

## **TITLE 9: GENERAL REGULATIONS**

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*HISTORY: Adopted Ord 2003 – 06*

## **CHAPTER 900: ABANDONED PROPERTY**

### Section

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## **GENERAL PROVISIONS**

### **§ 900.01 DISPOSITION OF ABANDONED PROPERTY.**

(A) *PROCEDURE.* Except for abandoned and junked vehicles, all property lawfully coming into possession of the city shall be disposed of as provided in this section which is adopted pursuant to M.S. § 471.195, as it may be amended from time to time. Abandoned and junked vehicles shall be disposed of according to the procedures of §§ 900.15 *et seq.*

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

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

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

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

(F) *DISPOSITION OF PROPERTY WITH NO VALUE.* Any abandoned property which has no value, or which receives no bid at a public auction conducted under Paragraph (D) above, may be disposed of in any legal manner by the city.

## ***ABANDONED VEHICLES***

### **§ 900.15 FINDINGS AND PURPOSE.**

M.S. Ch. 168B, and Minn. Rules Ch. 7035, as they may be amended from time to time, are hereby adopted by reference. Sections 900.15 through 900.25 of this code are adopted under the authority of M.S. § 168B.09, Subd. 2, as it may be amended from time to time. If any of these provisions are less stringent than the provisions of § M.S. 168B or Minn. Rules Ch. 7035, as it may be amended from time to time, the statute or rule shall take precedence.

### **§ 900.16 DEFINITIONS.**

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

#### **ABANDONED VEHICLE.**

(1) An “abandoned vehicle” is a motor vehicle, as defined in M.S. § 169.01 as it may be amended from time to time, that:

(a) Has remained illegally:

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

2.) On private property for a period of time, as determined under § 900.18(B), without the consent of the person in control of the property; and

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

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

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

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

**DEPARTMENT.** The Minnesota Department of Public Safety.

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

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

**JUNK VEHICLE.** A vehicle that:

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

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

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

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

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

**PUBLIC IMPOUND LOT.** An impound lot owned by or contracting with a unit of government under section § 900.24.

**UNAUTHORIZED VEHICLE.** A vehicle that is subject to removal and impoundment pursuant to § 900.18(B), or M.S. § 169.041 as it may be amended from time to time, but is not a junk vehicle or an abandoned vehicle.

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

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

**§ 900.17 ABANDONMENT OR STORAGE OF VEHICLES IN VIOLATION OF THIS CHAPTER.**

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

It shall be unlawful for any person to store, keep, or maintain, or permit another to store, keep, or maintain an abandoned, junk or unauthorized vehicle on public or private property, unless it is kept within an enclosed garage or permitted storage building.

Penalty, see § 100.99

*HISTORY: AMENDED ORD. 2003-13*

**§ 900.18 AUTHORITY TO IMPOUND VEHICLES.**

(A) *ABANDONED OR JUNK VEHICLES.* The City Clerk or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle.

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

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

(a) On a highway and properly tagged by a peace officer, four hours;

(b) Located so as to constitute an accident or traffic hazard to the traveling public, as determined by a peace officer, immediately; or

(c) That is a parking facility or other public property owned or controlled by a unit of government, properly posted, four hours; or

(2) On private property:

(a) That is single-family or duplex residential property, immediately;

(b) That is private, nonresidential property, properly posted, immediately;

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

**§ 900.19 SALE; WAITING PERIODS.**

(A) *SALE AFTER 15 DAYS.* An impounded vehicle is eligible for disposal or sale under § 900.23, 15 days after notice to the owner, if the vehicle is determined to be:

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

(B) *SALE AFTER 45 DAYS.* An impounded vehicle is eligible for disposal or sale under § 900.23, 45 days after notice to the owner, if the vehicle is determined to be an unauthorized vehicle.

**§ 900.20 NOTICE OF TAKING AND SALE.**

(A) *CONTENTS; NOTICE GIVEN WITHIN FIVE DAYS.* When an impounded vehicle is taken into custody, the city or impound lot operator taking it into custody shall give notice of the taking within five days. The notice shall:

- (1) Set forth the date and place of the taking; the year, make, model and serial number of the impounded motor vehicle if the information can be reasonably obtained; and the place where the vehicle is being held;
- (2) Inform the owner and any identifiable lienholders of their right to reclaim the vehicle under § 900.21; and
- (3) State that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under § 900.19 shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to § 900.23; and
- (4) Inform the owner and any lien holders of the towing charges then accrued against the vehicle and shall provide a schedule of storage charges to be made by the towing contractor, and any fine to be imposed by the City as a condition for reclaiming the vehicle.

*HISTORY: AMENDED ORD. 2003-13*

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

*HISTORY: AMENDED ORD. 2003-13*

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

### **§ 900.21 RIGHT TO RECLAIM.**

(A) *PAYMENT OF CHARGES.* The owner or any lienholder of an impounded vehicle shall have a right to reclaim the vehicle from the city or impound lot operator taking it into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days, as applicable under § 900.19, after the date of the notice required by § 900.20.

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

### **§ 900.22 OPERATOR'S DEFICIENCY CLAIM; CONSENT TO SALE.**

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

- (1) 25 days storage for a vehicle described in section § 900.19(A); and
- (2) 55 days storage for a vehicle described in § 900.19(B).

(B) *IMPLIED CONSENT TO SALE.* A registered owner who fails to claim the impounded vehicle within the applicable time period allowed under section § 900.19 is deemed to waive any right to reclaim the vehicle and consents to the disposal or sale of the vehicle and its contents and transfer of title.



## **§ 900.23 DISPOSITION BY IMPOUND LOT.**

### **(A) AUCTION OR SALE.**

(1) If an abandoned or unauthorized vehicle and contents taken into custody by the city or any impound lot, public or non-public, is not reclaimed under § 900.21, it may be disposed of or sold at auction or sale when eligible pursuant to §§ 900.20 and 900.21.

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

**(B) UNSOLD VEHICLES.** Abandoned or junk vehicles not sold by the city or public impound lots pursuant to division (A) of this section shall be disposed of in accordance with section § 900.24.

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

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

## **§ 900.24 DISPOSAL AUTHORITY.**

The city may contract with others or may utilize its own equipment and personnel for the inventory of impounded motor vehicles and abandoned scrap metal and may utilize its own equipment and personnel for the collection, storage and transportation of these vehicles and abandoned scrap metal. The city may utilize its own equipment and personnel only for the collection and storage of not more than five abandoned or unauthorized vehicles without advertising for or receiving bids in any 120-day period.

**§ 900.25 REMOVAL FROM PRIVATE PROPERTY.**

*HISTORY: ADOPTED ORD. 2003-13*

The city may contract with others or may utilize its own equipment and personnel for the inventory of impounded motor vehicles and abandoned scrap metal and may utilize its own equipment and personnel for the collection, storage and transportation of these vehicles and abandoned scrap metal. The city may utilize its own equipment and personnel only for the collection and storage of not more than five abandoned or unauthorized vehicles without advertising for or receiving bids in any 120-day period.

**§ 900.26 RECOVERY OF COSTS.**

*HISTORY: ADOPTED ORD. 2003-13*

(A) **PERSONAL LIABILITY.** The owner of a premises upon which unauthorized, abandoned or junk automobiles have been removed, shall be personally liable for the cost of removal to the City, including legal fees and administrative costs. As soon as the work has been completed and the cost determined, the City Administrator or other city official 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.

(B) **ASSESSMENT.** If the storage or maintenance of abandoned, unauthorized or junk motor vehicles occurs on private property, or outside the travel portion of public streets, the City Clerk shall, on or before September 1<sup>st</sup> following removal of the vehicles, list the total unpaid costs and charges, including attorney=s fees and administrative charges, to be assessed under Minnesota Statutes '429.101 against each separate lot or parcel to which the charges are attributable. The City council may then impose the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year, or in annual installments, not exceeding three, or as the City council may determine in each case.

## CHAPTER 901: ANIMALS

### Section

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- 901.02 Dogs and cats
- 901.03 Non-domestic animals
- 901.04 Farm animals
- 901.05 Impounding
- 901.06 Kennels
- 901.07 Nuisances
- 901.08 Seizure of animals
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- 901.11 Dangerous animals
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- 901.99 Penalty

## § 901.01 DEFINITIONS.

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

**ANIMAL.** Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:

(1) *DOMESTIC ANIMALS.* Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

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

(3) *NON-DOMESTIC ANIMALS.* Those animals commonly considered to be naturally wild, and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:

(a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(d) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets.

(e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.

**AT LARGE.** Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

**CAT.** Both the male and female of the feline species commonly accepted as domesticated household pets.

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

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

**RELEASE PERMIT.** A permit issued by the Animal Control Officer or other person in charge of the pound for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee to the City Clerk or designee in accordance with the regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established in the Ordinance Establishing Fees and Charges adopted pursuant to § 300.11 and Chapter 101, as it may be amended from time to time.

## **§ 901.02 DOGS AND CATS.**

(A) ***RUNNING AT LARGE PROHIBITED.*** It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large. A person, who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading "Dogs or Cats Prohibited."

(B) ***I.D. REQUIRED.*** Any person owning, harboring, or keeping a dog in the city of Dundas which is more than 90 days old, shall have the dog or cat vaccinated for rabies and have proof of the same firmly attached to a collar about the dogs neck. Also, the dog must have some form of identifying its owner either attached to the collar or etched upon a collar plate.

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

(D) ***VACCINATION.***

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

- (a) Rabies - with a live modified vaccine; and
- (b) Distemper.

