

## 900 Nuisances and offenses

### 901. General Nuisances

901.01. Public Nuisance Defined. Whoever, by his 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:

- (1) 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; or
- (2) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- (3) Is guilty of any other act or omission declared by law or this chapter to be a public nuisance and for which no sentence is specifically provided.

901.02. Public Nuisance Affecting Health. The following are hereby declared to be nuisances affecting health:

- (1) Exposed accumulation of decayed or unwholesome food or vegetable matter;
- (2) All diseased animals running at large;
- (3) (Repealed by Ord. 11-03, adopted May 24, 2011)
- (4) Carcasses of animals not buried or destroyed within 24 hours after death;
- (5) Accumulations of manure, refuse, or other debris;
- (6) The discharge, disposal, accumulation, or collection of sewage or industrial waste in violation of Section 401 of this code;
- (7) 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;
- (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 and other rank growths of vegetation upon public or private property;
- (10) Any grass that exceeds twelve inches in height upon public or private property. (Added by Ordinance No. 92-16, passed June 23, 1992.)
- (11) Burning in violation of Chapter 505 of this code;
- (12) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;

- (13) All public exposure of persons having a contagious disease;
- (14) Any offensive trade or business as defined by statute not licensed by the City Board of Health.

901.03. Public Nuisances Affecting Morals and Decency. The following are hereby declared to be nuisances affecting public morals and decency:

- (1) All gambling devices, slot machines, and punch boards;
- (2) Betting, bookmaking, and all apparatus used in such occupations;
- (3) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- (4) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining such a place;
- (5) Any vehicle used for the illegal transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

901.04. Public Nuisances Affecting Peace and Safety. 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 persons 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 unnecessary noises and annoying vibrations;
- (5) Obstructions and excavations affecting the ordinary use by the public of 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, business or trade article, except for the purpose of immediately transferring the same to some other proper place;
- (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) Radio aerials or television 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, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
- (11) 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;
- (12) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;
- (13) All dangerous, unguarded machinery in any public place, or so situated or operated on private property 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 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 such accumulation;
- (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), trash, debris, rubbish, 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 such accumulation;
- (17) 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;
- (18) 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;
- (19) 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;
- (20) 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;

- (21) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- (22) 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; (Amended by Ordinance No. 92-02, passed January, 28, 1992)
- (23) 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;
- (24) All other conditions or things which are likely to cause injury to the person or property of anyone;
- (25) Operate 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;
- (26) Any used refrigerator, ice box, or freezer with door latch intact which is accessible to children.
- (27) Dead trees on public or private property, found to be a safety hazard by the Tree Inspector. (Added by Ordinance No. 94-13, passed October 11, 1994)
- (28) Property that is not in compliance with the guidelines of the city's storm water management and erosion control guidelines. (Amended by Ordinance No. 02-03, dated February 12, 2002)
- (29) "Diving Or Jumping From Bridges" Diving or jumping from public bridges or piers into unknown water depths an debris may result in injury or death. It is a petty misdemeanor for any person to dive or jump from any public bridge or pier in the city where such prohibited activity is properly posted and signed. (Amended by Ordinance No. 02-03, dated June 10, 2003)

901.05.        Enforcement.

Subd. 1.        Officers. The health officer shall enforce the provisions of this chapter with reference to nuisances affecting public health. The administrator shall enforce the provisions relating to nuisances affecting public safety. The public works department shall enforce the storm water management and erosion control nuisances. The police 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 premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. (Amended by Ordinance No. 02-03 2-12-02)

Subd. 2. Construction. The provisions of 901.05, 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 sections 901 through 904 of this code.

901.06. 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 time, not exceeding 30 days, within which the nuisance is to be abated and shall state that the city shall proceed to abate the nuisance unless within specified time the affected person shall abate the nuisance or the affected person shall demand a hearing by notifying the city clerk in writing. A hearing shall be held within 30 days after the demand, before the city council. The city council may rescind or modify the officer's abatement order. If the owner, occupant or agent fail or neglect to comply with the requirement of the notice, or order from the officer or city council, then the officer shall proceed to have the nuisance described in the notice removed or abated from the lot or parcel of ground and report the cost thereof to the city clerk, or other like officer. (Amended by Ordinance No. 86-13, passed October 13, 1986)

Subd. 2. Emergency Abatement. When the officer charged with enforcement determines that a nuisance constitutes a serious and eminent 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.

