

CHAPTER 95: NUISANCES

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§ 95.01 PUBLIC NUISANCE DEFINED.

Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

(A) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or

(B) Interferes with, obstructs, or renders dangerous for passage any public highway, right-of-way, or waters used by the public; or

(C) Commits or allows any other act or omission declared by law or this chapter to be a public nuisance and for which no sentence is specifically provided.

(Prior Code, § 801.01) (Am. Ord. 2017-10-1, passed 10-10-2017)

§ 95.02 PUBLIC NUISANCES AFFECTING HEALTH.

The following are declared to be public nuisances affecting health, except in the Open Space/Carlos Avery WMA District:

(A) Exposed accumulation of decayed or unwholesome food or vegetable matter, except for a clearly contained and maintained compost pile;

(B) All diseased animals running at large;

(C) All non-naturally-occurring 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 nuisance vegetation as defined as defined in § 95.02A;

(I) Dense smoke, noxious fumes, gas and soot, or cinders in unreasonable quantities;

(J) All public exposure of persons having a contagious disease; and

(K) Any trade or business not licensed as required by law.

(Ord. 2009-5-1, passed 5-12-2009; Am. Ord. 2011-6-3, passed 6-14-2011; Am. Ord. 2017-10-1, passed 10-10-2017)

46 **§ 95.02A PUBLIC NUISANCES; WEEDS, GROWING GRASSES, OTHER**
47 **VEGETATION AND LAWN MAINTENANCE.**

48 (A) *Definitions.* **NUISANCE VEGETATION** shall include the following:

49 (1) Vegetation providing safe harborage for rats, mice, snakes or other vermin, on
50 any parcel of land less than 1 acre in size that has a building constructed on it;

51 (2) Vegetation which obstructs the safe view of traffic at an intersection or
52 driveway;

53 (3) Noxious weeds as defined by Minnesota state statute;

54 (4) Dead or dying trees or plants which may cause a hazardous situation if they
55 fall;

56 (5) Any growth of weeds, growing grasses, brush or other rank vegetation
57 exceeding 12 inches in height or any accumulation of dead weeds, grass, or brush on
58 platted or developed property or within 100 feet of platted or developed
59 property. **DEVELOPED PROPERTY** shall mean that the property has been improved
60 with the construction of buildings, parking lots, or other facilities excluding underground
61 utilities for sewer or water lines. This requirement shall not apply to:

62 (a) **NATURAL AREAS** which shall be defined as densely wooded areas or
63 marshes;

64 (b) Any public land area, including parks, which is left in a natural state as a
65 prairie, wetland, wooded area or meadow;

66 (c) Property zoned Agriculture and actively and primarily used for agricultural
67 purposes;

68 (d) On private land, the areas of natural vegetation, and identified as a
69 native/natural planting area or prairie restoration area as part of the overall landscaping
70 plan approved by the City Building Inspector, including areas of native wild flowers and
71 other similar plants as part of the overall natural landscaping plan; the fee for the review
72 is set forth in § [34.01](#) as amended from time to time;

73 (e) Growing grasses within 10 feet of a body of water, or within a required buffer,
74 including wetlands, ponds (including storm water ponds) and lakes;

75 (f) Growing grasses or natural vegetation that are located on a **STEEP SLOPE**,
76 defined as lands having slopes over 12%; or

77 (g) Compost areas which meet the following conditions:

78 1. The compost is in a compost box which is of adequate construction to offer
79 the decomposition of the material; and

80 2. The compost is screened from the view of adjacent property owners.

81 (B) *Lawn maintenance.*

82 (1) Once an area has been converted to turf grass the property owner, tenant, or
83 occupant shall not allow the turf grass to exceed the height of 7 inches or be allowed to
84 go to seed. Turf grass higher than 7 inches is nuisance vegetation.

85 (2) No property owner, tenant, or occupant shall allow any herbaceous vegetation
86 growth upon the adjacent city right-of-way to grow to a height greater than 7 inches or to
87 allow such vegetation to go to seed except as otherwise permitted herein. Doing so
88 constitutes a nuisance violation.

89 (a) Exception: This requirement shall not apply to properties where the adjacent
90 right-of-way is a rural ditch without curb and gutter.