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

Penalty, see § 901.99

### **§ 901.03 NON-DOMESTIC ANIMALS.**

It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the city. Any owner of a non-domestic animal at the time of adoption of this code shall have 30 days in which to remove the animal from the city after which time the city may impound the animal as provided for in this section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

Penalty, see § 901.99

### **§ 901.04 FARM ANIMALS.**

Farm animals shall be kept in the City only as permitted by the Dundas Zoning Law, provided that no animal shelter shall be within 300 feet of any adjoining piece of property. An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

If the Dundas Zoning Law permits farm animals to be kept in a residential district, said animals shall only be permitted by Conditional Use Permit.

### **§ 901.05 IMPOUNDING.**

(A) *RUNNING AT LARGE.* Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of

the impounding to the owner of the dog or other animal, if known. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

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

(C) *RECLAIMING.* All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined under § 901.11 in which case it shall be kept for seven regular business days or the times specified in § 901.11, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

(1) Payment of the release fee and receipt of a release permit as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 300.11 of this code, as that ordinance may be amended from time to time.

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

(3) If a dog is unlicensed, payment of a regular license fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 300.11 of this code, as that ordinance may be amended from time to time, and valid certificate of vaccination for rabies and distemper shots is required.

(D) *UNCLAIMED ANIMALS.* At the expiration of the times established in division (C) of this section, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the animal by complying with all provisions in this section, or the officer may sell the animal to the University of Minnesota, or cause the animal to be destroyed in a proper and humane manner and shall

properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Clerk.

Penalty, see § 901.99

#### **§ 901.06 KENNELS.**

(A) *DEFINITION OF KENNEL.* The keeping of three or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a “kennel;” except that a fresh litter of pups may be kept for a period of three months before that keeping shall be deemed to be a “kennel.” Licensed veterinary clinics, located in non-residential areas are excepted from the definition of kennel.

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

Penalty, see § 901.99

#### **§ 901.07 NUISANCES.**

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

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

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

(D) *OTHER.* Any animals kept contrary to this section are subject to impoundment as provided in § 901.05.

Penalty, see § 901.99

#### **§ 901.08 SEIZURE OF ANIMALS.**

Any police officer or Animal Control Officer may enter upon private property and seize any animal provided that the following exist:



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

(B) The officer reasonably believes that the animal meets either the barking dog criteria set out in § 901.07(A); the criteria for cruelty set out in § 901.13; or the criteria for an at large animal set out in § 901.01(E);

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

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

(E) The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other authorized person to have that key shall not be considered unauthorized entry; and

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

#### **§ 901.09 ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY.**

If, in the reasonable belief of any person or the Animal Control Officer or police officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under § 901.05. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with § 901.05(C).

#### **§ 901.10 DISEASED ANIMALS.**

(A) *RUNNING AT LARGE.* No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of the city, even though the animal be properly licensed under this section.

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

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

(C) *RELEASE*. If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.  
Penalty, see § 901.99

## **§ 901.11 DANGEROUS ANIMALS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) **PROPER ENCLOSURE.** Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) If no appeal is filed, the orders issued will stand or the Animal Control Officer may order the animal destroyed.

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

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

(H) *STOPPING AN ATTACK.* If any police officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever

means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

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

Penalty, see § 901.99

## **§ 901.12 DANGEROUS ANIMAL REQUIREMENTS.**

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

(1) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in § 901.11(C)(3);

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

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

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

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

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

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

(B) *SEIZURE*. Any police officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

(C) *RECLAIMING ANIMALS*. A dangerous animal seized under §901.12(B) may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to animal control that each of the requirements under §901.12(B) is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under §901.11(F), and the owner is liable to the city for costs incurred in confining and impounding the animal.

(D) *SUBSEQUENT OFFENSES*. If an owner of an animal has subsequently violated the provisions under § 901.11 with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in § 901.11(F). If the owner is found to have violated the provisions for which the animal was seized, the Animal Control Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of § 901.12(C). If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under § 901.11(F) and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

### **§ 901.13 BASIC CARE.**

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

### **§ 901.14 ANIMALS IN HEAT.**

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

### **§ 901.15 ENFORCING OFFICER.**

The Council DESIGNATES The Chief of Police as the animal control officer(s) to enforce the provisions of this section. In the officer's duty of enforcing the provisions of this section, he or she may from time to time, with the consent of the City Council, designate assistants.

## **§ 901.16 POUND.**

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

## **§ 901.17 INTERFERENCE WITH OFFICERS.**

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

Penalty, see § 901.99

## **§ 901.18 PROHIBITING USE OF LEG HOLD TRAPS WITHIN THE CITY LIMITS.**

**§ 901.181.** *PURPOSE:* It is the purpose of the Ordinance to preclude the potential harm that may occur when persons or domestic animals come into contact with traps in use, in or near a populated or developed area of the City.

**§ 901.182.** *DEFINITIONS:* As used in this Ordinance the following terms shall have the following meaning:

a. A Trap. Means any mechanical device or snare designed to capture any animal and which will kill, injure, or harmfully hold an animal including metal jaw type devices, but excluding devices designed to kill rats, mice, gophers, or moles, and excluding cage type live traps.

b. Dangerous Trap. A trap with a jaw spread equal to or greater than 5 and ½ inches, including traps of such size commonly known as steel traps, jawed traps, long-spring traps, coil-spring traps, flat-under spring traps, foot traps, foot-hold traps, game traps, or connibear traps.

c. Trapping. The setting or laying or other use of a trap with the intent of capturing or killing an animal.

**§ 901.183.** *TRAPPING PROHIBITED.* Trapping anywhere in the city limits of Dundas is prohibited.

**§ 901.184.**     *EXCEPTION.* The provisions of this Ordinance do not apply to:

a.       Persons who may employ a trap on their own private property to prevent an unsafe condition or the waste or destruction of their property when such persons have complied with the provisions of the law of the State of Minnesota.

b.       The provisions of this Ordinance do not apply to representatives of the City, County, or State who may in the course of their duties be required to use a trap to trap, snare, kill, or otherwise restrain the free movement of any animal, wildlife, or birds for humane or authorized purposes.

**§ 901.99 PENALTY.**

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

(B)     *MISDEMEANOR.* Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable as provided in § 100.99.

(C)     *PETTY MISDEMEANOR.* Violations of §§ 901.02, 901.07, 901.13 and 901.14 are petty misdemeanors punishable as provided in § 100.99.



## **CHAPTER 902: HEALTH AND SAFETY; NUISANCES**

### Section

#### ***General Provisions***

- 902.01 Assessable current services
- 902.02 Tree diseases

#### ***Nuisances***

- 902.15 Public nuisance
- 902.16 Public nuisances affecting health
- 902.17 Public nuisances affecting morals and decency
- 902.18 Public nuisances affecting peace and safety
- 902.19 Duties of city officers
- 902.20 Abatement
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#### ***Weeds***

- 902.35 Short title
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- 902.38 Owners responsible for trimming, removal and the like
- 902.39 Filing complaint
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- 902.41 Appeals
- 902.42 Abatement by city
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#### ***Open Burning***

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- 902.61 Prohibited materials
- 902.62 Permit required for open burning
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- 902.65 Permit process for open burning
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- 902.68 Denial of open burning permit
- 902.69 Burning ban or air quality alert
- 902.70 Rules and laws adopted by reference

## **GENERAL PROVISIONS**

### **§ 902.01 ASSESSABLE CURRENT SERVICES.**

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

**CURRENT SERVICE.** Shall mean one or more of the following: snow, ice, or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal of leaves and grass clippings; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S. §§463.15 through §463.26 as they may be amended from time to time; installation or repair of water service lines; street sprinkling, street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

(B) *SNOW, ICE, DIRT AND RUBBISH.*

(1) Duty of owners and occupants. The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt, leaves and grass clippings, or rubbish to remain on the walk longer than 24 hours after its deposit thereon. Failure to comply with this section shall constitute a violation.

(2) Removal by city. The City Clerk or other person designated by the City Council may cause removal from all public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning 24 hours after any matter has been deposited thereon or after the snow has ceased to fall. The City Clerk or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel.

(C) *PUBLIC HEALTH AND SAFETY HAZARDS.* When the city removes or eliminates public health or safety hazards from private property under the following provisions of this chapter, the administrative officer responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and annually deliver that information to the City Clerk.

(D) *INSTALLATION AND REPAIR OF WATER SERVICE LINES.* Whenever the city installs or repairs water service lines serving private property under Chapter 502 of this code, the City Clerk shall keep a record of the total cost of the installation or repair against the property.

(E) *REPAIR OF SIDEWALKS AND ALLEYS.*

(1) Duty of owner. The owner of any property within the city abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians.

Repairs shall be made in accordance with the standard specifications approved by the City Council and on file in the office of the City Clerk.

(2) Inspections; notice. The City Council or its designee shall make inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians or vehicles. If it is found that any sidewalk or alley abutting on private property is unsafe and in need of repairs, the City Council shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property, ordering the owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so, the city will do so and that the expense thereof must be paid by the owner, and if unpaid it will be made a special assessment against the property concerned.

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

(F) *PERSONAL LIABILITY.* The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of the service. As soon as the service has been completed and the cost determined, the City Clerk, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the City Clerk.

(G) *DAMAGE TO PUBLIC PROPERTY.* Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment, object or contrivance, but is operating, driving or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. § 514.67, as it may be amended from time to time.

(H) *ASSESSMENT.* On or before September 1 of each year, the City Clerk shall list the total unpaid charges for each type of current service and charges under this section against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges against property benefitted as a special assessment under the authority of M.S. § 429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Penalty, see § 100.99

## § 902.02 TREE DISEASES.

(A) *TREES CONSTITUTING NUISANCE DECLARED.* The following are public nuisances whenever they may be found within the city:

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

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

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

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

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

(B) *ABATEMENT OF NUISANCE.* It is unlawful for any person to permit any public nuisance as defined in division (A) of this section to remain on any premises the person owns or controls within the city. The City Council may by resolution order the nuisance abated. Before action is taken on that resolution, the City Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to the affected property owner and published once no less than one week prior to the meeting. The notice shall state the time and place of the meeting, the street affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At such hearing or adjournment thereof, the City Council shall hear any property owner with reference to the scope and desirability of the proposed project. The City Council shall thereafter adopt a resolution confirming the original resolution with modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

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

(D) *UNPAID CHARGES.* On or before September 1 of each year, the City Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges or any portion

thereof against the property involved as a special assessment as authorized by M.S. § 429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes.