901.07. 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 the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the clerk-treasurer or other official designated by the council shall prepare a bill for the cost and mail it to the owner. Thereupon, the amount shall be immediately due and payable at the office of the clerk-treasurer.

Subd. 2. Assessment. If the nuisance is a public health or safety hazard on private property or the accumulation of snow and ice on public sidewalks, the clerk-treasurer 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 spread 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.

## 902. Hazardous Buildings and Excavations

902.01. Adoption by Reference. The “Hazardous Building Law,” Minn. Stat. 463.15 through 463.261, is adopted by reference. Any hazardous building or dangerous excavation may be abated in accordance with the provisions of that law.

## 903. Noise

903.01. Subd. 1. Public Nuisance Noise Prohibited. No person shall make, continue, or cause to be made any loud, unnecessary, or unusual noise or any noise which unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of others or precludes their enjoyment of property or affects their property value. This general prohibition is not limited by the specific restrictions of 903.02.

### Subd. 2. Horns, Signaling Devices, etc.

- (1) The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street, public place, or private property within the city except as a present danger warning;
- (2) The creation by means of any such horn or signaling device of any unreasonably loud or harsh sound;
- (3) The sounding of any such device for an unnecessary and unreasonable period of time;
- (4) The use of any signaling device except one operated by hand or electricity;
- (5) The use of any horn, whistle, or other device operated by engine exhaust;
- (6) The use of any such signaling device when traffic is held up for any reason.

Subd. 3. Radios, Amplifiers, etc. The using, operating, or permitting to be played any radio, musical instrument, phonograph, juke box, amplifier, or other machine or device for the producing, reproducing, or amplifying of sound in such a manner as to disturb the peace, quiet, or comfort of persons residing or working, or peaceably gathered in its vicinity. The operation of said machine or device between the hours of 10:00 P.M. and 7:00 A.M. shall be prima facie evidence of a violation of this section if done in such manner as to be plainly audible:

- (1) Within any building or structure used for residential purposes; or
- (2) At a distance of fifty feet the building, structure, or vehicle in which it is located.

Subd. 4. Loud Speakers, Amplifiers for Advertising. The using, operating, or permitting to be played any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

Subd. 5. Yelling, Shouting, etc. Yelling, shouting, hooting, whistling, or singing at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel, motel, or other place of residence, or of any persons in the vicinity.

Subd. 6. Animals, Birds, etc. The keeping of any animal or bird which by causing frequent or long-continued noise shall disturb the comfort or repose of any persons in the vicinity.

Subd. 7. Whistles or Sirens. The blowing of a locomotive whistle or steam whistle attached to any stationary boiler or in any siren whatsoever except to give notice of the time to begin or stop work or as a warning of fire or danger, or by public emergency vehicles.

Subd. 8. Exhausts. The discharge into the open air of the exhaust of any vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom and which complies with all applicable state laws and regulations.

Subd. 9 Defect in Vehicle or Load. The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, grinding, rattling, or other noise which shall disturb the comfort or repose of any persons in the vicinity.

Subd. 10. Sound Trucks for Advertising Purposes. The use of sound trucks or any other vehicle equipped with sound-amplifying devices for the purposes of advertising any program, project, or meeting of any public agency, private business, religious organization, civic group, political party, or charitable organization.

Subd. 11. Loading, Unloading, Opening Boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

Subd. 12. Construction or Repairing of Buildings. The erection (including excavating), demolition, alteration, or repair of any building between the hours of 9:00 P.M. and 7:00 A.M. on Monday thru Saturday and all day Sunday and the following State Legal Holidays: New Years Day, Martin Luther King's Birthday, Presidents Day, Memorial Day, Independence Day, Veterans Day, Labor Day, Thanksgiving Day and Christmas, except where single individuals or families work on single family residences owned by them; for their own occupancy provided that the building inspector may, in cases of emergency, grant permission to repair at any time when he finds that such repair work will not affect the health and safety of the persons in the vicinity. (Amended by Ordinance No. 94-12, passed August 9, 1994.)(Amended by Ordinance No. 05-08, passed June 28, 2005)

Subd. 13. Schools, Courts, Churches, Hospitals. The creation of any excessive noise on any street or private property adjacent to any school, institution of learning, church, court, or hospital while the same are in use which unreasonably interferes with the use thereof provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

Subd. 14. Hawkers, Peddlers. The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.

