish appropriate law enforcement objectives.

**Subd. 5. Seizure of Property.** When a clandestine drug lab site is inside a vehicle, boat, trailer or other form of moveable personal property, law enforcement authorities must immediately seize it and not allow it to be transported except to a more secure location. All other requirements of this Section must be followed as closely as possible given the specific type of property in which the site is discovered.

**Subd. 6. Action by City Health Officer.**

- A. Inspection and Declaration of Nuisance. Within 48 hours of notification that law enforcement authorities have determined the existence of a clandestine drug lab site, the Health Officer must inspect the site. The Health Officer may then promptly issue a permanent declaration of public health nuisance and a Do Not Enter-Unsafe to Occupy Order for the affected site to replace the temporary declaration. A copy of the permanent declaration and order must be posted on all doorway entrances to the site or, in the case of bare land, in several conspicuous places on the property.
- B. Abatement Order. After issuing the permanent declaration, the Health Officer must send written notice to the site owner ordering abatement of the public health nuisance. The abatement order must include the following:
1. A copy of the declaration of public health nuisance and Do Not Enter-Unsafe to Occupy Order;
  2. Information about the potentially hazardous condition of the site;
  3. A summary of the site owner's and occupant's responsibilities under this Section; and
  4. Information that may help the owner locate appropriate services necessary to abate the public health nuisance.
- C. Notice to Other Parties. The Health Officer must also mail a copy of the permanent declaration of public health nuisance and a copy of this Section to the following parties at their last known addresses:
1. Occupants or residents of the site if known;

2. Neighbors in proximity to the site who may be reasonably affected by the conditions found;
  3. The appropriate enforcement division of the United States Drug Enforcement Administration; and
  4. Other City, state and local authorities, such as the City Public Works Department, the State Pollution Control Agency, the State Department of Health, and the Department of Natural Resources, that are known to have public and protection responsibilities applicable to the situation.
- D. Modification or Removal of Declaration. The Health Officer may modify or remove the declaration of public health nuisance after the Health Officer receives documentation from a City-approved environmental hazard testing and cleaning firm stating that the suspected health and safety risks, including those to neighbors and potential occupants, either do not exist or have been sufficiently abated or corrected to justify amendment or removal of the declaration.

**Subd. 7. Site Owner's Responsibility to Act.**

- A. Within 10 business days after the abatement order is mailed to the site owner, the owner must accomplish the following:
1. Provide the Health Officer, in writing, with:
    - (a) Confirmation that all persons and their pets have vacated the site;
    - (b) The names of all children who the owner believes were residing at the site during the time period the clandestine drug lab is suspected to have been at the site; and
    - (c) Confirmation that the site will remain vacated and secured until the public health nuisance is completely abated as required by this Section.
  2. Contract with one or more City-approved environmental hazard testing and cleaning firms to conduct the following work in accordance with the most current state guidelines:
    - (a) A detailed on-site assessment of contamination at the site, including the personal property in the site;
    - (b) Soil testing of the site and testing of all property and soil in proximity to the site which the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site;
    - (c) A complete clean-up of the site (including the clean-up or removal of plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the structures on the site and a complete clean-up of the demolished site;

- (d) A complete clean-up, or disposal at an approved dump site, of all personal property in the site that is found to have been affected by the conditions at the site;
    - (e) A complete clean-up of all property and soil in proximity to the site that is found to have been affected by the conditions at the site; and
    - (f) Remediation testing and follow-up testing, including testing of the ventilation system and plumbing, to determine that all health risks are sufficiently reduced to allow safe human occupancy and use of the site, the personal property in it, and all property and soil in proximity to the site.
  - 3. Provide the Health Officer with the identity of the testing and cleaning firm with which the owner has contracted for abatement of the public health nuisance as required above; and
  - 4. Sign an agreement with the Health Officer establishing a clean-up schedule. The schedule must establish reasonable deadlines for completing all actions required by this Section for abatement of the public health nuisance. The Health Officer must consider practical limitations and the availability of contractors in approving the clean-up schedules.
- B. The owner must meet all deadlines established in the clean-up schedule. The owner must provide the Health Officer written documentation of the clean-up, including a signed statement from a City-approved environmental hazard testing and cleaning firm that the site, all personal property in it, and all property and soil in proximity to the site is safe for human occupancy and use and that the clean-up was conducted in accordance with the most current state guidelines.

**Subd. 8. Site Owner's Responsibility for Costs.** The site owner is responsible for all costs of dealing with and abating the public health nuisance, including contractor's fees and the City's costs for services performed in connection with the clandestine drug lab site clean-up. The City's costs may include:

- A. Posting of the site;
- B. Notification of affected parties;
- C. Securing the site, providing limited access to the site, and prosecution of unauthorized persons found at the site.
- D. Expenses related to the recovery of costs, including the special assessment process.
- E. Laboratory fees.
- F. Clean-up services.
- G. Administrative fees.