91 (Ord. 2011-6-3, passed 6-14-2011; Am. Ord. 2017-10-1, passed 10-10-2017)

92 **§ 95.03 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.**

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

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

97 (B) Betting, bookmaking, and all apparatus used in such occupation;

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

100 (D) All places where intoxicating liquor is manufactured or disposed of in violation of
101 law or where, in violation of law, persons are permitted to resort for the purpose of
102 drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other
103 disposition in violation of law, and all liquor and other property used for maintaining such
104 a plan; and

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

107 (Prior Code, § 801.03) (Am. Ord. 2017-10-1, passed 10-10-2017)

108 **§ 95.04 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.**

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

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

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

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

116 (D) Obstructions and excavations affecting the ordinary use by the public of streets,
117 alleys, sidewalks, or public grounds except under such conditions as are permitted by
118 this code or other applicable law;

119 (E) Radio aerials or television antennae erected or maintained in a dangerous
120 manner;

121 (F) Any use of property abutting on a public street or sidewalk or any use of a public
122 street or sidewalk which causes large crowds of people to gather, obstructing traffic and
123 the free uses of the streets or sidewalks;

124 (G) All hanging signs, awnings, and other similar structures over streets and
125 sidewalks, or so situated so as to endanger public safety or not constructed and
126 maintained as provided by ordinance;

127 (H) The allowing of rain water, ice, or snow to fall from any building or structure upon
128 any street or sidewalk or to flow across any sidewalk;

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

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

133 (K) Wastewater cast upon or permitted to flow upon streets or other public property;

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

138 (M) Any well, hole or similar excavation which is left uncovered or in such other
139 condition as to constitute a hazard to any child coming on the premises when it is
140 located;

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

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

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

148 (Q) Driving motorized scooters, bicycles, motorcycles or any type of motorized
149 vehicle on any sidewalk, walkway or private property of others and/or the driving of said
150 vehicles in a loud, noisy or unsafe manner and/or in groups of more than 2 on any
151 public street, alley or roadway;

152 (R) Reflected glare or light from private exterior lighting exceeding 0.5 footcandle, as
153 measured on the property line of the property where the lighting is located when
154 abutting any residential parcel, and 1 footcandle when abutting any commercial or
155 industrial parcel;

156 (S) *Prohibited noises.* The following are declared to be public nuisances affecting
157 public health, safety, peace or welfare:

158 (1) Any person participating in any party or other gathering that causes the
159 unreasonable disturbing of the peace, quiet or repose, which participation is primarily
160 audible by another person at a distance of 50 feet or more from the source;

161 (2) Any distinctly and loudly audible noise that unreasonably annoys, disturbs,
162 injures or endangers the comfort, repose, health, peace, safety or welfare of any
163 person, or precludes such person's enjoyment of property, or affects such person's
164 property value, and which noise is audible at a distance of 50 feet or more from its
165 source;

166 (3) All obnoxious noises, motor vehicle or otherwise, in violation of Minn. Rules
167 Chapter 7030, as they may be amended from time to time, are hereby incorporated into
168 this section by reference;

169 (4) The use of any vehicle that creates loud and grating, grinding, rattling or other
170 noise beyond the normal noise generated by a motor vehicle of similar design and
171 purpose that is reasonably maintained and loaded;

172 (5) The discharging of the exhaust or permitting the discharge of the exhaust of
173 any statutory internal combustion engine, motor boat, motor vehicle, motorcycle, all
174 terrain vehicle (ATV), snowmobile or any recreational device, except through a muffler
175 or other device that effectively prevents loud or explosive noises therefrom, and
176 complies with all applicable state laws and regulations;

177 (6) Any loud or excessive noise in the loading, unloading or unpacking of any
178 vehicle, which noise is audible at a distance of 50 feet or more from the source of the
179 noise;

180 (7) The use or operation, or permitting the use or operation, of any radio receiving
181 set, television set, musical instrument, music device, paging system, machine or other
182 device for producing or reproducing sound in a distinctly and loudly audible manner so

183 as to disturb the peace, quiet and comfort of any person nearby, which sound is audible
184 at a distance of 50 feet or more from the source of the sound;

185 (8) *Domestic power equipment.* No person shall operate a power lawn mower,
186 power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar
187 domestic power equipment, except between the hours of 7:00 a.m. and 10:00 p.m.
188 Monday through Saturday, or between the hours of 9:00 a.m. and 9:00 p.m. on Sunday
189 or a holiday. Snow removal equipment is exempt from this provision;