Subd. 15. Pile Drivers, Hammers, etc. The operation between the hours of 9:00 P.M. and 7:00 A.M. on Monday thru Saturday and all day Sunday and the following State Legal Holidays: New Years Day, Martin Luther King's Birthday, Presidents Day, Memorial Day, Independence Day, Veterans Day, Labor Day, Thanksgiving Day and Christmas of any pile driver, power shovel, pneumatic hammer, jack hammer, derrick, power or electric hoist, or other appliance the use of which is attended by loud or unusual noise. (Amended by Ordinance No. 05-10, passed August 9, 2005)

Subd. 16. Blowers. The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

Subd. 17. Noise in Residential Areas. No person shall, between the hours of 10:00 P.M. and 7:00 A.M. congregate because of or participate in any party or gathering of people from which noise emanates of a sufficient volume so as to disturb the peace, quiet, or repose of persons residing in any residential area. Noise between the hours of 10:00 P.M. and 7:00 A.M. of such volume as to be plainly audible at a distance of fifty feet from the residential dwelling unit wherein such party or gathering is located shall be prima facie evidence of a violation of this section. No persons shall visit or remain within any residential dwelling unit wherein such party or gathering is taking place except the owner, persons residing in that unit, or persons who have gone there for the sole purpose of abating the disturbance.

903.03. Responsibility. The owner and tenant of any premises on which a violation of 903.01 and 903.02 occurs shall make every reasonable effort to see that the violation ceases. Violation of 903.01 and 903.02 shall be deemed the act of the custody, or having charge of premises who allows or permits the violation to take place. Violation of 903.01 and 903.02 shall also be deemed the act of the non-resident landlord, provided he has received written notice from the city of the violation and has failed to make every reasonable effort to see that the violation ceases.

903.04. Penalties. Violation of 903.01 through 903.02 is a petty misdemeanor.

903.05. Civil Remedies.

Subd. 1. Nuisance. Violation of 903.01 through 903.02 may be abated as a nuisance as provided by 901.06 and 901.07.

Subd. 2. Other Remedies. 903.01 through 903.03 may be enforced by injunction or other appropriate civil remedy.

903.06. Exemption. The provisions of section 903.02, Subd. 3, which restrict hours of operation shall not apply to City approved community-wide festival (s), which may operate until 11:59 p.m. (Added by Ordinance No. 93-11, passed November 23, 1993)

## 904. Tree Diseases

904.01. Policy Findings. The council has determined that the health of the trees within the municipal limits 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 chapter is enacted for that purpose.

904.02. Provisions of Law Adopted. Sections 1.0109 through 1.0111 of 3 Minnesota Code of Agency Rules, Department of Agriculture, Shade Tree Program (1978 Edition) as the same may have been amended, is adopted by reference.

904.03. Forester.

Subd. 1. Position created. The powers and duties of the city forester as provided by this chapter are conferred on the utilities superintendent.

Subd. 2. 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 diseases, and perform the duties incident to such a program adopted by the council.

904.04. Program. It is the intention of the council to conduct a program of plant pest control pursuant to the authority granted by Minnesota Statutes 18.022. This program is directed specifically at the control and elimination of tree diseases, and is undertaken at the recommendation of the Commissioner of Agriculture. The forester shall act as coordinator between the Commissioner of Agriculture and the council in the conduct of this program.

904.05. Nuisance Declared. The following are declared to be 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* (eich.) or *Hylurgopinus rufipes* (March).
- (2) Any 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.
- (3) Any living or standing oak tree or part thereof infected to any degree with the oak wilt disease fungus *Ceratoisytis foveolarum*.
- (4) Any dead oak trees 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 with an effective fungicide.
- (5) Any other shade trees with an epidemic disease.

904.06. Abatement. It is unlawful for any person to permit any public nuisance as defined in 904.05 to remain on any premises owned or controlled by him within the city. Such nuisance may be abated in the manner prescribed by 904.10 - 904.14.

904.07. 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 Section 904.05 of this chapter exists thereon. He shall investigate all reported incidents of diseased trees.