Penalty, see § 100.99

## *NUISANCES*

### **§ 902.15 PUBLIC NUISANCE.**

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

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

(B) Offends public decency, or urinates in public;

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

(D) Commits any other act or omission declared by law or §§ 902.16, 902.17 or 902.18, or any other part of this code to be a public nuisance.  
Penalty, see § 100.99

### **§ 902.16 PUBLIC NUISANCES AFFECTING HEALTH.**

The following are hereby declared to be nuisances affecting health:

(A) Exposed accumulation of decayed or unwholesome food or vegetable matter;

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

(D) Carcasses of animals not buried or destroyed within 24 hours after death;

(E) Accumulations of manure, refuse or other debris;

(F) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

(G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;

(H) All noxious weeds and other rank growths of vegetation upon public or private property;

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

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

(K) Any offensive trade or business as defined by statute not operating under local license.

Penalty, see § 100.99

### **§ 902.17 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.**

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

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

(B) Betting, bookmaking and all apparatus used in those occupations;

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

(D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place;

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

Penalty, see § 100.99

### **§ 902.18 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 people from having a clear view of all traffic approaching an intersection;

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

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

(5) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle, snowmobile or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.

(6) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby. Operation of any device referred to above between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section.

(7) The participation in a party or gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property, between the hours of 10:00 p.m. and 7:00 a.m.

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

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

(10) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;

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

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

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

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

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

(16) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material in a manner conducive to the harboring of rats,



mice, snakes or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation;

(17) Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;

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

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

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

(21) All outdoor vending machines five feet high or higher that are not anchored to prevent them from tipping over.

(22) *Prohibited Structures.* The existence of a structure which because of fire, wind, natural disaster, or physical deterioration is no longer suitable as a dwelling, nor useful for any other purpose for which it was intended, is prohibited within the city if such existence occurs for a period of more than 30 days.

(23) *Vacant Buildings.* The existence of any vacant building, garage or other out building, is prohibited within any areas zoned for residential purposes within the city, unless such building is kept securely locked, windows kept glazed or neatly boarded up, and is otherwise protected to prevent entrance thereto by vandals.

## **§ 902.19 DUTIES OF CITY OFFICERS.**

The Police Department shall enforce the provisions relating to nuisances. Any peace officer shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

## **§ 902.20 ABATEMENT.**

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

(1) Notice of violation. Written notice of violation shall be served by a peace officer on the owner of record or occupant of the premises either in person or by certified

or registered mail. If the premises 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.

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

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

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

(B) *PROCEDURE.* Whenever a peace officer determines that a public nuisance is being maintained or exists on the premises in the city, the officer shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement.

(C) *EMERGENCY PROCEDURE; SUMMARY ENFORCEMENT.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health, safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) of this section, and may

order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(D) *IMMEDIATE ABATEMENT.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

Penalty, see § 100.99

#### **§ 902.21 RECOVERY OF COST.**

(A) *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 or other official 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 City Clerk.

(B) *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, the City Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other the charges as well as other charges for current services to be assessed under M.S. § 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Penalty, see § 100.99

## **WEEDS**

### **§ 902.35 SHORT TITLE.**

Sections 902.35 to 902.43 shall be cited as the “Weed Ordinance.”

### **§ 902.36 JURISDICTION.**

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

### **§ 902.37 DEFINITIONS; EXCLUSIONS.**

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

**DESTRUCTION ORDER.** The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the ordinance violation.

**PROPERTY OWNER.** The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license or lease.

**WEEDS, GRASSES and RANK VEGETATION.** Includes but is not limited to the following:

(1) Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip

(2) Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years;

(3) Bushes of the species of tall, common, or European barberry, further known as berberis vulgaris or its horticultural varieties;

(4) Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding 12 inches.

(5) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants.

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

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

#### **§ 902.38 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.**

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

Penalty, see § 100.99

#### **§ 902.39 FILING COMPLAINT.**

Any person, including the city, who believes there is property located within the corporate limits of the city which has growing plant matter in violation of this subchapter shall make a written complaint signed, dated and filed with the City Clerk. If the city makes the complaint, an employee, officer or Council Member of the city shall file the complaint in all respects as set out above.

#### **§ 902.40 NOTICE OF VIOLATIONS.**

(A) Upon receiving notice of the probable existence of weeds in violation of this subchapter, a person designated by the City Council shall make an inspection and prepare a written report to the City Council regarding the condition. The City Council, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in the form of a "Destruction Order" to the property owner or the person occupying the property as that information is contained within the records of the City Clerk or any other city agency. The notice shall be served in writing by certified mail. The notice shall provide that within seven regular business days [Cite: Ord. 5.02 Allows 10 days] after the receipt of the notice that the designated violation shall be removed by the property owner or person occupying the property.

(B) (1) All notices are to be in writing and all filings are to be with the City Clerk.

(2) Certified mailing to the City Clerk or others is deemed filed on the date of posting to the United States Postal Service.

#### **§ 902.41 APPEALS.**

(A) The property owner may appeal by filing written notice of objections with the City Council within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the City Council. It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants or crops or is not otherwise in violation of this subchapter, and should not be subject to destruction under the subchapter.

(B) An appeal by the property owner shall be brought before the City Council and shall be decided by a majority vote of the Council Members in attendance and being at a regularly scheduled or special meeting of the City Council.

#### **§ 902.42 ABATEMENT BY CITY.**

In the event that the property owner shall fail to comply with the "Destruction Order" within seven regular business days and has not filed a notice within 48 hours to the City Clerk of an intent to appeal, the City Council may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means.

#### **§ 902.43 LIABILITY.**

(A) The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subchapter.

(B) The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorney's fees and interest on any unpaid amounts incurred by the city. If the city uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

(C) All sums payable by the property owner are to be paid to the City Clerk and to be deposited in a general fund as compensation for expenses and costs incurred by the city.

(D) All sums payable by the property owner may be collected as a special assessment as provided by M.S. § 429.101, as it may be amended from time to time.

## ***OPEN BURNING***

### **§ 902.60 DEFINITIONS.**

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

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

**OPEN BURNING.** The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a “recreational fire” as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as “open burning.”

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

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

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

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

### **§ 902.61 PROHIBITED MATERIALS**

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

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

(C) No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.  
Penalty, see § 100.99

#### **§ 902.62 PERMIT REQUIRED FOR OPEN BURNING.**

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in § 902.60.

Penalty, see § 100.99

#### **§ 902.63 PURPOSES ALLOWED FOR OPEN BURNING.**

(A) Open burn permits may be issued only for the following purposes:

(1) Elimination of fire or health hazard that cannot be abated by other practical means.

(2) Ground thawing for utility repair and construction.

(3) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and right-of-ways where chipping, composting, landspreading or other alternative methods are not practical.

(4) Disposal of diseased trees generated on site, diseased or infected nursery stock, diseased bee hives.

(5) Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical.

(6) Burning of grass and leaves if it can be accomplished without endangering public safety, or creating a public nuisance.



(B) Fire Training permits can only be issued by the Minnesota Department of Natural Resources.

Penalty, see § 100.99

#### **§ 902.64 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.**

(A) Open burning permits shall be obtained by making application on a form prescribed by the Department of Natural Resources (DNR) and adopted by the Fire Department. The permit application shall be presented to the Fire Chief or designee for reviewing and processing those applications.

(B) An open burning permit may require the payment of a fee. Permit fees shall be in the amount established in the Ordinance Establishing Fees and Charges, authorized by § 300.11 and Chapter 101, as it may be amended from time to time.

Penalty, see § 100.99

#### **§ 902.65 PERMIT PROCESS FOR OPEN BURNING.**

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

#### **§ 902.66 PERMIT HOLDER RESPONSIBILITY.**

(A) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or his or her competent representative. The open burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan.

(B) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site. No fire may be allowed to smolder with no person present. It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Police Department, Fire Department, MPCA representative or DNR forest officer.

(C) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees.

Penalty, see § 100.99

#### **§ 902.67 REVOCATION OF OPEN BURNING PERMIT.**

The open burning permit is subject to revocation at the discretion of a DNR forest officer, the Fire Chief or designee. Reasons for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.

Penalty, see § 100.99

#### **§ 902.68 DENIAL OF OPEN BURNING PERMIT.**

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

#### **§ 902.69 BURNING BAN OR AIR QUALITY ALERT.**

No recreational fire or open burn will be permitted when the city or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert.

Penalty, see § 100.99

#### **§ 902.70 RULES AND LAWS ADOPTED BY REFERENCE.**

The provisions of M.S. §§ 88.16 to 88.22 and the Minnesota Uniform Fire Code, Minn. Rules Ch. 1510, as these statutes and rules may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

## CHAPTER 903: STREETS AND SIDEWALKS

### Section

#### ***General Provisions***

- 903.01 Unloading on street or sidewalk
- 903.02 Street and sidewalk obstruction
- 903.03 Materials on street or sidewalk
- 903.04 Repair of sidewalks
- 903.05 General offenses against public property
- 903.06 Closing west mill street to through traffic  
*HISTORY: AMENDED ORD. 2003-15*
- 903.07 Street numbers to be visible from sidewalk or street

#### ***Right-Of-Way Construction Regulations***

- 903.20 Election to manage the public right-of-way
- 903.21 Definitions and adoption of rules by reference
- 903.22 Permit requirement
- 903.23 Permit applications
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- 903.40 Appeal
- 903.41 Reservation of regulatory and police powers

#### **Cross-reference:**

*Assessable current services, see § 902.01*

## ***GENERAL PROVISIONS***

### **§ 903.01 UNLOADING ON STREET OR SIDEWALK.**

No person shall unload any heavy material in the streets of the city by throwing or letting the material fall upon the pavement of any street, alley, sidewalk, or other public way, without first placing some sufficient protection over the pavement.