190 (9) *Refuse hauling.* No licensed or permitted garbage hauler shall collect or
191 remove garbage or refuse in any residential district, except between the hours of 6:00
192 a.m. and 10:00 p.m. on any weekday, or between the hours of 9:00 a.m. and 9:00 p.m.
193 on any weekend or holiday;

194 (10) *Construction activities.* No person shall engage in or permit construction
195 activities involving the use of any kind of electric, diesel or gas-powered machine or
196 other power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. on any
197 weekday, or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or
198 holiday. **CONSTRUCTION ACTIVITY** is defined for this section as the repair,
199 demolition, removal, building, assembling or placing of any property;

200 (11) *Radios, music devices, paging systems, and the like.* The operation of any
201 device referred to in division (S)(7) between the hours of 10:00 p.m. and 7:00 a.m. in a
202 manner so as to be plainly audible at the property line of the structure or building in
203 which it is located, or at a distance of 50 feet or more from the source if it is located
204 outside a structure or building, shall be prima facie evidence of a violation of this
205 section.

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

208 (Prior Code, § 801.04) (Am. Ord. 2013-8-3, passed 8-27-2013; Am. Ord. 2013-11-1,
209 passed 11-12-2013; Am. Ord. 2017-10-1, passed 10-10-2017) Penalty, see § [95.99](#)

210 **§ 95.05 OFFICER CHARGED WITH ENFORCEMENT.**

211 The City Council shall appoint an officer charged with enforcement to enforce the
212 provisions of this chapter relating to nuisances affecting public safety. Such officer shall
213 have the authority and power to inspect private premises and take all reasonable
214 precautions to prevent the commission and maintenance of public nuisances. Such
215 officer may be a City Council member.

216 (Prior Code, § 801.05) (Am. Ord. 120, passed 1-13-1998)

217 **§ 95.06 NOTICE AND ABATEMENT.**

218 (A) *Abatement procedure.* In addition to any other remedy available at law, the city
219 may abate a public nuisance pursuant to the following procedure:

220 (1) *Notice of violation.* Whenever the officer charged with enforcement determines
221 that a public nuisance is being maintained or exists on premises in the city, the officer
222 shall notify, by written notice of violation, the owner of record and the occupant, if any,
223 either in person or by certified mail of the premises of such fact and order that such
224 public nuisance be terminated or abated. If the premises is not occupied, the owner of
225 record is unknown, or the owner of record or occupant refuses to accept service of the
226 notice of City Council hearing, notice of violation shall be served by posting it on the
227 premises. The notice of violation shall:

228 (a) Identify the public nuisance;

- 229 (b) Identify the steps to be taken to abate the public nuisance;
230 (c) Specify the time within which the public nuisance is to be abated.

231 (2) *Notice of City Council hearing.* If the notice of violation is not complied with
232 within the time specified, the officer charged with enforcement shall serve written notice
233 of a City Council hearing to determine or abate a public nuisance on the owner of record
234 and occupant of the premises, if any, either in person or by certified mail. If the
235 premises is not occupied, the owner of record is unknown, or the owner of record or
236 occupant refuses to accept service of the notice of City Council hearing, notice of City
237 Council hearing shall be served by posting it on the premises. Such notice of City
238 Council hearing shall contain the time, date, place and subject of such hearing.

239 (3) *Notice of City Council order.* Following the hearing to determine or abate a
240 public nuisance, at which all interested parties have been given an opportunity to speak,
241 the Council may determine that the condition identified in the notice of violation is a
242 public nuisance and order that if the public nuisance is not abated within the time
243 prescribed by the Council the city may seek injunctive relief, including abatement. The
244 city shall serve a copy of the City Council order on the owner of record and the
245 occupant and lienholder of the premises, if any, in the manner provided for service of a
246 summons in a civil action. If the premises is not occupied, the owner of record is
247 unknown, or the owner of record or occupant refuses to accept service, the City Council
248 order shall be served by posting it on the premises.

249 (4) *Judicial determination.* If the public nuisance is not abated within the time
250 prescribed by the City Council order, a copy of the order with proof of service shall be
251 filed with the Housing Court Administrator of District Court of the county in which the
252 property is located along with a motion to enforce the order. At the hearing, the judicial
253 officer shall determine whether a public nuisance under this code exists and, if so, shall
254 authorize the city to enter onto the property and abate the public nuisance. The Court
255 Administrator shall cause a copy of the judgment to be mailed forthwith to persons upon
256 whom the original order was served.