904.08. Entry on Private Premises. The forester or his duly authorized agents may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned him under this chapter.

904.09. Diagnosis. The forester shall, upon finding conditions indicating disease infestation, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis, or take such other steps for diagnosis as may be recommended by the Commissioner of Agriculture. Except as provided in 904.11 through 904.13 no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

904.10. Abatement of Tree Disease Nuisances. In abating the nuisances defined in 904.05, 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 technical and expert opinions and plans as may be designated by the Commissioner of Agriculture.

904.11. Procedures for Removal of Infected Trees and Wood.

Subd. 1. Ordinary Procedure. Whenever the forester finds with reasonable certainty that the infestation defined in 904.05 exists in any tree or wood in any public or private place in the city, he shall proceed as follows:

- (1) If the forester finds that the danger of infestation of other trees is not imminent because of dormancy, he 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:
  - A. abating the nuisance as a public improvement under Minnesota Statutes, Chapter 429.101, or
  - B. abating the nuisance as provided in 904.12.

Subd. 2. Immediate Action. If the forester finds with reasonable certainty that immediate action is required to prevent the spread of the disease, he may proceed to abate the nuisance forthwith. He shall report such action immediately to the council and to the owner of the property where the nuisance is located.

904.12. Council Action. Upon receipt of the forester's report required by 904.11, 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, 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 the doing of the work of day labor or by contract.

904.13. Records. The forester shall keep a record of the costs of abatements done under this section and shall report monthly to the clerk-treasurer 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.

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

904.15. 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 high value 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 904.12 apply to spraying and treatment operations conducted under this section.

904.16. Transporting 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 chapter will be served thereby by minimizing the risk of spread of the disease.

904.17. 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.

904.18. 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 904.01 - 904.18.

905. General Offenses

905.01. Public Drinking.

Subd. 1. Consumption. No person shall consume intoxicating liquor or non-intoxicating malt liquor on any public sidewalk or street, or in a vehicle upon a public street.

Subd. 2. Possession. No person shall have in possession intoxicating liquor or non-intoxicating malt liquor in an open container on any public sidewalk or street or in a vehicle upon a public street.

905.02. Bathing Suit Required. No person shall voluntarily enter the river within the city without being garbed in a bathing suit sufficient to cover his or her person according to the standards generally adopted and accepted by the public.

906 False Alarms (Repealed by Ordinance 10-05, adopted November 23, 2010)

907 Storage, Collection, Disposal, and Transportation of Waste Materials

907.01. Definitions.

- (1) The term garbage means all decomposable and organic solid wastes, including materials resulting from handling, preparation, cooking and consumption of food, but excluding human excrement, sewage and other water carried wastes.
- (2) The term refuse means all non-combustible wastes including ashes, crockery, household rubbish, and all combustible wastes including rags and old clothes; but does not include any material such as earth, sand, brick, stone, plaster or other similar substances that may accumulate as a result of construction operation; it also does not include appliances, auto parts, tree limbs, or flammable material including gasoline and motor oil.
- (3) The term industrial waste means all organic inorganic wastes except garbage, resulting from any manufacturing, building repairing, demolition, construction, processing, grain cleaning, the operation of garages and service stations and other similar activities.
- (4) The term residence for this chapter means any dwelling located within the city boundaries including residential, commercial, schools, and churches.
- (5) The term recyclable materials shall mean newspaper, cardboard, computer paper, ledger paper, glass, tin cans, bi-metal cans, aluminum cans, magazines, plastic bottles as listed in the recycling contract and any other recyclable materials as added to the recycling contract.
- (6) The term items to be composted shall mean decomposable items such as leaves, grass clippings, and yard scraps.
- (7) The term commercial waste producers shall mean all residences with over four (4) units, any business, school, and churches.
- (8) The term residential waste producers shall mean all residences with up to four (4) units.

907.02. Purpose. The purpose of this chapter is to maintain and protect the health, safety, comfort and repose of the public regulations of sanitation, open burning, storage, collection disposal and transportation of waste materials in the city.

907.03. Deposit of Refuse Restricted.

- (1) No person shall deposit, cause to be deposited or situate garbage, refuse or containers for garbage or refuse upon any street, alley, vacated lot or upon any ground appurtenant to any building in the city, except upon the premises wherein the garbage or refuse originated. No person shall bury any refuse in the city.