- H. Legal fees; and
- I. Other associated costs.

**Subd. 9. City Action and Recovery of Costs.**

- A. If the site owner fails to comply with any of the requirements of this Section, the City health officer is authorized to take all reasonable actions necessary to abate the public health nuisance including contracting with a City-approved environmental hazard testing and cleaning firm to conduct the work outlined in Subdivision 7(A)(2). The health officer is also authorized to provide a copy of the declaration of public health nuisance to the holders of mortgage or lien interests in the affected site.
- B. If the costs to clean the site or to clean the personal property at the site are prohibitively high in relation to the value of the site or the personal property, the City is authorized to remove or demolish the site, structure or building and dispose of the personal property in it. These actions must be taken in accordance with the provisions of Minnesota Statute Chap. 463.
- C. If the City abates the public health nuisance, the City is entitled to recover all of its actual costs plus an additional 25% of such costs for administrative and legal expense, in addition to any other legal remedy. The City may recover costs by civil action against the site owner or by assessing the costs against the site as a special assessment.

**Subd. 10. Recovery of Costs from Persons Causing Damage.** Nothing in this Section limits the rights of the site owner, occupants, neighbors, or the City to recover costs from the persons contributing to the public health nuisance, such as the operators of the clandestine drug lab, or from other lawful sources.

**Subd. 11. Unauthorized Removal of Postings.** It is unlawful for a person, except authorized City personnel, to remove a temporary or permanent declaration of public health nuisance or Do Not Enter—Unsafe to Occupy Order from a clandestine drug lab site.

**Subd. 12. Entry Into or Onto Site.** While a declaration of public health nuisance for a site is in effect and has been posted at the site, no person, other than a law enforcement officer, the Health Officer, or a person authorized by the City health officer, is permitted to be inside or on a site.

**Subd. 13. Removal of Personal Property from the Site.** While a declaration of public health nuisance for a site is in effect and has been posted at the site, no personal property may be removed from the site without prior written consent from the Health Officer. Consent to remove personal property may be granted at the reasonable discretion of the health authority, and only in cases of hardship after:

- A. A City-approved environmental hazard testing and cleaning firm has advised the City, in writing, that the item(s) of personal property can be sufficiently cleaned to remove all harmful contamination; and

- B. The owner of the personal property agrees in writing that the owner;
1. Is aware of the danger of using the contaminated property;
  2. Will thoroughly clean the property to remove all contamination before the property is used; and
  3. Releases and agrees to indemnify the City from all liability to the owner and third parties for injuries or damages alleged to have been caused by the contaminated property.

## **SECTION 803.01 SPECIAL PROVISIONS – OUTSIDE PARKING AND STORAGE.**

**Subd. 1.** Definitions. For purposes of this Section the following words have the meanings specified below.

- A. “Vehicle” or “vehicles” means a motor vehicle or trailer as defined in Minn. Stat. §169.01, including pioneer, classic collector and street rod vehicles, but excluding the following:
1. small trailers that are clearly designed to be used for general yard and garden purposes and not for travel on the roadways;
  2. snowmobiles; and
  3. all-terrain vehicles as defined in Minn. Stat. §84.92, Subd. 8.
- B. “Front yard area” means all that area between the front property line and a line drawn along the front face or faces of the principal structure on the property and extended to the side property lines. The front side of the property will be determined as specified in the zoning ordinance.
- C. “Outside” means to be outside of an enclosed storage facility and visible from any other property.

**Subd. 2. Declaration of Nuisance.** The outside parking and storage on residentially-zoned property of large numbers of vehicles and vehicles, materials, supplies or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it (a) obstructs views on streets and private property, (b) creates cluttered and otherwise unsightly areas, (c) prevents the full use of residential streets for residential parking, (d) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (e) decreases adjoining landowners and occupants’ enjoyment of their property and neighborhood, and (f) otherwise adversely affects property values and neighborhood patterns.

