

CHAPTER 5 NUISANCES and OFFENSES

Section 500 - General

**500.01 Public Nuisance Defined.** Whoever by an act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

- A. Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number members of the public; or
- B. Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- C. Is guilty of any other act or omission declared by law or this ordinance to be a public nuisance and for which no sentence is specifically provided.

**500.02 Public Nuisances Affecting Health.** The following are hereby declared to be nuisances affecting health:

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

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

- A. All illegal gambling devices, slot machines, and punch boards;
- B. Betting, bookmaking, and all apparatus used in such occupations;

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

D. All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, 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;

E. Any vehicle used for the illegal transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

**500.04 Public Nuisances Affecting Peace and Safety.** The following are declared to be nuisances affecting public peace and safety:

A. All snow and ice not removed from public sidewalks 48 hours after the snow or other precipitation causing the condition has ceased to fail;

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

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

D. All unnecessary noises and annoying vibrations;

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

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

G. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the freedom of the street or sidewalk;

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

I. 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;

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

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

L. Waste water cast upon or permitted to flow upon streets or other public property;

M. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies and/or unused cars or parts thereof, whether or not in running order, or other material, in a manner conducive to the harboring of rats, mice, snakes or vermin; or

any vehicle that qualifies as junk or abandoned under State law, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or safety hazards from such accumulation, except that accumulations of discarded or disused machinery, household appliances, automobile bodies and/or unused cars or parts thereof, whether or not in running order, or other such material shall be allowed as part of an otherwise lawfully operating junk or salvage yard;

N. 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;

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

P. 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;

Q. The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

R. The accumulation of any piles of wood that are not:

1. Neatly stacked; or
2. Stacked or secured in a stable manner to avoid collapse.

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

1. Standards. A building, fence, or other structure is a public nuisance if it does not comply with the following standards.

a. No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or fallen bricks, 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 50% 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. Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.
- f. 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.
- g. Foundations must be structurally sound and in good repair.

T. Unlawful parking and storage. No person may place, store, or allow the placement or storage of ice fish houses, any type of camper or camper trailer or any enclosed trailer outside continuously for longer than one week in any front, side, or rear setback area of residentially-zoned property.

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

(Ord. 09-09-21-01, passed 9-21-09; Am. Ord. 14-05-19-01, passed 5-19-14)

**500.05 Duties of City Officers.** The police department and city employees designated by the council shall enforce the provisions of this ordinance. Such police officers or city employees shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

#### **500.06 Abatement.**

**Subd. 1 Notice.** Written notice of violation; notice of the time, date, place and subject of any hearing before the Council; notice of Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this Section.

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

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

C. Notice of Council Order. Except for those cases determined by the City to require summary enforcement, written notice of any Council order shall be made as provided in Minn. Stat §463.17 (Hazardous and Substandard Building Act).

D. Notice of Motion for Summary Enforcement. Written notice of any motion for summary enforcement shall be made as provided for in Minn. Stat. §463.17 (Hazardous and Substandard Building Act).

**Subd. 2 Procedure.** Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the City, the officer shall notify in writing the owner of record or occupant of the premises of such fact and order that such nuisance be terminated or abated. If the notice of violation is not complied with within the time specified, the enforcing officer shall report that fact immediately to the Council.



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

**Subd. 3 Emergency Procedure; Summary Enforcement.** In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in Section 500.06, Subds. 1 and 2, will permit a continuing nuisance to unreasonably endanger public health, safety or welfare, the Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer charged with enforcement shall determine that a public nuisance exists or is being maintained on premises in the City and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The enforcement officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the City's intention to seek summary enforcement and the time and place of the Council meeting to consider the question of summary enforcement. The Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in Section 500.06, Subd. 1, and may order that such nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the Council may order summary enforcement and abate the nuisance.

**Subd. 4 Immediate Abatement.** Nothing in Section 500.06 shall prevent the City, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

#### **500.07 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 city Clerk-Treasurer/Administrator or other officer designated by the Council shall prepare a bill for the cost and mail it to the owner. The amount shall be immediately due and payable at the office of the city Clerk-Treasurer/Administrator.

**Subd. 2. Assessment.** If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, any unpaid charges by the City for the cost of elimination of the nuisance may be collected as a special assessment pursuant to Section 705 of this Code.