- (2) No person except as licensed by Hennepin or Wright County and having obtained a permit from the city shall transport garbage from commercial waste producers over any street or alley in the city or shall disturb, collect or in any manner interfere with garbage or refuse placed in containers for collection, or interfere in any manner with containers for garbage or refuse.
- (3) No person shall disturb, collect or in any manner interfere with recyclable materials placed in containers or along side of containers for collection, or interfere in any manner with containers for recyclable materials, except as authorized by the city or by the person who placed the recyclable materials in the containers for collection.
- (4) Private use of any city dumpster shall be forbidden. Dumpsters located within a city park shall be for park use only.
- (5) No person unless authorized by the City Refuse Collection Contract shall transport garbage from any residential waste producers over any street or alley in the city or shall disturb, collect or in any manner interfere with garbage or refuse placed in containers for collection, or interfere in any manner with containers for garbage or refuse.

907.04. Storage of Garbage, Refuse and Recyclables.

- (1) Except as otherwise provided, all garbage and refuse shall be kept in rust resistant, water tight, nonabsorbent and easily washable containers which are equipped with bail or handles and covered with close-fitting covers. Insofar as practicable, all garbage shall be drained of liquids.
- (2) All containers shall be washed and treated with disinfectant as often as necessary to prevent a nuisance. Recyclable containers shall be vendor-approved containers.
- (3) The property owner shall control the garbage and refuse on the premises so as to keep the premises in a clean and sanitary condition and shall have the garbage and refuse removed at regular intervals, being at least once each week, or as often as deemed necessary by the City Health Officer. Pickup and removal of recyclable materials shall be at regular intervals and shall be established by council and listed in the recycling contract.

907.05. Collection of Garbage, Refuse and Recyclables.

- (1) The city council has entered into a Refuse Collection Contract with three haulers which are hereby responsible for the weekly collection of all garbage/refuse from the residential waste producers in a zone as specified in the contract. The city council shall set the day of collection for both Hennepin and Wright county.
- (2) The property owner or occupant of a commercial waste producer in the city shall provide for the collection of the garbage and refuse on the premises in a clean and sanitary condition, with a licensed hauler from either Hennepin or Wright county having obtained a Permit from the city, but in no event less frequently

than one pickup per week, or as often as deemed necessary by the City Health Officer.

- (3) All garbage/refuse collected in the city shall be transported on the streets and alleys in vehicles with leak-proof bodies of easily cleanable construction designed not to create a nuisance. Vehicles carrying refuse/garbage and recyclable materials within the city shall be so operated that the contents do not spill or drip upon streets or alleys or otherwise create a nuisance. Every vehicle shall be kept to prevent nuisances and equipped with a broom and shovel. Each collection vehicle driver shall be instructed on the weight restrictions set by the city council allowing a seven (7) ton per axle load limit for garbage trucks licensed in the city. (Amended by Ordinance No. 94-02, passed January 25, 1994.)
- (4) The city shall provide for the curbside collection of recyclables for residential dwellings as listed in the recycling contract.

907.06. Permits for Garbage and Waste Collection. (Amended by Ordinance No. 95-15, passed September 26, 1995)

- (1) Any person, firm or corporation desiring to collect garbage/refuse from any commercial waste producer within the city shall submit a written application to the city council for a permit.
- (2) The city council shall consider such application, and if it finds that the applicant is a responsible person and has the proper equipment, facilities, resources and personnel to provide adequate collection service under this chapter and that it would be in the public interest to do so, it may direct the city clerk to issue the applicant the permit.
- (3) The fee shall be submitted with the application as listed in ordinance 212 fees. (Amended by Ordinance No. 95-08, passed May 9, 1995.)
- (4) The applicant shall submit to the clerk a certificate of insurance against liability imposed by law for injury, death and property damage in an amount acceptable to the council.
- (5) The permit shall be issued for a period of one year.

907.07. Compost Regulations.

Subd. 1. Conditions and Regulations.