**Subd. 3. Unlawful Parking and Storage.**

- A. A person must not place, store, or allow the placement or storage of ice fish houses, skateboard ramps, playhouses or other similar non-permanent structures outside continuously in the front-yard area of residentially-zoned property.
- B. A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in connection with a business, outside on residentially-zoned property, unless shielded from public view by an opaque cover or fence.
- C. A person must not cause, undertake, permit or allow the outside parking and storage of vehicles on residentially-zoned property unless it complies with the following requirements.
  - 1. No more than four vehicles per lawful dwelling unit may be stored anywhere outside on R-1 and R-2 zoned property, except as otherwise permitted or required by the City because of non-residential characteristics of the property. This maximum number does not include vehicles of occasioned guests who do not reside on the property.
  - 2. Vehicles that are parked or stored outside in the front-yard area must be on a paved or graveled parking or driveway area.
  - 3. Vehicles, watercraft and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property.
- D. A person owning, driving or in charge of a vehicle with a weight classification G through T inclusive, as specified in Minnesota Statute §168.013, Subd. 1e, must not cause or permit that vehicle to be parked outside or to stand continuously for more than two hours on any property or public street within a residential zone in the City.

**Subd 4. Exceptions.** The prohibitions of this Section do not apply to the following:

- A. A motor truck, pickup truck or similar vehicle being used by a public utility, moving company, or similar company, that is actually being used to service a residence not belonging to or occupied by the operator of the vehicle;
- B. A vehicle that is actually making a pickup or delivery at that location where it is parked. Parking for any period of time beyond the period of time reasonably necessary to make the pickup or delivery and in excess of the 2 hour limit is unlawful;

**Subd. 5. Abatement.** A law enforcement officer or other authorized person may order a vehicle constituting a public nuisance under subparagraphs 3(C) and 3(D) above to be immediately removed and/or impounded. The impounded vehicle will be surrendered to the owner by the towing contractor only upon payment of the required impound, towing and storage fees.

## **SECTION 804.01 SPECIAL PROVISIONS – ABANDONED OR INOPERABLE MOTOR VEHICLES.**

**Subd. 1. Definitions.** For purposes of this Section the following words have the meanings specified below:

- A. “Abandoned vehicle” means a motor vehicle that has remained for a period of more than 48 hours on public property illegally or lacking vital component parts, or that has remained in an inoperable condition for a period of more than 48 hours on private property with or without consent of the person in control of the property, unless it is kept in an enclosed garage or storage building. It also means a motor vehicle voluntarily surrendered by its owner to the City or to a towing contractor hired by the City for its removal.
- B. “Junk vehicle” means a motor vehicle that is unlicensed or in an inoperable condition, that is partially dismantled, that is used for sale of parts or as a source of repair or replacement parts for other vehicles, or that is kept for scrapping, dismantling, or salvage of any kind, unless the vehicle is kept in an enclosed garage or storage building. A junk vehicle is also an abandoned vehicle for the purpose of this ordinance.
- C. “Inoperable condition” means that the vehicle has no substantial potential use consistent with its usual function, and includes a vehicle that (1) has a missing or defective part that is necessary for the normal operation of the vehicle, (2) is stored on blocks, jacks or other supports, or (3) has not had a current vehicle license for at least 6 months.
- D. “Motor vehicle” or “vehicle” has the meaning contained in Minnesota Statute §169.01.
- E. “Vital component parts” means those parts of the motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train, and wheels.
- F. “Outside” has the same meaning as in City Code Section.

### **Subd. 2. Vehicles Constituting A Public Nuisance.**

- A. Abandoned and junk vehicles are a public nuisance creating a hazard to the health and safety of the public because they invite plundering, create fire hazards, attract vermin, and present physical dangers to the safety and well-being of children and other citizens. The accumulation and outside storage of these vehicles is in the nature of rubbish, litter, and unsightly debris and is a blight on the landscape and a detriment to the environment.
- B. A vehicle, whether occupied or not, that is found stopped, standing, or parked in violation of a ordinance or state statute; that is reported stolen; or that is found impeding firefighting, snow removal or plowing or the orderly flow of traffic, is a public nuisance.
- C. A vehicle that is impeding public road or utility repair, construction or maintenance activities if reasonable notice of the proposed activities was given to the vehicle owner or user at least 12 hours in advance, is a public nuisance.



**Subd. 3. Abatement.**

- A. Impounding. A police officer or other authorized person may order a vehicle constituting a public nuisance to be immediately removed and/or impounded. The impounded vehicle will be surrendered to the owner by the towing contractor only upon payment of the required impound, towing and storage fees.
- B. Sale. Notice and sale of a vehicle impounded under this ordinance will be conducted in accordance with Minn. Chap. 168B, governing the sale of abandoned motor vehicles.