257 (B) *Emergency procedure; summary enforcement.* Notwithstanding the above
258 procedures, in cases of emergency, where delay in abatement required to complete the
259 notice and procedure requirements set forth in division (A) above will permit a continuing
260 public nuisance to unreasonably endanger public health, safety or welfare, the City
261 Council may order summary enforcement and abate the public nuisance. To proceed
262 with summary enforcement, the officer charged with enforcement shall determine that a
263 public nuisance exists or is being maintained on premises in the city and that delay in
264 abatement of the public nuisance will unreasonably endanger public health, safety, or
265 welfare. The officer charged with enforcement shall notify in writing the owner of the
266 premises and occupant, if any, of the nature of the public nuisance, of the city's intention
267 to seek summary enforcement, and of the time and place of the Council meeting to
268 consider the question of summary enforcement and shall order that the public nuisance
269 be immediately terminated or abated. The City Council shall determine whether or not
270 the condition identified in the notice to the owner or occupant is a public nuisance and
271 whether public health, safety, or welfare will be unreasonably endangered by delaying
272 abatement required to complete the procedure set forth in division (A) above, and may
273 order summary enforcement to abate the public nuisance.

274 (C) Nothing in this chapter shall prevent the city without notice or other process from
275 immediately abating any condition which poses an imminent and serious hazard to
276 human life or safety.

277 (Prior Code, § 801.06) (Am. Ord. 120, passed 1-13-1998; Am. Ord. 2017-10-1, passed
278 10-10-2017)

279 **§ 95.07 REPEAT NUISANCE CALL SERVICE FEE.**

280 (A) *Purpose.* The purpose of this section is to protect the public safety, health and
281 welfare and to prevent and abate repeat service response calls by the city to the same
282 property or location for nuisance service calls, as defined herein, which prevalent police
283 or public safety services to other residents of the city. It is the intent of the city by the
284 adoption of this section to impose and collect service call fees from the owner or
285 occupant, or both, of property to which city officials must repeatedly respond for any
286 repeat nuisance event or activity that generates extraordinary costs to the city. The
287 repeat nuisance service call fee is intended to cover that cost over and above the cost
288 of providing normal law or code enforcement services and police protection city wide.

289 (B) *Scope and application.* This section shall apply to all owners and occupants of
290 private property that is the subject, or location of, the repeat nuisance service call by the
291 city. This section shall apply to any repeat nuisance service calls as set forth herein
292 made by a peace officer, part time peace officer, community service officer, animal
293 control officers and code enforcement technicians.

294 (C) *Definition of nuisance call or similar conduct.* The term **NUISANCE SERVICE**
295 **CALL** shall mean any activity, conduct, or condition occurring upon private property
296 within the city which: (i) unreasonably annoys, injures or endangers the safety, health,
297 morals, comfort or repose of any member of the public; (ii) or will, or will tend to, alarm,
298 anger or disturb others or provoke breach of the peace, to which the city is required to
299 respond, including, but not limited to the following:

300 (1) Any activity, conduct, or condition deemed as a public nuisance under any
301 provision of the city code;

302 (2) Any activity, conduct, or condition in violation of any provision of [Ch. 95](#) of this
303 code;

304 (3) Any conduct, activity or condition constituting a violation of Minnesota State
305 laws prohibiting or regulating prostitution, gambling, controlled substances, use of
306 firearms; and

307 (4) Any conduct, activity, or condition constituting disorderly conduct under M.S.
308 Ch. 609 as it may be amended from time to time.

309 (D) *Repeat nuisance service call fee.* The city may impose a repeat nuisance
310 service call fee upon the owner or occupant of private property if the city has rendered
311 services or responded to the property on three or more occasions within a period of 365
312 days in response to or for the abatement of nuisance conduct, activity, or condition of
313 the same or similar kind. The repeat nuisance service call fee under this section shall
314 be an amount as set forth in the current city fee schedule. All repeat nuisance
315 service call fees imposed and charged against the owner or occupant under this section
316 shall be deemed delinquent 30 days after the city's mailing a billing statement
317 therefore. Delinquent payments are subject to a 10% late penalty of the amount due.