- (1) Private Compost Sites. Persons are allowed to have one compost site on their property. The compost site must not be located in the front yard nor any closer than 5 feet to the side yard property line or closer than 5 feet to the rear yard property line. All private compost sites must be contained within screening or fencing to prevent blowing and scattering of material. A private compost site must not be any larger than 25% of your yard. No private compost site may exceed 25% of the total lot size and shall not exceed 500 square feet and four feet in height.

- (2) Municipal Compost Site. The city municipal compost site is designated on the public works waste water treatment plant/garage site. The site will be a fenced area and the entrance shall be clearly marked by signs, which will also state the time of operation for the site. The city council may from time to time, by resolution, as the Council may determine, change the location of the above referenced site or the time of operation.
- A. Only compost material that originates or comes from within the city limits shall be collected or accepted at the municipal site, unless otherwise authorized by the city council.
  - B. Compost materials shall be received at the collection site in bulk form or in reusable, recyclable or disposable bags or containers which must be emptied and shall not be added to the compost pile. No plastic bags or containers shall be left at the site. Vehicles delivering compost materials in bulk form must be enclosed or covered.
  - C. Compost material shall not contain extraneous materials including animal wastes or municipal solid waste, garbage or refuse.
  - D. The composting operation, including delivery shall not generate off-site nuisances, such as dust, odor and wind blown debris. The operation shall be free of pests and vermin.
  - E. Compost materials must be fenced, screened or covered, to prevent blowing or scattering of materials and to prevent animals from disturbing or removing the contents.
  - F. No compost materials may be treated with any kind of herbicides or pesticides.
  - G. Composting shall be accomplished in accordance with the regulations and requirements of all other agencies, organizations, or entities have jurisdiction over such activity.
  - H. There shall be no fee charged for city residents to drop their yard waste at the municipal site, and no charge for city residents to pickup the finished material. The city will notify residents when compost is available for their use and schedule times for receiving it.
- (3) Penalty. Any person or entity violating any provision of this section shall, upon conviction, be punished by a fine not exceeding \$700.00 or by imprisonment for a period not exceeding ninety (90) days, or both, plus in either case, the costs of prosecution. In addition, if that person's or entity's behavior, in violation of this section, is also violative of State of Minnesota law regarding civil or criminal trespass, the city may apply its remedies under those provisions of law. (Amended by Ordinance No. 93-08, passed June 8, 1993)

907.08.        Recyclable Regulations.

Subd. 1.        The city council shall contract after receiving bids or negotiating the current contract for the collection of certain recyclable materials from residences in the city on such terms and for such periods as the council may determine.

907.09.        Penalty. Any person, firm or corporation violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than seven hundred (\$700.00) dollars or imprisonment for not more than ninety (90) days, or both.

(This Chapter added by Ordinance No. 92-10, passed April 28, 1992. )

## 908 Graffiti

### 908.01. Graffiti Prevention

Subd. 1. Purpose and Intent. The City Council of the City of Rockford is enacting this Code 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 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.

The City Council intends, through the adoption of this Code, 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 Code to conflict with any existing anti-graffiti state laws.

Subd. 2. Definitions. For the purpose of this Code, the following words shall have the meaning respectively ascribed to them in the section, exempt where the context clearly indicates a different meaning:

- (1) *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.
- (2) *Board-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 (1/4) of an inch, containing ink or other pigmented liquid that is not water soluble.
- (3) *Etching equipment* means any tool, device, or substance that can be used to make permanent marks on any natural or man-made surface.
- (4) *Graffiti* means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved upon or otherwise affixed to any surface or 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 City Council.
- (5) *Graffiti implement* means an aerosol paint container, a broad-tipped marker, gummed labels, paint stick, or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.
- (6) *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-eighth (1/8) of an inch in width.
- (7) *Person* means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

908.02. Prohibited Acts.

Subd. 1. Defacement. It shall be unlawful for any person to apply graffiti to any natural or manmade surface on any city-owned property, or without the permission of the owner or occupant, on any non-city-owned property.

(1) Possession of Graffiti Implements.

- A. By Minors at or Near School Facilities. It is unlawful for any person under the age of eighteen (18) years to possess any graffiti implement while on any public property, grounds facilities, buildings, or structures, or in areas immediately adjacent to those specific locations upon public property, or upon private property without the prior written consent of the owner or occupant of such private property.
- B. In Designated Public Places. It is unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, recreational facility, or other public building or structure owned or operated by the City or while in or within fifty (50) feet of an underpass, bridge abutment, storm drain, or similar types of infrastructure unless otherwise authorized by the City.