**SECTION 805.01. SPECIAL PROVISIONS – LAWN MAINTENANCE.**

**Subd. 1. Preamble.** The Council finds that there are a variety of landscapes in the City that add diversity and a richness to the quality of life. Certain areas in the City have been left, or allowed to go, unmaintained. These have been accepted by the vast majority of the City residents as appropriate and as part of the unique quality of life in this community. There are community expectations, however, that once an area has been disturbed, landscaped, or otherwise maintained, that area will continue to be maintained in a consistent manner. When vegetation in that area is not continually maintained, it becomes aesthetically displeasing and violates community standards. Property that appears neglected may decrease the value of adjacent properties. In addition, if vegetation is not properly maintained, there may be the following adverse impacts on public health, safety, and welfare:

- A. Undesirable vegetation such as common buckthorn, quackgrass, and other weeds may invade and threaten to supplant other more desirable vegetation;
- B. Vegetation that causes allergic reactions, such as ragweed, may develop; and
- C. Tall vegetation along driveways and public roads may impair visibility when entering or exiting public roads.

The Council also finds that it is in the public interest to allow citizens to choose the type of landscaping on their properties and to make changes in that vegetation. As a protection for the larger community, however, this change in vegetation must be properly managed and maintained and the length of the transition period must be minimized.

The Council finds that the establishment of prairie and meadow plant communities is an acceptable landscape treatment in the City. This requires special consideration, however, because weeds will grow during the first few years of transition before the new vegetation predominates and will appear like neglect. Therefore, the Council finds that this type of vegetation is acceptable if it is properly maintained to shorten the transition period and if notice is given of the intended result.

In contrast, the transition to trees and other woody species does not require special consideration because untended grass or weeds are not a necessary part of that transition period. Rather, the transition period is shortened by eliminating competition around the seedlings through such techniques as organic mulch.

The Council enacts this ordinance to balance the public interest in a variety of vegetation with the public need to ensure proper maintenance of that vegetation. The Council finds that establishing a height limitation for certain vegetation is in the best interest of the public health, safety, and welfare as outlined above and is a reasonable maintenance standard.

**Subd. 2. Definitions.** For purposes of this Section the following words have the meanings specified below:

- A. “Meadow vegetation” is grasses and flowering broad-leaf plants that are native to, or adapted to, the state of Minnesota, and that are commonly found in meadow and prairie plant communities, except weeds.
- B. “Noxious weeds” are those plants so designated by the state of Minnesota pursuant to Minnesota Statute §18.77, Subd. 8 and those listed under Minnesota Rule, Parts 1505.0730 to 1505.750.
- C. “Regularly cut” means mowing or otherwise cutting the vegetation so that it does not exceed 10 inches in height.
- D. “Turf grasses” are grasses commonly used in regularly cut low areas, such as bluegrass, fescue and rye grass blends, and non-woody vegetation interspersed with them.
- E. “Weeds” include all noxious weeds, buffalobur, burdock, common cocklebur, crabgrass, dandelions, jimsonweed, quackgrass, common and giant ragweed, field sandbur, velvetleaf, and wild sunflower. Weeds also include anything that is horticulturally out of place. For example, a tree seedling is a weed in a vegetable garden. A property owner may establish that a plant or plants are not horticulturally out of place by providing a written landscape plan for the area in question, complete with a listing and locations of plant species. The plants specifically listed above may not be included within the landscape plan. Vegetation that does not comply with this plan are weeds.

**Subd. 3. Maintenance Standard.** The maintenance standard in this Section applies to property that has been developed with a building as defined in the City’s Building Code, including vacant property combined with developed property for tax purposes, and a parcel of property that has been completely or partially disturbed by demolition, grading or other means in preparation for development or redevelopment.

- A. All turf grasses and weeds must not exceed a height of 10 inches, measured from the base at ground level to the tip of each stalk, stem, blade, or leaf.
- B. This requirement does not apply to the following:
  - 1. A wetland or floodplain designated in the zoning ordinance and required wetland buffers or those voluntarily created by a private land owner when compatible with the character of the neighborhood and the intent of the wetland ordinance.
  - 2. A drainage pond or ditch that stores or conveys stormwater.
  - 3. A pasture that is (a) currently being used only for the exercise or feeding of domestic hoofed animals; (b) physically surrounded by a permanent fence that

separates the pasture from property used for other purposes; (c) at least one-half acre in size; and (d) undeveloped with any habitable buildings;

4. An area in which the land and vegetation appears not to have been graded, landscaped, mowed, or otherwise disturbed by human or mechanical means at any time. Determination of what constitutes this type of area will be based on a reasonable judgment of the present appearance of the area. The recent history of the area may be relevant to this determination; and
5. An area established with meadow vegetation if:
  - (a) The prior vegetation is eliminated and the meadow vegetation is planted through transplanting or seed by human or mechanical means;
  - (b) The area is cut at least once per year to a height of no more than 10 inches, if weeds cover more than 25 percent of the area; and
  - (c) A sign is posted on the property in a location likely to be seen by the public, advising that a meadow or prairie is being established. This sign is required only if the meadow vegetation is in an area likely to be seen by the public. This sign must be in addition to any sign permitted by the sign ordinance but must be no smaller than 10 inches square, no larger than one square foot, and no higher than three feet tall. The sign is no longer required when weeds cover 25 percent or less of the area.