### **Section 505 - Tree Diseases**

**505.01 Certain Nuisances Prohibited.** No person shall allow any of the following nuisances to exist on any premises owned or controlled by him or her, or on any premises abutting on any street or public right of way (this includes boulevards):

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 (Eichh.) or Hylurgopinus Rufipes (Marsh).

B. Any dead elm tree or part thereof, including legs, 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.

**505.02 Transportation of Diseased Wood.** No person shall transport any bark-bearing elm wood within the City without a permit which is to be issued by the forester.

**505.03 Duties of the Forester Conferred on the Street Superintendent.** The powers and duties of the City Forester set forth in this section are hereby conferred upon the street superintendent.

**505.04 Duties and Responsibilities of Forester.** The forester shall coordinate, under the direction and control of the Council, all activities of the municipality relating to the control and prevention of Dutch elm disease. The Forester shall have the following powers, duties, and responsibilities;

- A. The forester shall perform the duties incident to a program for control of the Dutch elm disease.
- B. The forester shall act as the Coordinator between the commissioner of agriculture and the Council in the conduct of the Dutch elm disease control program.
- C. The forester shall inspect all premises and places within the City as often as practicable to determine whether any condition described in Subsection 500.01 exists thereon. The forester shall investigate all reported incidents or infestations by Dutch elm fungus or elm bark beetles.
- D. The forester or a duly authorized agent of the forester may enter private premises at any reasonable time for the purpose of carrying out any of the duties assigned him or her under this section.
- E. The forester shall, upon finding conditions indicating Dutch elm 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. Except as otherwise specifically provided, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.
- F. The forester shall supervise and control the abatement of all nuisances described in this section.

G. The forester shall keep a record of the costs of abatements done under this section and shall report monthly to the City Clerk-Treasurer/Administrator all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.

H. Whenever the forester determines that an elm tree or elm wood within the City is infected with Dutch elm fungus, he or she may spray or treat all nearby high value elm trees, with an effective elm bark beetle destroying concentrate or both. 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.

I. The forester shall issue permits for the transportation of bark-bearing elm wood within the City.

**505.05 Abatement of Tree Nuisances.** The abatement of the nuisance described in this section shall be completed in the following manner:

A. If the forester finds that the danger of infestation of other elm trees is not imminent because of elm dormancy, he or she shall make a written report of his or her findings to the Council which shall proceed as follows: (1) abating the nuisance as a public improvement under Minnesota Statutes Chapter or (2) abating the nuisance as provided in this section.

B. If the forester finds that danger of infestation of other elm trees is imminent, he or she shall notify the abutting property owner by certified mail that the nuisance will be abated within a specified time, not less than 3 days from the date of mailing of such a notice. The forester shall immediately report such action to the Council, and after the expiration of the time limited by the notice he or she may abate the nuisance.

C. Upon receipt of the forester's report, the Council shall, by resolution, order the nuisance abated. Before action is taken of 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. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed bases of assessment, if any, of costs. At such 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 with such modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

D. 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 Dutch elm disease fungus and accordance with technical and expert opinions and plans as may be designated by the commissioner of agriculture.

**505.06 Assessment.** On or before November 30 of each year the City Clerk-Treasurer/Administrator shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under Subsections 500.01 through 500.07. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota Statutes for certification to the county auditor and collections the following year along with current taxes.

**505.07 Penalty.** Any person preventing, delaying, or interfering with the forester or agents of the forester shall be guilty of a misdemeanor.

### Section 510 Use of Weapons

**510.01 Minors.** It shall be unlawful for minors under the age of 14 years of age to handle, or have in their possession or under their control, except while accompanied by or under the immediate charge of their parents or guardian, any firearm, air gun, or B.B. gun of any kind for hunting or target practice of any other purpose, within the City. Any person aiding or knowingly permitting any such minor, as mentioned above, to violate the same, shall also be in violation.

**510.02 Pointing of Guns Prohibited.** No person shall, within the City, aim or point any firearm, air gun, or B.B. gun, of any kind, whether loaded or not, at or towards another human being, except it being in defense of person or persons or property against one committing or attempting to commit a felony.