908.03. Accessibility to Graffiti Implements.

Subd. 1. Furnishing to Minors Prohibited. It shall be unlawful for any person, other than a parent or legal guardian, to sell, exchange, give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any aerosol paint container, broad-tipped marker, or paint stick to any parents or guardian of the person. (Markers containing water soluble ink or pigmented liquid are exempt from this section.)

(1) Display and Storage.

- A. Every person who owns, conducts, operates, or manages a retail commercial establishment selling aerosol paint containers, paint sticks, or broad-tipped markers must store containers, sticks or markers in an area primarily observable, through direct visual observation or surveillance equipment, by employees of the retail establishment during the regular course of business.
  - 1. In the event that a commercial retail establishment is unable to store the aerosol paint containers, paint sticks, or broad-tipped markers in an area as provided above, the establishment must store the containers, sticks, and markers in an area not accessible to the public in the regular course of business without employee assistance.
  - 2. Signage Required. Every person who operates a retail establishment selling graffiti implements must:
    - a. Place a sign in clear public view at or near the display of such products stating: "Graffiti is against the law. Any

person who defaces real or personal property with paint or any other liquid or device is guilty of a crime punishable by imprisonment of up to ninety (90) days and/or a fine up to \$700.00.”

- b. Place a sign in the direct view of such person responsible for accepting customer payment for graffiti implements stating: “selling spray paint, paint sticks, broad-tipped markers to persons under eighteen (18) years of age is against the law and punishable by imprisonment of up to ninety (90) days and/or a fine up to \$700.00.”

908.04. Penalties.

Subd. 1. Fines and Imprisonment. Any person violating this Code is guilty of a Misdemeanor.

- (1) In the case of a minor, the parents or legal guardian are jointly and severely liable with the minor for payment of all fines.
- (2) Failure of the parents or legal guardian to make payment will result in the filing of a lien on the parents’ or legal guardians’ property that includes the fine and administrative costs.

Subd. 2. Restitution. In addition to any punishment specified in this Section, the court will order any violator to make restitution to the victim for damages or less caused directly or indirectly by the violator’s offense in the amount or manner determined by the court. In the case of a minor, the parents or legal guardian shall be ordered jointly and severely liable with the minor to make the restitution.

Subd. 3. Civil Responsibility for Damages for Wrongful Sale, Display or Storage. Any person who sells, displays or stores, or permits the sale, display or storage, of any graffiti implement in violation of the provisions of this Code is personally liable for all costs, including attorney’s fees and court costs, incurred by any party in connection with the removal of graffiti, the repair of any property containing graffiti, or such party’s prosecution of a civil claim for reimbursement or damages resulting from such graffiti removal or property repair, arising from the use by any person of such wrongfully sold, displayed or stored graffiti implement in violation of the provisions of this Code, provided that such liability shall not exceed \$1,500.00.

Subd. 4. Specific Penalties for Vandalism and or Graffiti found in any City Park shall result in:

- (1) requirement to pay for any and all damages,
- (2) any violation shall be considered a petty misdemeanor or a general misdemeanor subject to a fine of \$300 to \$700, respectively,
- (3) individual(s) shall be required to perform community service, and
- (4) individual(s) shall be banned from all City Parks for a period of not less than one (1) year.

908.05. Graffiti as Nuisance.

Subd. 1. The existence of graffiti on public or private property in violation of this Code is expressly declared to be a public nuisance and, therefore, is subject to removal and abatement provisions specified in this Code.

Subd. 2. 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.

908.06. Removal of Graffiti by Perpetrator. Any person applying graffiti on public or private property has the duty to remove the graffiti within twenty-four (24) hours after notice by the City or private owner of the property involved. Such removal must be done in a manner prescribed by the City Administrator and/or Public Works Supervisor or any additional person as authorized by the City Council. 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 shall constitute an additional violation of this Code. Where graffiti is applied by an unemancipated minor, the parents or legal guardian are also responsible for such removal or for the payment for the removal.