**Subd. 4. Declaration of Public Nuisance.** The following are public nuisances subject to abatement under this chapter:

- A. Noxious weeds;
- B. Vegetation that does not meet the maintenance standard specified in Subdivision 3 above.

**SECTION 806.01. BUILDINGS OR STRUCTURES THAT ENDANGER PUBLIC SAFETY, HEALTH OR PROPERTY WITHIN THE CITY.** A building or structure in the City is a public nuisance affecting public safety and health if the Building Official or Fire Marshal find it to be dangerous to public safety, health or to other property by reason of:

- A. Damage by fire;
- B. Defective chimneys or stovepipes;
- C. Dilapidated condition or decay;
- D. Defective electric wiring;
- E. Defective gas installation;
- F. Defecting heating apparatus;
- G. Defective sewage disposal system or plumbing; or

- H. Any other defect endangering the public safety, health or other property.

**Subd. 1.** The Building Official or the fire marshal may order the nuisance abated by ordering its repair, correction or removal. This order must be in writing and must order the repair, correction or removal of the nuisance within 30 days or other time that the Building Official or Fire Marshal deems reasonable. This order must be served upon the owner, the lessee or the occupant by mail or by personal service. The order may provide that the building or structure not be further used or occupied until the repair or correction of the defect.

**SECTION 807.01. HAZARDOUS BUILDINGS AND EXCAVATIONS.** The “Hazardous Building Law,” Minnesota Statute §463.15 through 463.261, is adopted by reference. Any hazardous building or dangerous excavation may be abated in accordance with the provisions therein.

**SECTION 808.01. TREE DISEASES.** The Council has determined that the health of the trees within the municipal boundaries is threatened by fatal tree diseases. It is further determined that the loss of trees growing upon public and private property would substantially depreciate the value of property within the City and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the Council to control and prevent the spread of tree diseases and this Section is enacted for that purpose.

**Subd. 1. Forester.**

**A. Position created.** The powers and duties of the City’s Forester as provided by this Chapter are conferred on the Public Works Director or his/her designee.

**B. Duties.** It is the duty of the Forester to coordinate, under the direction and control of the Council, all activities of the City relating to the control and prevention of tree diseases. The Forester shall recommend to the Council the details of a program for the control of tree disease, and perform the duties incident to such a program adopted by the Council.

**Subd. 2. Nuisances Declared.** The following are declared to be public nuisances whenever they may be found within the City:

- A. 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* (eich.) or *Hylurgopinus rufipes* (March).
- B. Any dead elm tree or part thereof, including logs, 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.
- C. Any living or standing oak tree or part thereof infected to any degree with the oak wilt disease fungus *Ceratoisomyces fagacearum*.
- D. Any dead oak tree or part thereof which, in the opinion of the Forester, constitutes a hazard, including, but not limited to, logs, branches, stumps, firewood, or other oak

material, which has not been stripped of its bark and burned or sprayed within an effective fungicide.

E. Any other shade trees with an epidemic disease.

**Subd. 3. Abatement.** It is unlawful for any person to permit any public nuisance as defined in Subdivision 2 to remain on any premises owned or controlled by said person within the City. Such nuisance may be abated in the manner prescribed in this Section.

**Subd. 4. Inspection and Investigation.** The Forester shall inspect all premises and places with the City as often as practicable to determine whether any condition described in this Section exists thereon and shall investigate all reported incidents of diseased trees.

**Subd. 5. Entry on Private Premises.** The Forester or a duly authorized agent of the Forester may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned under this Section.

**Subd. 6. Diagnosis.** The Forester shall, upon finding conditions indicating disease infestation, immediately send appropriate specimens or samples to the Commissioner of Agriculture or State Health Department for analysis, or take such other steps for diagnosis as may be recommended by the Commissioner of Agriculture or State Health Department.

**Subd. 7. Abatement of Tree Disease Nuisances.** In abating the nuisances defined in Subdivision 2, the Forester shall cause the infected tree or wood to be sprayed, removed, burned, or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of tree diseases. Such abatement procedures shall be carried out in accordance with current and technical and expert opinions and plans as may be designed by the Commissioner of Agriculture.