Penalty, see § 100.99

### **§ 903.02 STREET AND SIDEWALK OBSTRUCTION.**

No person shall obstruct any street, alley, sidewalk, or other public way within the city by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any fence or building is permitted to remain upon the public way shall constitute a separate offense.

Penalty, see § 100.99

### **§ 903.03 MATERIALS ON STREET OR SIDEWALK.**

No person shall encumber any street or sidewalk. No owner, occupant or person having the care of any building or lot of land, bordering on any street or sidewalk, shall permit it to be encumbered with barrels, boxes, cans, articles, or substances of any kind, so as to interfere with the free and unobstructed use thereof.

Penalty, see § 100.99

### **§ 903.04 REPAIR OF SIDEWALKS.**

(A) The owner of any property within the City abutting a public sidewalk shall keep the sidewalk in repair and safe for pedestrians. Repairs shall be made in accordance with standard specifications approved by the Council and on file in the office of the City Clerk.

(B) It shall be the duty of the street commissioner to make such inspections as are necessary to determine that public sidewalks within the City are kept in repair and safe for pedestrians. If he finds that any sidewalks abutting on private property is unsafe and in need of repairs, he shall cause a notice to be served, by registered mail or by personal service, upon the record owner of the property and the occupant, if the owner does not reside within the City or cannot be found therein, ordering such owner to have the sidewalk repaired and made safe within 30 days and stating that if the owner fails to do so, the street commissioner will do so on behalf of the City, that the expense thereof must be paid by the owner, and that if unpaid it will be made a special assessment against the property concerned.

(C) If the sidewalk is not repaired within 30 days after receipt of the notice, the street commissioner shall report the facts to the Council and the Council shall by resolution order the street commissioner to repair the sidewalk and make it safe for pedestrians or order the work done by contract in accordance with the law. The street commissioner shall keep a record of the total cost of the repair attributable to each lot or parcel of property and report such information to the City Clerk.

(D) *ASSESSMENT*. On or before September 1st of each year, the City Clerk shall list the total unpaid charges for each type of current services against each separate lot or parcel to which they are attributable under this ordinance. The Council may then spread the charges against property benefitted as a special assessment under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.

### **§ 903.05 GENERAL OFFENSES AGAINST PUBLIC PROPERTY.**

(A) *BLASTING PRECAUTIONS*. No person shall blast or cause to be blasted within 300 feet of any building of this City, rocks or other material without having the same covered by good sound timbers, or sheet metal of sufficient weight, length and thickness and so placed as effectively to prevent fragments of rock or other material blasted from ascending into the air, or shall fail to notify persons approaching the scene of any blasting that blasting is being done.

(B) *PLACING OBJECTS IN PUBLIC HIGHWAYS*. No person shall place, throw, or cause to be placed or thrown on any street, alley, sidewalk or other public property any glass, tacks, nails, bottles, or other substances or things that might wound any person or animal, or cut or puncture any pneumatic tire when passing over the same.

(C) *OBSTRUCTING SIDEWALKS*. No person shall leave or allow to be left any implements, tools, boxes, merchandise, goods, trash, cans, or crates on any sidewalk or other public way longer than is necessary for loading or unloading the same.

(D) *MAINTAINING SIDEWALK LEVEL*. No owner of any property having a sidewalk adjacent thereto shall permit any plank, brick, stone, or segment of said sidewalk to be raised above the established level of said sidewalk more than one-half inch, in any manner which might catch the foot of a pedestrian, or shall permit any holes or depressions to occur in the sidewalk in which a pedestrian might step or catch his foot in a manner liable to cause injury.

(E) *POSTING BILLS*. No person shall put up any handbills, advertisement, posters, showbills, or other sign on any building, pole or property not his own, without permission from the owner thereof.

(F) *DEFACING PUBLIC PROPERTY*. No person shall cut, carve, mark, etch, engrave any character, figure, letter or name upon any building owned, occupied or used by the City, or shall in any manner mar, deface or injure any trees, shrub, plant, vines, or any other public property in, on, or around the grounds upon which such building is situated.

(G) *WILLFUL DESTRUCTION OF PUBLIC PARK PROPERTY.* No person shall willfully and without authority cut, pluck, or otherwise injure any flowers, shrubs, or trees growing in or around any public park, or other public grounds of the City, or shall willfully injure or destroy any stand, bench, or other property situated on such park or ground.

(H) *INTERFERENCE WITH PUBLIC SEWERS AND CULVERTS.* No person shall willfully injure or destroy, or attempt to injure or destroy, any public sewer or culvert, or shall molest any sewer or culvert, or any part of said sewer or culvert, by removing the cover of any flush tank, manhole or other part of said public sewer system or culvert, without authority to do so.

(I) *WITHHOLDING CITY PROPERTY.* No person shall take possession of any property, real or personal, belonging to the City, or to the possession of which the City shall be entitled, or shall commit any trespass thereon, or shall unlawfully withhold the property from the City, and the unlawful withholding of such property, after demand therefor has been made under the direction of the City Council, shall be deemed a new and separate offense for every day the possession is withheld after such demand.

1. All City employees, contractors and elected officials must return all City property to Clerk before final check is issued.

(J) *DEPOSITS ON SIDEWALKS.* Whenever any lot or piece of land abutting on any sidewalk shall become or remain in such a condition that earth, grass, or other substances therefrom accumulate on such sidewalk, and the owner of such lot or piece of land shall refuse or neglect to place the same in such a condition as to prevent such washing or accumulating on such sidewalk, such owner shall be guilty of a misdemeanor, and each day that such owner shall refuse or neglect to abate said condition after notice from the street commissioner, shall constitute a separate offense.

(K) *INTERFERENCE WITH SIDEWALKS.* No person shall loosen or remove any plank, brick, block, or support from any sidewalk, crosswalk, curbing, or gutter. Provided, this section shall not apply to persons making repairs on any sidewalk, gutter, curb or cross-walk, or any person temporarily removing the same on account of building operations.

(L) *SNOW, GRASS, AND YARD WASTE.* No person shall place, leave, or allow to accumulate any snow, grass, or yard waste on any public sidewalk, street, or other public property.

## **§ 903.06 CLOSING WEST MILL STREET TO THROUGH TRAFFIC**

*HISTORY: AMENDED ORD. 2003-15*

**§ 903.061. FINDINGS.** The Dundas City Council finds that through traffic on West Mill Street in the City of Dundas, at its intersection with the CP Rail track, constitutes a possible traffic hazard. Said traffic hazard is created by reason of poor sight lines and elevation of West Mill Street. It is in the public interest that through traffic on West Mill Street be discontinued.

**§ 903.062** Traffic barricades shall be established and maintained on West Mill Street, at its intersection with the easterly and westerly boundary lines of the railroad right-of-way maintained by the Soo Line Railroad d/b/a CP Rail. Said traffic barricades shall prevent all vehicular traffic from crossing the railroad track at its intersection with West Mill Street. Provided however, the City shall retain the right to install and maintain utilities, water drainage and pedestrian walkways across said railroad track on West Mill Street.

**§ 903.063.** Any person who moves or attempts to move said traffic barricades or attempts to evade said barricades by driving any motor vehicle, motorcycle or snowmobile over the railroad right-of-way at the intersection of West Mill Street, is guilty of a misdemeanor.

*HISTORY: AMENDED ORD. 2003-15*

### **§ 903.07 STREET NUMBERS TO BE VISIBLE FROM SIDEWALK OR STREET**

Every house located in a residential or rural-residential district, and each other building located in a business or commercial district within the City of Dundas shall display the address number on the house or building in a place, and of sufficient size, to be visible from the public street or sidewalk adjacent to the front yard of said property. Failure to abide by the requirements of this section constitutes a petty offense and may be punished by a fine of up to \$100.00.

## ***RIGHT-OF-WAY CONSTRUCTION REGULATIONS***

### **§ 903.20 ELECTION TO MANAGE THE PUBLIC RIGHT-OF-WAY.**

In accordance with the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects pursuant to this chapter to manage right-of-ways within its jurisdiction.

### **§ 903.21 DEFINITIONS AND ADOPTION OF RULES BY REFERENCE.**

Minn. Rules Ch. 7819, as it may be amended from time to time is hereby adopted by reference and is incorporated into this code as if set out in full. The definitions included in Minn. Rules part 7819.0100 subps. 1 through 23, as it may be amended from time to time are the definitions of the terms used in the following provisions of this subchapter.

### **§ 903.22 PERMIT REQUIREMENT.**

(A) *PERMIT REQUIRED.* Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate permit from the city.

(1) Excavation permit. An excavation permit is required to excavate that part of the right-of-way described in the permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(2) Obstruction permit. An obstruction permit is required to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(B) *PERMIT EXTENSIONS.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless the person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and a new permit or permit extension is granted.

(C) *DELAY PENALTY.* In accordance with Minn. Rules part 7819.1000 subp. 3, as it may be amended from time to time and notwithstanding division (B) of this section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by the Ordinance Establishing Fees and Charges, adopted pursuant to § 300.11 and Chapter 101 of this code, as it may be amended from time to time.



(D) *PERMIT DISPLAY*. Permits issued under this subchapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Director.