908.07. Removal of Graffiti by Property Owner or City. If graffiti is not removed by the perpetrator according to Section 908.06, graffiti shall be removed pursuant to the following provisions:

- (1) Property Owner Responsibility. It is unlawful for any person who is the owner or has the primary responsibility for control of property or for repair or maintenance of property in the City to permit property that is defaced with graffiti to remain defaced for a period of ten (10) days after service by first class mail of notice of the defacement. The notice shall contain the following information:
  - A. The street address and legal description of the property sufficient for identification of the property;
  - B. A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding;
  - C. A statement that the graffiti must be removed within ten (10) days after receipt of the notice and that if the graffiti is not abated within that time, the City will declare the property to be a public nuisance, subject to the abatement procedures in this City Code.
- (2) Exceptions to the Property Owner Responsibility. The removal requirements of subsection (1) above does not apply if the property owner or responsible party can demonstrate that:
  - A. The property owner or responsible party lacks the financial ability to remove the defacing graffiti; or
  - B. The property owner or responsible party has an active program for the removal of graffiti and has scheduled the removal of the graffiti as part of that program, in which case, it is unlawful to permit such property to

remain defaced with graffiti for a period of fifteen (15) days after service by First Class Mail of notice of the defacement.

(3) Right of City to Remove.

- A. Use of Public Funds. Whenever the City becomes aware or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public place, the City is authorized to use public funds for the removal of the graffiti, or for the painting or repairing of the graffiti, but will not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the City Administrator, or the designee of the City Administrator, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.
- B. Right of Entry on Private Property. Prior to entering upon private property or property owned by a public entity other than the City for the purpose of graffiti removal, the City must attempt to secure the consent of the property owner or responsible party and a release of the City from liability for property damage or personal injury. If the responsible party fails to remove the offending graffiti within the time specified by this Code, or if the City has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the City and consistent with the terms of this Section, the City will commence abatement and cost recovery proceedings for the graffiti removal according to the provisions specified below.
- C. Abatement and Cost Recovery Proceedings.
1. Notice of Due Process Hearing. The City Administrator, or the designee of the City Administrator, serving as the Hearing Officer, must provide the property owner of record and the party responsible for the maintenance of the property, if a person different than the owner, not less than forty-eight (48) hours notice of the City's intent to hold a due process hearing at which the property owner or responsible party is entitled to present evidence and argue that the property does not constitute a public nuisance. Notice must be served in the same manner as a summons in a civil action according to state law. If the owner of record cannot be found after a diligent search, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in the official newspaper of general circulation published in the area in which the property is located.

2. Determination of Hearing Officer. The determination of the Hearing Officer after the due process hearing is final and not appealable. If, after the due process hearing, regardless of the attendance of the Owner or the responsible party or their respective agents, the Hearing Officer determines that the property contains graffiti viewable from a public or quasi-public place, the Hearing Officer must give written notice in an eradication order that, unless the graffiti is removed within ten (10) days, the City may enter upon the property, cause the removal, painting over (in such color as that meets with the approval of the Hearing Officer), or such other eradication thereof as the Hearing Officer determines appropriate, and provide the Owner and the responsible party thereafter with an accounting of the cost of the eradication effort on a full cost recovery basis.
  3. Eradication Effort. Not sooner than the time specified in the order of the Hearing Officer, the City Administrator, or the designee of the City Administrator, is to implement the eradication order and provide an accounting to the Owner and the responsible party of the costs thereof.
  4. Cost Hearing. The Owner or responsible party may require a cost hearing before the Hearing Officer on the eradication accounting, and appropriate due process must be extended to the Owner or responsible party. If following the cost hearing or, if no hearing is requested, after the implementation of the eradication order, the Hearing Officer determines that all or a portion of the cost are appropriately chargeable to the eradication effort, the total amount set forth in the eradication accounting, or an amount thereof determined as appropriate by the Hearing Office, is due and payable by the Owner or responsible party within thirty (30) days. Any amount of eradication charges assessed by the Hearing Officer that are less than the total amount set forth in the eradication accounting must be explained by written letter from the Hearing Officer to the City Council.
- (4) Lien. As to such property where the responsible party is the property owner, if all or any portion of the assessed eradication charges remain unpaid after thirty (30) days, the portion thereof that remains unpaid constitutes a lien on the property that was the subject of the eradication effort.

(Amended by Ordinance 02-01, dated January 8, 2002)