**Subd. 8. Procedures for Removal of Infected Trees and Wood.**

A. Ordinary Procedure. Whenever the Forester finds with reasonable certainty that the infection defined in Subdivision 2 exists in any tree or wood in any public or private place in the City, the Forester shall proceed as follows: If the Forester finds that the danger of infestation of other trees is not imminent, the Forester shall notify the abutting property owner and/or the owner of the property upon which the tree is located, by certified mail, that the nuisance will be abated within a specified time, not less than five days from the date of mailing of such notice. The Forester shall immediately report such action to the Council, which shall proceed by:

(1) abating the nuisance as a public improvement under Minnesota Statute § 429.101, or

(2) abating the nuisance as provided in subdivision 3.

B. Immediate Action. If the Forester finds with reasonable certainty that immediate action is required to prevent the spread of the disease, the Forester may proceed to abate the

nuisance forthwith. The Forester shall report such action immediately to the Council and to the owner of the property where the nuisance is located.

**Subd. 9. Council Action.** Upon receipt of the Forester's report required by Subdivision 8, the Council shall, by resolution, order the nuisance abated. Before action is taken on such resolution, the Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one week prior to such meeting. The notice shall state the time and place of the meeting, the property affected, the action proposed, the estimated cost of the abatement, and the proposed bases of assessment, if any, of costs. At the hearing or adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed project. The Council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for abatement.

**Subd. 10. Records.** The Forester shall keep a record of the costs of abatements done under this Section and shall report monthly to the Clerk all work done for which assessments are to be made, stating and certifying the description of land, lots, parcels involved and the amount chargeable to each.

**Subd. 11. Assessments.** On or before September 1 of each year the Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Section. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota Statute § 429.101 and other pertinent statutes for certification to the county auditor and collection the following year along with current taxes.

**Subd. 12. Treatment.** Whenever the Forester determines that any tree or wood within the City is infected with disease, he may spray or otherwise treat all nearby trees, with an effective disease destroying agent. Spraying and other treatment activities authorized by this Section shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the Commissioner and his agents whenever possible. The notice provisions of Subdivision 9, apply to spraying and treatment operations conducted under this Chapter.

**Subd. 13. Transporting Diseased Wood Prohibited.** It is unlawful for any person to transport within the City any diseased wood or any bark-bearing elm or oak wood without having first obtained permission from the Forester. The Forester shall grant such permission only when the purpose of this Section will be served thereby by minimizing the risk of spread of the disease.

**Subd. 14. Stockpiling.** Any bark-bearing elm wood may be stockpiled within the City limits during the period September 15 through April 1. Any such wood not utilized by April 1 must then be removed and disposed of as provided by law.

**Subd. 15. Interference Prohibited.** It is unlawful for any person to prevent, delay or interfere with the Forester or his agents while they are engaged in the performance of duties imposed by this Section.

#### **SECTION 809.01. CURFEW.**

**Subd. 1. Curfew Imposed.** No person 15 years of age or younger shall be, or remain upon, any of the streets, avenues, alleys or other public places within the municipal boundaries of the City between the hours of 10:00 p.m. and 5:00 a.m., and no person between 16 and 18 years of age shall be, or remain upon, any of the streets, avenues, alleys or other public places within the municipal boundaries of the City between the hours of 12:00 a.m. and 5:00 a.m., unless such person is accompanied by a parent, guardian, or other person having legal custody of such minor person, or unless such person is so directed by a parent, guardian, or any other person having legal custody of such minor person, and it is necessary for such minor person to be upon said streets, avenues, alleys, or other public places between the herein specified hours.

**Subd. 2. Parental Responsibility.** No parent, guardian, or other person having legal custody of a person under eighteen years of age shall knowingly permit said minor to violate the provisions of this Section.

**Subd. 3. Waiver.** The sheriff or mayor, may waive the restrictions of this Section in order to accommodate school, religious, or community sponsored events, or other special circumstances.

#### **SECTION 810.01. PUBLIC DECENCY.**

**Subd. 1. Purpose.** The purpose of this ordinance is to prohibit public indecency in order to deter criminal activity, to promote societal order and public health, and to protect children.

**Subd. 2. Findings.** The Council makes the following findings regarding the need to prohibit public indecency:

- A. Public indecency can increase the incidence of criminal activity, including but not limited to prostitution, disorderly conduct and sexual assault.
- B. Public indecency can expose children to an unhealthy and nurtureless environment.
- C. Public indecency can present health concerns in places of public accommodation and other public settings.
- D. Public indecency can have a potentially negative impact on the value and marketability of property.