Penalty, see § 100.99

### **§ 903.23 PERMIT APPLICATIONS.**

Application for a permit shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

(A) Submission of a completed permit application form, including all required attachments, scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, and the following information:

(1) Each permittee's name, gopher one-call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.

(2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

(3) A certificate of insurance or self-insurance:

(a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state, or a form of self insurance acceptable to the Director;

(b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;

(c) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all coverages;

(d) Requiring that the Director be notified 30 days in advance of cancellation of the policy or material modification of a coverage term;

(e) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the Director in amounts sufficient to protect the city and the public, and to carry out the purposes and policies of this chapter; but at least in the amount of \$50,000.00/\$100,000.00 with the City as named insured.

(4) The city may require a copy of the actual insurance policies.

(5) If the person is a corporation, a copy of the certificate required to be filed under M.S. § 300.06, as it may be amended from time to time as recorded and certified to by the Secretary of State.

(6) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have the certificate from the Commission or other state or federal agency.

(B) Payment of money due the city for:

(1) Permit fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to §§ 903.25 and 101.02 of this code, as that ordinance may be amended from time to time, estimated restoration costs and other management costs;

*HISTORY: Amended by Ord. 2003-02*

(2) Prior obstructions or excavations;

(3) Any undisputed loss, damage, or expense suffered by the city because of the applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city.

#### **§ 903.24 ISSUANCE OF PERMIT; CONDITIONS.**

(A) *PERMIT ISSUANCE.* If the applicant has satisfied the requirements of this chapter, the City Clerk shall issue a permit.

(B) *CONDITIONS.* The City Clerk may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

#### **§ 903.25 PERMIT FEES.**

*HISTORY: Amended by Ord. 2003-02*

(A) *EXCAVATION PERMIT FEE.* The city shall establish an excavation permit fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 101.02 of

this code, as that ordinance may be amended from time to time, in an amount sufficient to recover the following costs:

- (1) The city management costs; and
- (2) Degradation costs, if applicable.

(B) *OBSTRUCTION PERMIT FEE.* The city shall establish the obstruction permit fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 101.02 of this code, as that ordinance may be amended from time to time, and shall be in an amount sufficient to recover the city management costs.

(C) *PAYMENT OF PERMIT FEES.* No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay those fees within 30 days of billing.

(D) *NON-REFUNDABLE.* Permit fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 101.02 of this code, as that ordinance may be amended from time to time, that were paid for a permit that the Director has revoked for a breach as stated in § 903.40 are not refundable.

(E) *APPLICATION TO FRANCHISES.* Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

(F) All permit fees shall be established consistent with the provisions of Minn. Rules part 7819.100, as it may be amended from time to time.  
Penalty, see § 100.99

## **§ 903.26 RIGHT-OF-WAY PATCHING AND RESTORATION.**

(A) *TIMING.* The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under § 903.34.

(B) *PATCH AND RESTORATION.* The permittee shall patch its own work. The permittee may choose either to have the city restore the right-of-way or to restore the right-of-way itself.

- (1) City restoration. If the city restores the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If following the restoration, the pavement settles due to the permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with having to correct the defective work.

(2) Permittee restoration. If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minn. Rules part 7819.3000, as it may be amended from time to time.

(C) *STANDARDS*. The permittee shall perform patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rule part 7819.1100, as it may be amended from time to time. The Director shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis.

(D) *DUTY TO CORRECT DEFECTS*. The permittee shall correct defects in patching, or restoration performed by the permittee or its agents. The permittee upon notification from the Director, shall correct all restoration work to the extent necessary, using the method required by the Director. The work shall be completed within five calendar days of the receipt of the notice from the Director, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under § 903.34.

(E) *FAILURE TO RESTORE*. If the permittee fails to restore the right-of-way in the manner and to the condition required by the Director, or fails to satisfactorily and timely complete all restoration required by the Director, the Director at its option may do the work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If the permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

(F) *DEGRADATION FEE IN LIEU OF RESTORATION*. In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 101.02 of this code, as that ordinance may be amended from time to time. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

*HISTORY: Amended by Ord. 2003-02*

(G) To leave at least one-half of the street clear for passage of vehicles and to provide safe bridgeways on sidewalks for foot pedestrian.

(H) *EXCAVATIONS TO BE GUARDED*. Every person who shall have charge of the construction of any excavation or obstruction adjacent to or under any sidewalk or street shall during the progress of such work cause such excavation to be securely guarded by a fence with at least two strings of good six-inch boards nailed not less than eighteen inches apart to posts securely fixed in place; such posts shall be not more than six feet apart, and the top of the highest post shall be not less than four feet and a half from the surface of the sidewalk or street and from one-half hour after sunset to one-half hour before sunrise shall illuminate such excavation or obstruction with red lights sufficient in number and so placed as to show the full extent thereof.

(I) *REMOVING BARRICADES.* No person shall remove, throw down, run over, or interfere with any barricade or barricades lawfully directed, placed to guard and protect any grading, paving, sidewalk construction or other work.

(J) *INJURING UNCOMPLETED CONSTRUCTION.* No person shall walk upon, drive or ride over or cross any pavement in course of construction before the same has been opened for public travel, or over or across any uncompleted grading, or sidewalk construction which has not been opened for travel.

#### **§ 903.27 SUPPLEMENTARY APPLICATIONS.**

(A) *LIMITATION ON AREA.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area make application for a permit extension and pay any additional fees required thereby, and be granted a new permit or permit extension.

(B) *LIMITATION ON DATES.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

#### **§ 903.28 DENIAL OF PERMIT.**

The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

#### **§ 903.29 INSTALLATION REQUIREMENTS.**

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules part 7819.1100, as it may be amended from time to time and other applicable local requirements, in so far as they are not inconsistent with M.S. §§ 237.162 and 237.163 as it may be amended from time to time.

### **§ 903.30 INSPECTION.**

(A) *NOTICE OF COMPLETION.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with Minn. Rule part 7819.1300, as it may be amended from time to time.

(B) *SITE INSPECTION.* The permittee shall make the work-site available to city personnel and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(C) *AUTHORITY OF DIRECTOR.*

(1) At the time of inspection, the Director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.

(2) The Director may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the Director that the violation has been corrected. If proof has not been presented within the required time, the Director may revoke the permit pursuant to § 903.40.

### **§ 903.31 WORK DONE WITHOUT A PERMIT.**

(A) *EMERGENCY SITUATIONS.*

(1) Each person with facilities in the right-of-way shall immediately notify the city of any event regarding its facilities which it considers to be an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the owner shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

(2) If the city becomes aware of an emergency regarding facilities, the city will attempt to contact the local representative of each facility owner affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the person whose facilities occasioned the emergency.

(B) *NON-EMERGENCY SITUATIONS.* Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, and as a penalty pay double the normal fee for the permit, pay

double all the other fees required by this code, deposit with the city the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter.

### **§ 903.32 SUPPLEMENTARY NOTIFICATION.**

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the Director of the accurate information as soon as this information is known.

### **§ 903.33 REVOCATION OF PERMITS.**

(A) *SUBSTANTIAL BREACH.* The city reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by the permittee shall include, but shall not be limited to, the following:

- (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- (3) Any material misrepresentation of fact in the application for a right-of-way permit;
- (4) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittees control; or
- (5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 903.37.

(B) *WRITTEN NOTICE OF BREACH.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the city shall make a written demand upon the permittee to remedy that violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(C) *RESPONSE TO NOTICE OF BREACH.* Within 24 hours of receiving notification of the breach, the permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. The permittee's failure to so contact the city, or the permittee's failure to submit

an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

(D) *REIMBURSEMENT OF CITY COSTS.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorney's fees incurred in connection with the revocation.

#### **§ 903.34 MAPPING DATA; INFORMATION REQUIRED.**

Each permittee shall provide mapping information required by the city in accordance with Minn. Rules parts 7819.4000 and 7819.4100, as it may be amended from time to time.

#### **§ 903.35 LOCATION OF FACILITIES.**

(A) Placement, location, and relocation of facilities must comply with applicable laws, and with Minn. Rules parts 7819.3100, 7819.5000 and 7819.5100, as they may be amended from time to time, to the extent the rules do not limit authority otherwise available to cities.

(B) *CORRIDORS.* The city may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

(C) *LIMITATION OF SPACE.* To protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use, the Director shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making those decisions, the Director shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

#### **§ 903.36 DAMAGE TO OTHER FACILITIES.**

When the city does work in the right-of-way and finds it necessary to maintain, support, or move facilities to protect it, the Director shall notify the local representative as early as is reasonably possible and placed as required. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each facility owner shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each facility owner shall be responsible for the cost of repairing any damage to the



facilities of another registrant caused during the city's response to an emergency occasioned by that owner's facilities.

#### **§ 903.37 RIGHT-OF-WAY VACATION.**

If the city vacates a right-of-way which contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules part 7819.3200, as it may be amended from time to time.

#### **§ 903.38 INDEMNIFICATION AND LIABILITY.**

By applying for and accepting a permit under this chapter, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rule 7819.1250, as it may be amended from time to time.

#### **§ 903.39 ABANDONED FACILITIES; REMOVAL OF ABANDONED FACILITIES.**

Any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the Director.

#### **§ 903.40 APPEAL.**

A right-of-way user that has been denied registration; has been denied a permit; has had permit revoked; or believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee as imposition will be writing and supported by written findings establishing the reasonableness of the decision.