**510.03 Discharge of Firearms.** No person shall discharge any firearm, air gun or B.B. gun of any kind within the City, except at a duly authorized shooting range while such range is supervised, or while under reasonable apprehension of harm to protect person or property against anyone committing or attempting to commit a felony, or at a licensed event pursuant to Section 340 where the Council has specifically authorized a shooting event, or, after permission to do so granted by the Council, to protect property against damage by rodent, animals or destructive fowl.  
(Ord. 22-03-14-02, passed 3-14-22)

### Section 515 - Curfew

**515.01 Definitions.** For the purposes of this Section, the following words shall have the definition or meaning provided:

**Subd. 1 Curfew Hours.** “Curfew Hours” shall mean the hours between 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday, until 6:00 a.m. the following day, inclusive; and between the hours of 11:00 p.m. on any Friday or Saturday and 6:00 a.m. the following day, inclusive.

**Subd. 2 Emergency.** “Emergency” shall mean an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term shall include, but is not limited to, a fire, a natural disaster, and automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

**Subd. 3 Establishment.** “Establishment” shall mean any privately owned place of business operated for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.

**Subd. 4 Guardian.** “Guardian” shall mean: (a) a person who, under court order, is the guardian of the person of a minor; or (b) a public or private agency with whom a minor has been placed by a court.

**Subd. 5 Minor.** “Minor” shall mean any person under sixteen (16) years of age.

**Subd. 6 Operator.** “Operator” shall mean an individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term shall include the members or partners of an association or partnership, and the officers of a corporation.

**Subd. 7 Parent.** “Parent” shall mean a person who is: (a) a natural parent, adoptive parent, or step-parent of another person; or (b) at least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.

**Subd. 8 Public Place.** “Public Place” shall mean any place to which the public or a substantial group of the public has access and shall include, but not be limited to: parks, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

**Subd 9 Remain.** “Remain” shall mean to: (a) linger or stay; or (b) fail to leave premises when asked to do so by a police officer or the owner, operator, or other person in control of the premises.

**Subd. 10 Serious Bodily Injury.** “Serious Bodily Injury” shall mean any bodily injury that creates a substantial risk of death, or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

**515.02 Curfew Established.** It shall be unlawful for any minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

**515.03 Exceptions.** The restrictions of 515.02 shall not apply when the minor:

- A. Is accompanied by parent, guardian, or other person having the minor's lawful care, custody or control;

- B. Is attending, or is on the way to or returning home from without stop or detour, an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization, or another similar entity that takes responsibility for the minor; or
- C. Is engaged in a lawful employment activity, or is going to or returning home from, a lawful employment activity, and without stop or detour; or
- D. Is upon an errand or other legitimate business directed by a parent, guardian or other adult having the lawful custody of the minor, and without detour or stop; or
- E. Is in a vehicle involved in interstate travel, or is otherwise exercising another constitutional right; or
- F. Is on the sidewalk immediately adjacent to the minor's place of residence or the adjacent premises of a next-door neighbor provided that the neighbor has not objected to the police about the minor's presence; or
- G. Is involved in an emergency; or
- H. The minor is married or has been married or has been legally emancipated.

**515.04 Responsibility of Parent and Guardian.** No parent, guardian or other adult having custody and control of a minor, to knowingly permit, or by insufficient control allow the minor to remain in any public place or on the premises of any establishment within the city during curfew hours. The term "knowingly" shall include knowledge which a parent or guardian should reasonably be expected to have concerning the whereabouts of a minor in the legal custody of that parent or guardian.

**515.05 Responsibility of Other Persons.** It shall be unlawful for any owner, operator, or any employee of an establishment to knowingly allow a minor to remain upon the premises of the establishment during the curfew hours.

**515.06 Enforcement.** Before taking any enforcement action under this Section, a police officer shall ask the apparent offender's age and reason for being in the public place or establishment. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception provided in Subsection 515.03, is present.

**515.07 Penalties.**

**Subd. 1 General.** Any person who violates a provision of this Section shall be guilty of a separate offense for each day or part of a day during which a violation is committed, continued, or permitted.

**Subd. 2 Petty Misdemeanor.** Any minor who is convicted of violating any provision of this Section after the case has been referred for prosecution in trial court under Minn. Stat. §260.125, any adult person who is convicted of violating any provision of this Section, shall be guilty of a petty misdemeanor and shall be punished by a fine not to exceed the maximum penalty authorized under State law for a petty misdemeanor.