**Subd. 3. Definitions.** The following words and terms when used in this Ordinance shall have the following meanings, unless the context clearly indicates otherwise:

- A. “Nudity” means:
1. The appearance of a human bare buttock, anus, male genitals, female genitals, female breast; or,
  2. A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast;
- B. “Person” means a natural person 6 years of age or older, including employees or agents of a public accommodation.
- C. “Public Place” means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), bottle clubs, hotels, motels, restaurants, night clubs, country clubs, cabarets and meeting facilities utilized by any religious, social fraternal or similar organizations. Premises used solely as a private residence, whether permanent or temporary in nature, shall not be deemed a public place. A public place shall not include enclosed single sex public restrooms, enclosed single sex motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor’s offices, portions of hospital and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein; nor shall it include a person appearing in a state of nudity in a modeling class operated by (1) a proprietary school licensed by the state; a college or university supported entirely or partly by taxation; or (2) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation or an accredited private college.

**Subd. 4. Public Indecency Prohibited:** A person who knowingly or intentionally in a public setting or place:

- A. Engages in sexual intercourse;
- B. Engages in sexual conduct;
- C. Appears in a state of nudity;
- D. Fondles the genitals of himself or herself; or
- E. Fondles the genitals of another person



commits public indecency and is guilty of a misdemeanor under Minnesota law and upon conviction thereof, shall be punished by a fine of up to \$1,000 or by imprisonment for up to 90 days; or both.

**Subd. 5. Indecency in Other than Public Place.** No person shall, in a place other than a public place, with the intent to be seen by persons other than invitees and occupants of that place:

- A. Engage in sexual intercourse;
- B. Engage in sexual conduct; or
- C. Fondle the genitals of himself or another person

where he can be seen by persons other than invitees and occupants of that place.

**Subd. 6. Exclusion.** The provisions of City Code Section 811.01, Subd. 4, shall not apply to:

- A. Any theatrical production performed in a theater, by a professional or amateur theatrical or musical company, which has serious artistic merit, or
- B. A woman breastfeeding a child.

## **SECTION 811.01. PUBLIC DRINKING.**

**Subd. 1. Consumption.** No person shall consume alcoholic beverages on any public sidewalk or street, in a vehicle upon a public street, or in any of the City parks or playground, except as permitted with a license or permit issued by the City.

**Subd. 2. Possession.** No person shall have in possession alcoholic beverages in any open container on any public sidewalk or street, in a vehicle upon a public street, or in any City park or playground.

## **SECTION 812.01. FIREARMS AND DANGEROUS WEAPONS REGULATIONS**

**Subd. 1. Declaration of Policy.** The City of Delano is a developing community in which the land uses have intensified causing a reduction in the amount of open land available for the discharge of firearms and dangerous weapons to certain circumstances specifically provided for herein.

**Subd. 1. Definitions.** For the purpose of this Section, the following terms shall have the meaning given to them below:

- A. “Carrying” means the actual physical transportation, use, holding or handling of a firearm or other dangerous weapon on or about one’s person, concealed or otherwise.
- B. “Dangerous Weapon” means any firearm, whether loaded or unloaded, explosive, firework, bow and arrow, sling-shot, or any other device as defined in Minn. Stat. §609.02, Subdivision 6, capable of producing death or great bodily harm.
- C. “Discharge” means the shooting, activation or other use of a firearm or other dangerous weapon.
- D. “Encased” means placement or storage of firearm or other dangerous weapon within a case or similar storage device which completely encloses said firearm or other dangerous weapon so as to prevent its discharge and use, and, in the case of firearms, includes the unloading of ammunition from all barrels, chambers and magazines.
- E. “Firearm” means any rifle, shotgun, pistol, revolver, air gun, BB gun, or similar device.

**Subd. 3. Transporting Firearm.** No person shall carry a firearm or other dangerous weapon beyond the limits of private property where such person resides and which is owned by such person unless said firearm or other weapon is properly encased, or unless that person is currently engaged in an activity under Subdivision 5.

**Subd. 4. Discharge of Firearm.** No person shall discharge a firearm or other dangerous weapon within the corporate limits of the City except as expressly provided in Subdivision 5, below.

**Subd. 5. Exceptions.** Notwithstanding the general prohibitions of Subdivisions 3 and 4, the following individuals may engage in the activities described below:

- A. Persons duly authorized to act as law enforcement officers or members of the military forces of the United States or the State of Minnesota in the discharge of their duties.
- B. Persons engaged in the ceremonial discharge, carrying or other handling of a firearm performed for national holidays, military funerals, parades, or similar occasions, provided such discharge uses only “blank” or other non-projectile cartridges and further provided such organization has obtained a permit from the City for such discharge. A bona fide veterans’ organization engaged in any such activity is exempt from the permit requirement.
- C. Persons engaged in the use of bow and arrows for educational purposes, provided such use is performed on school district property and subject to appropriate supervision by authorized school district personnel; and persons engaged in bow and arrow use on private property owned by such person or with the consent of the owner, provided the use is in such a manner as to prevent the arrows from leaving the property limits, and further provided that the use does not reasonably risk bodily harm to any individual. In any case, bow and arrow use is limited to arrows equipped with practice or field tips only.