#### **§ 903.41 RESERVATION OF REGULATORY AND POLICE POWERS.**

A permittees or registrants rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

## **CHAPTER 904: PROVIDING FOR THE CARE OF TREES AND SHRUBS**

### Section

- 904.01 Private care of trees and shrubbery
- 904.02 Public care of trees and shrubbery

#### **§ 904.01 PRIVATE CARE OF TREES AND SHRUBBERY.**

It shall be the duty of all persons, whether owners or tenants, to keep trees and shrubs planted or located within private property lines owned or occupied by said owners or tenants, any portion of which trees or shrubs project over or upon any street, sidewalk, or public way, trimmed in such manner that said trees and shrubs shall not interfere with or endanger travel on said street, sidewalk, or public way, as aforesaid.

(A) No person, whether the owner or tenant of any property along public streets and sidewalks shall permit any trees or shrubs to project over said streets and sidewalks less than 8 feet in height above such sidewalks or 12 feet above such streets.

#### **§ 904.02 PUBLIC CARE OF TREES AND SHRUBBERY.**

(A) The City Council shall designate by resolution on what streets, sidewalks, boulevards, or public ways the trees and shrubs should be trimmed and cared for, the kind of work to be done, and what unsound trees and shrubs should be removed.

(B) Before any tree care is performed pursuant to such resolution the Clerk shall publish notice that the City Council will meet to consider such tree care as current expense. Such notice shall be published in the official newspaper and a copy mailed to every person having an interest in the property concerned at their last known address at least once no less than one week prior to such meeting, and shall state the date, time, and place of such meeting, the streets, sidewalks, boulevards, or public ways affected, the particular tree care required, and the estimated cost of such tree care as service charges either in total amount or on the basis of the proposed assessment.

(C) At such hearing or at any adjournment thereof the Council shall hear property owners with reference to the scope and desirability of the proposed current service. The Council shall thereupon adopt a resolution confirming the original current service project with such modifications as it deems desirable and shall provide for the doing of the work by day labor or by contract.

(D) A record shall be kept of the cost and portion of the cost properly attributable to each lot and parcel of property abutting on the street, sidewalk, boulevard, or public way where the current service is done and shall be filed with the City Clerk.

(E) The owner of property on which or adjacent to which current service has been performed under this ordinance shall be personally liable for the cost of such service. As soon as said service has been completed and the cost determined, the City Clerk shall prepare a bill and mail it to the owner, and thereafter the amount stated shall be due and payable at the office of the City Clerk.

(F) On or before September 1 of each year, the City Clerk shall prepare a statement of the unpaid current service charges and a description of the property against which such charges

should be assessed under this ordinance. The City Council may by resolution then spread the charges against the property benefitted as a special assessment under Minnesota Statutes Section 429.101 and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.

**CHAPTER 905: CLEANUP OF CLANDESTINE DRUG LAB SITES  
AND CHEMICAL DUMP SITES**

*HISTORY: Adopted Ord 2003 - 06*

Section

- 905.01 General Provisions
- 905.02 Definitions
- 905.03 Declaration of Site & Contents as a Public Health Nuisance
- 905.04 Law Enforcement Action
- 905.05 Seize of Property
- 905.06 Action by City Building Official
- 905.07 Site Owner's Responsibility to Act
- 905.08 Site Owner's Responsibility for Cost
- 905.09 City Action & Recovery of Costs
- 905.10 Recovery of Costs from Persons Causing Damage
- 905.11 Site Owner & Address
- 905.12 Suspension of Residential Rental License
- 905.13 Unauthorized Removal of Postings
- 905.14 Entry unto or into Site
- 905.15 Removal of Personal Property from the Site

**§905.01        *GENERAL PROVISIONS***

(A)    PURPOSE AND INTENT – The purpose of this article is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals or residue from a suspected clandestine drug lab site or associated dump site may exist. Professional reports, based on assessments, testing and investigations, show that chemical used in the production of illicit drugs can condense, penetrate, and contaminate surfaces, furnishings, and equipment of surrounding structures. The City Council finds that such sites, and the personal property within such sites, may contain suspected chemicals and residues that place people, particularly children or adults of child bearing age, at risk when exposed through inhabiting or visiting the site or using or being exposed to contaminated personal property.

(B)    INTERPRETATION AND APPLICATION - In the interpretation and application of this article, the provisions herein shall be construed to protect the public health, safety and welfare. Where the conditions imposed by any provision of this article are either more or less restrictive to the public than comparable provisions imposed by any other law, ordinance, statute, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements on the public shall prevail. Should any court of competent jurisdiction declare any section or subpart of this article to be invalid, such decision shall not affect the validity of the article as a whole or any part thereof, other than the provision declared invalid.

**§905.02        *DEFINITIONS***

For the purpose of this article, the following terms or words shall be interpreted as follows:

(A)    *CHILD* – Shall mean any person less than eighteen (18) years of age

(B)    *CHEMICAL DUMP SITE* - Shall mean any place or area where chemicals or other waste materials used in a clandestine drug lab operation have been located.

(C)    *CITY* – Shall mean the City of Dundas

(D)    *CLANDESTINE DRUG LAB OPERATION* – Shall mean the unlawful manufacture or attempt to manufacture a controlled substance.

(E)    *CLANDESTINE DRUG LAB SITE* – Shall mean any place or area where law enforcement has determined that conditions associated with an unlawful clandestine drug lab operation exist. A clandestine drug lab site may include dwellings, accessory buildings, structures or units, a chemical dump site, a vehicle, boat, trailer or other appliance or any other area or location.

(F)    *CONTROLLED SUBSTANCE* – Shall mean any drug, substance or immediate precursor in Minnesota Statute §152.02, Schedules I through V, together with any amendments or modifications thereto. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

(G) *HAZARDOUS DRUG WASTE* – Shall mean waste generated from a clandestine drug lab operation.

(H) *MANUFACTURE* - In places other than a pharmacy, shall mean and include the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, and the packing, tableting, encapsulating, labeling, relabeling, or filling of drugs.

(I) *OWNER* – Shall mean any person(s), firms(s), corporation(s) or other entity who or which owns, in whole or in part, the land, building, structure, vehicle, boat, trailer or other location associated with a clandestine drug lab site or chemical dump site.

### **§905.03        DECLARATION OF SITE AND CONTENTS AS A PUBLIC HEALTH NUISANCE.**

All dwellings, accessory structures, buildings, vehicles, boats, trailers, personal property, adjacent property or other locations, associated with a clandestine drug lab site or chemical dump site are potentially unsafe due to health hazards and are hereby declared to be a public nuisance under §902.15.

### **§905.04        LAW ENFORCEMENT ACTION**

If law enforcement authorities determine the existence of a clandestine drug lab site or chemical dump site, the site and all personal property therein may be declared a public health nuisance. Law enforcement authorities who identify conditions associated with a clandestine drug lab site or chemical dump site, which may place neighbors, the visiting public, or present and future occupants of the site at risk for exposure to harmful contaminants and other associated conditions, are authorized to take the following action:

(A) Promptly notify the City Building Official, Child Protection, Public Health Authorities and the appropriate enforcement division of the drug enforcement administration of the U.S. Justice Department of the location of the site, and the owner if known, of the conditions found;

(B) Treat, store, transport or dispose of all hazardous drug waste found at the site in manner consistent with State Department of Health, Minnesota Pollution Control and County Health Department rules and regulations;

(C) Issue a temporary declaration of public health nuisance for the affected site and post a copy of the declaration at all doorway entrances to the site or, in the case of bare land, post the declaration in several conspicuous places on the property. This temporary declaration of public health nuisance issued by law enforcement shall expire after the City Building Official inspects the site and determines the appropriateness of issuing a permanent declaration of public health nuisance.

- (D) Notify all persons occupying the site that a temporary declaration of public health nuisance has been issued;
- (E) Require all persons occupying the site to immediately vacate the site, remove all pets from the site, and not return without written authorization from the City Building Official;
- (F) Notify all occupants vacating the site that all personal property at the site may be contaminated with dangerous chemical residue; and
- (G) Put locks on each doorway entrance to the site to prohibit people from entering the site without authorization after all occupants of the site have vacated.

The obligation to promptly notify the persons and organizations mentioned above may be delayed to accomplish appropriate law enforcement objectives, but only to the extent that public health and child protection responsibilities are not unnecessarily compromised.

#### **§905.05 SEIZURE OF PROPERTY**

When the clandestine drug lab site or chemical dump site is inside a vehicle, boat, trailer, or other form of moveable personal property, law enforcement authorities shall immediately seize it and not allow it to be transported except to a more secure location. In such circumstances, all other requirements of this article shall be followed as closely as possible given the specific type of property in which the site is discovered.

#### **§905.06 ACTION BY CITY BUILDING OFFICIAL**

(A) **INSPECTION & DECLARATION OF NUISANCE** – Within forty-eight (48) hours of notification that law enforcement authorities have determined the existence of a clandestine drug lab site or chemical dump site, the City Building Official shall inspect the site to determine the appropriate scope of a permanent declaration of public health nuisance. Based on the results of the inspection, the City Building Official may then promptly issue a permanent declaration of public health nuisance and a Do Not Enter – Unsafe to Occupy Order for the affected site to replace the temporary declaration issued and posted by law enforcement. A copy of the permanent declaration and order shall be posted on all doorway entrances to the site or, in the case of bare land, shall be posted in several conspicuous places on the property.

(B) **ABATEMENT ORDER** – After the permanent declaration of public health nuisance has been issued and posted, the city building official shall send written notice to the site owner ordering abatement of the public health nuisance. The abatement order shall include the following information:



- (1) A copy of the declaration of public health nuisance and Do Not Enter – Unsafe to Occupy Order;
- (2) Information about the potentially hazardous condition of the site;
- (3) Notification of suspension of the site’s rental license, if applicable;
- (4) A summary of the site owner’s and occupant’s responsibilities under this article; and
- (5) Information that may help the owner locate appropriate services necessary to abate the public health nuisance.