318 (E) *Notice.* No repeat nuisance service call fee may be imposed against an owner or
319 occupant of property without first providing the owner or occupant with written notice of

320 the prior nuisance service calls prior to the latest nuisance service call rendered by the
321 city upon which the fee is imposed. The written notice shall:

322 (1) State the nuisance conduct, activity or condition that is or has occurred or is
323 maintained or permitted on the property, the dates of the nuisance conduct, activity or
324 condition;

325 (2) State that the owner or occupant may be subject to a repeat nuisance call
326 service fee if a third nuisance service call is rendered to the property for the same
327 nuisance, in addition to the city's right to seek other legal remedies or actions for
328 abatement of the nuisance or compliance with the law; and

329 (3) Be served personally or by U.S. Mail upon the owner or occupant at the last
330 known address.

331 (F) Right to appeal nuisance service call fee.

332 (1) Upon the imposition of a repeat nuisance service call fee, the city shall inform
333 the owner or occupant of his or her right to a hearing on the alleged repeat nuisance
334 service calls. The owner or occupant upon whom the fee is imposed may request a
335 hearing by serving upon the City Clerk within five business days of the mailing of the fee
336 invoice, inclusive of the day the invoice is mailed, a written request for hearing. The
337 matter shall be heard by the hearing office within 14 days of the date of the owner's or
338 occupant's request for hearing.

339 (2) The hearing shall be conducted in an informal manner and the Minnesota Rules
340 of Civil Procedure and Rules of Evidence shall not be strictly applied. The hearing need
341 not be transcribed, but may be transcribed at the sole expense of the party who
342 requests the transcription. After considering all evidence submitted, the Hearing Officer
343 shall make written findings of fact and conclusions on the issue of whether the city
344 responded to or rendered services for repeat nuisance service calls of the same or
345 similar kind on three or more occasions within a 365-day period. The findings and
346 conclusions shall be served upon the owner or occupant by U.S. Mail within five days of
347 the notice of hearing.

348 (3) An owner's or occupant's right to a hearing shall be deemed waived if the
349 owner or occupant fails to serve a written request for hearing as required herein or fails
350 to appear at the scheduled hearing date. Upon waiver of the right to hearing, or upon
351 the hearing officer's written findings of fact and conclusions that the repeat nuisance call
352 service fee is warranted hereunder, the owner or occupant shall immediately pay the
353 fee imposed.

354 (G) *Legal remedies nonexclusive.* Nothing in this section shall be construed to limit
355 the city's other available legal remedies for any violation of the law which may constitute
356 a nuisance service call hereunder, including criminal, civil, injunctive or others.

357 (Ord. 2006-3-4, passed 3-28-2006)

358 **§ 95.08 RECOVERY OF COSTS.**

359 (A) *Personal liability.* The owner of premises on which a nuisance has been abated
360 by the city shall be personally liable for the cost to the city of the abatement, including
361 but not limited to all maintenance, administrative, technical, engineering and legal costs.
362 As soon as the work has been completed and the cost determined, the City Clerk or
363 other official designated by the Council shall prepare a bill for the cost and mail it to the
364 owner. Thereupon the amount shall be immediately due and payable at the office of the
365 City Clerk.

366 (B) *Assessment.* If the nuisance is a public health or safety hazard on private
367 property, the accumulation of snow and ice on public sidewalks, the growth of weeds on
368 private property or outside the traveled portion of streets, or unsound or insect infected
369 trees, the Clerk shall, on or before September 1 next following abatement of the
370 nuisance, list the total unpaid charges along with all other such charges as well as other
371 charges for current services to be assessed under M.S. § 429.101, as amended from
372 time to time, against each separate lot or parcel to which the charges are attributable.
373 The Council may then spread the charges against such property under that statute and
374 other pertinent statutes or ordinances for certification to the County Auditor and
375 collection along with current taxes the following year or in annual installments, not
376 exceeding 10, as the Council may determine in each case.
377 (Prior Code, § 801.07) (Am. Ord. 120, passed 1-13-1998; Am. Ord. 2003-7-3, passed 8-
378 12-2003; Am. Ord. 2006-3-4, passed 3-28-2006)

379 **§ 95.99 PENALTY.**

380 Any person convicted of violating any provision of this chapter is guilty of a
381 misdemeanor and shall be punished as set forth in § [10.99](#).
382 (Prior Code, § 801.08) (Am. Ord. 120, passed 1-13-1998)
383