- D. Persons engaged in cleaning a firearm on property owned by such person as long as such cleaning involves no discharge of the firearm and is performed in a safe manner.
- E. Nothing herein shall be construed to prohibit the firing of a gun, pistol or other weapon when done in a lawful defense of person or family.

**Subd. 6. Minors.** In addition to the limitations contained in this Section,

- A. Under 14. No person shall, outside of the parent's or guardian's presence and without the parent's or guardian's consent, furnish a child under 14 years of age a firearm, dangerous weapon, or any ammunition. Further, no parent or guardian shall permit a child under 14 years of age to transport or use, outside of the parent's or guardian's presence, a firearm, dangerous weapon, or any ammunition.
- B. Under 18. No person shall furnish a minor under 18 years of age with a firearm, dangerous weapon, ammunition, or explosive without the written consent of the parent or guardian.

**Subd. 7. Incorporation by Reference of Minnesota Weapons Regulations.** The terms, conditions, regulations and definitions of Minnesota State law regarding the issuance of permits for weapons, and regarding possession, training, use and concealment of weapons is incorporated herein by reference, including but not limited to Minnesota Statute §624.713 and 624.714.

**SECTION 813.01 ANTI-GRAFFITI REGULATIONS.**

**Subd. 1. Purpose and Intent.**

- A. The Council is enacting this ordinance to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property. The Council is authorized to enact this ordinance pursuant to its police powers.
- B. The Council finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Unless the City acts to remove graffiti from public and private property, the graffiti tends to remain. Other properties then become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the City.
- C. The Council intends, through the adoption of this ordinance, to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement. The Council does not intend for this ordinance to conflict with any existing anti-graffiti state laws.

**Subd. 2. Definitions.**

For the purposes of this Section, the following words will have the meaning provided to them in this Section, except where the context clearly indicates a different meaning.

- A. “Aerosol paint container” means any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property.
- B. “Broad-tipped marker” means any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth of an inch, containing ink or other pigmented liquid that is not water soluble.
- C. “Etching equipment” means any tool, device or substance that can be used to make permanent marks on any natural or man-made surface.
- D. “Graffiti” means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or despite advance authorization is otherwise deemed a public nuisance by the Council.
- E. “Graffiti implement” means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or man-made surface.
- F. “Paint Stick” or “graffiti stick” means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-fourth of an inch in width.
- G. “Person” means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

**Subd. 3. Prohibited Acts.**

- A. Defacement. It is unlawful for any person to apply graffiti to any natural or man-made surface on any publicly-owned property or, without the permission of the owner or occupant, on any privately-owned property.
- B. Possession of Graffiti Implements. Unless otherwise authorized by the owner or occupant, it is unlawful for any person to possess any graffiti implement while:
  - 1. within 200 feet of any graffiti located in or on a public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by a governmental agency; or
  - 2. within 200 feet of any graffiti located in any public place, or on private property, between the hours of 10:00 p.m. and 5:00 a.m.

**Subd. 4. Graffiti as Nuisance.**

- A. Declaration. The existence of graffiti on public or private property in violation of this ordinance is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this ordinance.
- B. Duty of Property Owner. It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.

**Subd. 5. Removal of Graffiti.**

- A. By Perpetrator. Any person applying graffiti on public or private property has the duty to remove the graffiti within 24 hours after notice by the City or private owner of the property involved. This removal must be done in a manner prescribed by the City Administrator, Chief of Police, Public Works Director or their designees. Any person applying graffiti is responsible for the removal or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal will constitute an additional violation of this ordinance. Where graffiti is applied by a person under 18 years old, the parents or legal guardian will also be responsible for such removal or for the payment for the removal.
- B. By Property Owner or City. If graffiti is not removed by the perpetrator according to paragraph 1, the City may order that the graffiti be removed by the property owner or any person who may be in possession or who has the right to possess such property, pursuant to the nuisance abatement procedure in Section 801.06. If the property owner or responsible party fails to remove offending graffiti within the time specified by the City, the City may commence abatement and cost recovery proceedings for the graffiti removal in accordance with Section 801.07.

**Subd. 6. Penalty.** Any violation of this Section is a misdemeanor, punishable in accordance with state law.

**SECTION 814.01. NUISANCE A MISDEMEANOR.** It is unlawful for any person to create, maintain, or fail to abate any activity or condition that is declared by any Section in this Chapter to be a nuisance and any violation shall be a misdemeanor.