(C) NOTICE TO CONCERNED PARTIES - The building official shall also mail a copy of the permanent declaration of public health nuisance, a copy of this article, and a notification of the suspension of the site’s rental licensees, if applicable, to the following concerned parties at their last known address:

- (1) Occupants or residents of the site, if the identities of such persons are known;
- (2) Neighbors in proximity to the site who may be reasonably affected by the conditions found;
- (3) The City Administrator;
- (4) The City Police Department;
- (5) The appropriate enforcement division of the drug enforcement administration of the State of Minnesota or U.S. Justice Department; and
- (6) Other City, State and Local authorities, such as the City Water Department, the State Pollution Control Agency, the State Department of Health, and the Department of Natural Resources which are known to have public and protection responsibilities that are applicable to the situation.

(D) MODIFICATION OR REMOVAL OF DECLARATION – The city building official is authorized to modify or remove the declaration of public health nuisance after the building official receives documentation from a city-approved environmental hazard testing and cleaning firm stating that the suspected health and safety risks, including those to neighbors and potential dwelling occupants, either do not exist or have been sufficiently abated or corrected to justify amendment or removal of the declaration.

**§905.07 SITE OWNER'S RESPONSIBILITY TO ACT**

Within ten business days of the date the abatement order is mailed to the owner of the site, the owner shall accomplish the following:

- (A) Provide the City Building Official with written notification:
  - (1) That the owner has confirmed that all persons and their pets have vacated the site;
  - (2) Of the name(s) of all children who the owner believes were residing at the site during the time period the clandestine drug lab or chemical dump site is suspected to have been at the site; and
  - (3) That the site will remain vacated and secured until the public health nuisance is completely abated as required by this article.
  
- (B) Contract with one or more city-approved environmental hazard testing and cleaning firms to conduct the following work in accordance with the most current State Department of Health guidelines:
  - (1) A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;
  - (2) Soil testing of the site and testing of all property and soil proximity to the site which the environmental hazard testing and cleaning firm determines may have been affected by the condition found at the site;
  - (3) A complete clean up of the site (including but not limited to, the clean up or removal of contaminated plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the site and a complete clean up of the demolished site;
  - (4) A complete clean up, or disposal at an approved dump site, of all contaminated personal property in the site;
  - (5) A complete clean up of all property and soil in proximity to the site which is found to have been affected by the conditions found at the site;
  - (6) Remediation testing and follow-up testing, including but not limited to testing of the ventilation system and plumbing, to determine that all health risks are sufficiently reduced, according to State Department of Health guidelines, to allow safe human occupancy and use of the site and use of the personal property therein and of all property and soil in proximity to the site.
  
- (C) Provide the City Building Official with the identity of the testing and cleaning firm with which the owner has contracted for abatement of the public health nuisance as required above; and

(D) Sign an agreement with the City Building Official establishing a clean up schedule. The schedule shall establish reasonable deadlines for completing all actions required by this article for abatement of the public health nuisance. In determining appropriate deadlines, the City Building Official shall consider practical limitations and the availability of contractors in approving the schedule for clean up.

The site owner must meet all deadlines established on the clean up schedule. Also, pursuant to the deadlines established by the clean up schedule, the site owner is required to provide the City Building Official with written documentation of the clean up process, including a signed statement from a city-approved environmental hazard testing and cleaning firm that the site, all personal property therein, and all property and soil in proximity to the site, is safe for human occupancy and use, and that the clean up was conducted in accordance with the most current State Department of Health guidelines.

#### **§905.08 SITE OWNER'S RESPONSIBILITY FOR COSTS**

The site owner shall be responsible for all costs, including those of the City, of dealing with and abating the public health nuisance, including contractor's fees and the City's costs for services performed in association with the clandestine drug lab site or chemical dump site clean up. The City's costs may also include, but are not limited to:

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

**§905.09 CITY ACTION AND RECOVERY OF COSTS**

(A) If the building owner fails to comply with any of the requirements of this article, the City Building Official is authorized to take all reasonable actions necessary to Abate the public health nuisance, including but not limited to, contracting with a city-approved environmental hazard testing and cleaning firm to conduct the work

The Building Official is also authorized to provide a copy of the declaration of public health nuisance to the lien and/or mortgage holders of the affected site to help assure that persons with interest in the site have access to information about the declaration of public health nuisance.

(B) If the costs to clean the site or to clean the personal property at the site are prohibitively high in relation to the value of the site or the personal property, the City is authorized to remove or demolish the site, structure or building and/or dispose of the personal property therein. These actions shall be taken in accordance with the provisions of Minnesota Statutes Chapter 463 together with any amendments or modifications thereto.

(C) If the City abates the public health nuisance, in addition to any other legal remedy, the City shall be entitled to recover all of its out of pocket costs plus an additional twenty-five (25%) percent of such costs for administrative and legal expense. The City may recover costs by civil action against the owner of the site or by assessing such costs as a special charge against the site as taxes and special assessments are certified and collected pursuant to Minnesota Statute §429.101 or according to the provisions of Minnesota Statutes §§ 463.15 – 463.26 together with any amendments or modifications thereto.

**§905.10 RECOVERY OF COSTS FROM PERSONS CAUSING DAMAGE**

No provisions of this article are intended to limit the site owner's, resident's or the City's right to recover costs incurred under this article from either the persons contributing to the public health nuisance, such as the operators of the clandestine drug lab, and/or from other lawful sources.

**§905.11 SITE OWNER AND ADDRESS**

When the site is real property and the owner or the address of the owner of the site is unknown, the owner and the owner's address is deemed to be that of the property's taxpayer's name and address as that information is maintained by the County Auditor's Office. When the site is a vehicle, boat or trailer and the owner or the address of the owner of the site is unknown, the owner and owner's address is deemed to be that of the person on file as the owner on the current or most recent title to the vehicle, boat or trailer.

**§905.12           SUSPENSION OF RESIDENTIAL RENTAL LICENSE**

Upon issuance of a permanent declaration of public health nuisance, any residential rental license issued by the City for the site, or any part thereof, is hereby declared to be immediately suspended pending full compliance with this article.

**§905.13           UNAUTHORIZED REMOVAL OF POSTING**

It is unlawful for any person, except authorized city personnel, to remove a temporary or permanent declaration of public health nuisance and/or Do Not Enter – Unsafe to Occupy Order from a chemical dump site or a clandestine drug lab site.

**§905.14           ENTRY UNTO OR INTO SITE**

While a declaration of public health nuisance for an affected site is in effect and has been posted at the site, no persons are permitted to be inside the site, or on the site property without prior written consent of the City Building Official or as otherwise authorized by this article. To confirm compliance with this article and to execute their duties under this article, law enforcement officers, the City Building Official, and any persons designed by the Building Official, may enter onto the site property or enter into the site at any time while a declaration of public health nuisance is in effect for the site.

**§905.15           REMOVAL OF PERSONAL PROPERTY FROM THE SITE**

While a declaration of public health nuisance for an affected site is in effect and has been posted at the site, no personal property may be removed from the site without prior written consent from the City Building Official. Consent to remove personal property shall only be granted at the reasonable discretion of the Building Official, and only in cases of hardship after:

- (A) A city-approved environmental hazard testing and cleaning firm has advised the City, in writing, that the item(s) of personal property can be sufficiently cleaned to remove all harmful contamination; and
- (B) The owner of the personal property agrees in writing:
  - (1) That the owner is aware of the danger of using contaminated property;
  - (2) That the owner will thoroughly clean the property to remove all contamination before the property is used; and
  - (3) That the owner releases and agrees to indemnify the City, its staff, and the City Council from all liability to the owner and/or third persons for injuries or damages caused, or alleged to have been caused, by the contaminated property.

## **CHAPTER 900: ABANDONED PROPERTY**

### Section

#### ***General Provisions***

900.01 Disposition of abandoned property

#### ***Abandoned Vehicles***

900.15 Findings and purpose  
900.16 Definitions  
900.17 Violation to abandon motor vehicle  
900.18 Authority to impound vehicles  
900.19 Sale; waiting periods  
900.20 Notice of taking and sale  
900.21 Right to reclaim  
900.22 Operator's deficiency claim; consent to sale  
900.23 Disposition by impound lot  
900.24 Disposal authority  
900.25 Contracts; reimbursement by MPCA

## **GENERAL PROVISIONS**

### **§ 900.01 DISPOSITION OF ABANDONED PROPERTY.**

(A) *PROCEDURE.* Except for abandoned and junked vehicles, all property lawfully coming into possession of the city shall be disposed of as provided in this section which is adopted pursuant to M.S. § 471.195, as it may be amended from time to time. Abandoned and junked vehicles shall be disposed of according to the procedures of §§ 900.15 *et seq.*

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

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

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

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

(F) *DISPOSITION OF PROPERTY WITH NO VALUE.* Any abandoned property which has no value, or which receives no bid at a public auction conducted under Paragraph (D) above, may be disposed of in any legal manner by the city.

## ***ABANDONED VEHICLES***

### **§ 900.15 FINDINGS AND PURPOSE.**

M.S. Ch. 168B, and Minn. Rules Ch. 7035, as they may be amended from time to time, are hereby adopted by reference. Sections 900.15 through 900.25 of this code are adopted under the authority of M.S. § 168B.09, Subd. 2, as it may be amended from time to time. If any of these provisions are less stringent than the provisions of § M.S. 168B or Minn. Rules Ch. 7035, as it may be amended from time to time, the statute or rule shall take precedence.

### **§ 900.16 DEFINITIONS.**

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

#### **ABANDONED VEHICLE.**

(1) An “abandoned vehicle” is a motor vehicle, as defined in M.S. § 169.01 as it may be amended from time to time, that:

(a) Has remained illegally:

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

2.) On private property for a period of time, as determined under § 900.18(B), without the consent of the person in control of the property; and

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

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

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

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



**DEPARTMENT.** The Minnesota Department of Public Safety.

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

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

**JUNK VEHICLE.** A vehicle that:

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

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

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

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

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

**PUBLIC IMPOUND LOT.** An impound lot owned by or contracting with a unit of government under section § 900.24.

**UNAUTHORIZED VEHICLE.** A vehicle that is subject to removal and impoundment pursuant to § 900.18(B), or M.S. § 169.041 as it may be amended from time to time, but is not a junk vehicle or an abandoned vehicle.

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

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

**§ 900.17 ABANDONMENT OR STORAGE OF VEHICLES IN VIOLATION OF THIS CHAPTER.**

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

It shall be unlawful for any person to store, keep, or maintain, or permit another to store, keep, or maintain an abandoned, junk or unauthorized vehicle on public or private property, unless it is kept within an enclosed garage or permitted storage building.

Penalty, see § 100.99

*HISTORY: AMENDED ORD. 2003-13*

**§ 900.18 AUTHORITY TO IMPOUND VEHICLES.**

(A) *ABANDONED OR JUNK VEHICLES.* The City Clerk or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle.

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

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

(a) On a highway and properly tagged by a peace officer, four hours;

(b) Located so as to constitute an accident or traffic hazard to the traveling public, as determined by a peace officer, immediately; or

(c) That is a parking facility or other public property owned or controlled by a unit of government, properly posted, four hours; or

(2) On private property:

(a) That is single-family or duplex residential property, immediately;

(b) That is private, nonresidential property, properly posted, immediately;

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

**§ 900.19 SALE; WAITING PERIODS.**

(A) *SALE AFTER 15 DAYS.* An impounded vehicle is eligible for disposal or sale under § 900.23, 15 days after notice to the owner, if the vehicle is determined to be:

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

(B) *SALE AFTER 45 DAYS.* An impounded vehicle is eligible for disposal or sale under § 900.23, 45 days after notice to the owner, if the vehicle is determined to be an unauthorized vehicle.

**§ 900.20 NOTICE OF TAKING AND SALE.**

(A) *CONTENTS; NOTICE GIVEN WITHIN FIVE DAYS.* When an impounded vehicle is taken into custody, the city or impound lot operator taking it into custody shall give notice of the taking within five days. The notice shall:

- (1) Set forth the date and place of the taking; the year, make, model and serial number of the impounded motor vehicle if the information can be reasonably obtained; and the place where the vehicle is being held;
- (2) Inform the owner and any identifiable lienholders of their right to reclaim the vehicle under § 900.21; and
- (3) State that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under § 900.19 shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to § 900.23; and
- (4) Inform the owner and any lien holders of the towing charges then accrued against the vehicle and shall provide a schedule of storage charges to be made by the towing contractor, and any fine to be imposed by the City as a condition for reclaiming the vehicle.

*HISTORY: AMENDED ORD. 2003-13*

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

*HISTORY: AMENDED ORD. 2003-13*

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

### **§ 900.21 RIGHT TO RECLAIM.**

(A) *PAYMENT OF CHARGES.* The owner or any lienholder of an impounded vehicle shall have a right to reclaim the vehicle from the city or impound lot operator taking it into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days, as applicable under § 900.19, after the date of the notice required by § 900.20.

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

### **§ 900.22 OPERATOR'S DEFICIENCY CLAIM; CONSENT TO SALE.**

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

- (1) 25 days storage for a vehicle described in section § 900.19(A); and
- (2) 55 days storage for a vehicle described in § 900.19(B).

(B) *IMPLIED CONSENT TO SALE.* A registered owner who fails to claim the impounded vehicle within the applicable time period allowed under section § 900.19 is deemed to waive any right to reclaim the vehicle and consents to the disposal or sale of the vehicle and its contents and transfer of title.

## **§ 900.23 DISPOSITION BY IMPOUND LOT.**

### **(A) AUCTION OR SALE.**

(1) If an abandoned or unauthorized vehicle and contents taken into custody by the city or any impound lot, public or non-public, is not reclaimed under § 900.21, it may be disposed of or sold at auction or sale when eligible pursuant to §§ 900.20 and 900.21.

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

**(B) UNSOLD VEHICLES.** Abandoned or junk vehicles not sold by the city or public impound lots pursuant to division (A) of this section shall be disposed of in accordance with section § 900.24.

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

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

## **§ 900.24 DISPOSAL AUTHORITY.**

The city may contract with others or may utilize its own equipment and personnel for the inventory of impounded motor vehicles and abandoned scrap metal and may utilize its own equipment and personnel for the collection, storage and transportation of these vehicles and abandoned scrap metal. The city may utilize its own equipment and personnel only for the collection and storage of not more than five abandoned or unauthorized vehicles without advertising for or receiving bids in any 120-day period.

**§ 900.25 REMOVAL FROM PRIVATE PROPERTY.**

*HISTORY: ADOPTED ORD. 2003-13*

The city may contract with others or may utilize its own equipment and personnel for the inventory of impounded motor vehicles and abandoned scrap metal and may utilize its own equipment and personnel for the collection, storage and transportation of these vehicles and abandoned scrap metal. The city may utilize its own equipment and personnel only for the collection and storage of not more than five abandoned or unauthorized vehicles without advertising for or receiving bids in any 120-day period.

**§ 900.26 RECOVERY OF COSTS.**

*HISTORY: ADOPTED ORD. 2003-13*

(A) **PERSONAL LIABILITY.** The owner of a premises upon which unauthorized, abandoned or junk automobiles have been removed, shall be personally liable for the cost of removal to the City, including legal fees and administrative costs. As soon as the work has been completed and the cost determined, the City Administrator or other city official 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.

(B) **ASSESSMENT.** If the storage or maintenance of abandoned, unauthorized or junk motor vehicles occurs on private property, or outside the travel portion of public streets, the City Clerk shall, on or before September 1<sup>st</sup> following removal of the vehicles, list the total unpaid costs and charges, including attorney=s fees and administrative charges, to be assessed under Minnesota Statutes '429.101 against each separate lot or parcel to which the charges are attributable. The City council may then impose the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year, or in annual installments, not exceeding three, or as the City council may determine in each case.

## CHAPTER 901: ANIMALS

### Section

- 901.01 Definitions
- 901.02 Dogs and cats
- 901.03 Non-domestic animals
- 901.04 Farm animals
- 901.05 Impounding
- 901.06 Kennels
- 901.07 Nuisances
- 901.08 Seizure of animals
- 901.09 Animals presenting a danger to health and safety of city
- 901.10 Diseased animals
- 901.11 Dangerous animals
- 901.12 Dangerous animal requirements
- 901.13 Basic care
- 901.14 Animals in Heat
- 901.15 Enforcing officer
- 901.16 Pound
- 901.17 Interference with officers
- 901.18 Prohibiting use of leghold traps within the city limits
  
- 901.99 Penalty

## § 901.01 DEFINITIONS.

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

**ANIMAL.** Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:

(1) *DOMESTIC ANIMALS.* Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

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

(3) *NON-DOMESTIC ANIMALS.* Those animals commonly considered to be naturally wild, and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:

(a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(d) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets.

(e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.



(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.

**AT LARGE.** Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

**CAT.** Both the male and female of the feline species commonly accepted as domesticated household pets.

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

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

**RELEASE PERMIT.** A permit issued by the Animal Control Officer or other person in charge of the pound for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee to the City Clerk or designee in accordance with the regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established in the Ordinance Establishing Fees and Charges adopted pursuant to § 300.11 and Chapter 101, as it may be amended from time to time.

## **§ 901.02 DOGS AND CATS.**

(A) ***RUNNING AT LARGE PROHIBITED.*** It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large. A person, who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading "Dogs or Cats Prohibited."

(B) ***I.D. REQUIRED.*** Any person owning, harboring, or keeping a dog in the city of Dundas which is more than 90 days old, shall have the dog or cat vaccinated for rabies and have proof of the same firmly attached to a collar about the dogs neck. Also, the dog must have some form of identifying its owner either attached to the collar or etched upon a collar plate.

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

(D) ***VACCINATION.***

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

- (a) Rabies - with a live modified vaccine; and
- (b) Distemper.

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

Penalty, see § 901.99

### **§ 901.03 NON-DOMESTIC ANIMALS.**

It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the city. Any owner of a non-domestic animal at the time of adoption of this code shall have 30 days in which to remove the animal from the city after which time the city may impound the animal as provided for in this section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

Penalty, see § 901.99

### **§ 901.04 FARM ANIMALS.**

Farm animals shall be kept in the City only as permitted by the Dundas Zoning Law, provided that no animal shelter shall be within 300 feet of any adjoining piece of property. An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

If the Dundas Zoning Law permits farm animals to be kept in a residential district, said animals shall only be permitted by Conditional Use Permit.

### **§ 901.05 IMPOUNDING.**

(A) *RUNNING AT LARGE.* Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of

the impounding to the owner of the dog or other animal, if known. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

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

(C) *RECLAIMING.* All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined under § 901.11 in which case it shall be kept for seven regular business days or the times specified in § 901.11, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

(1) Payment of the release fee and receipt of a release permit as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 300.11 of this code, as that ordinance may be amended from time to time.

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

(3) If a dog is unlicensed, payment of a regular license fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 300.11 of this code, as that ordinance may be amended from time to time, and valid certificate of vaccination for rabies and distemper shots is required.

(D) *UNCLAIMED ANIMALS.* At the expiration of the times established in division (C) of this section, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the animal by complying with all provisions in this section, or the officer may sell the animal to the University of Minnesota, or cause the animal to be destroyed in a proper and humane manner and shall

properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Clerk.

Penalty, see § 901.99

#### **§ 901.06 KENNELS.**

(A) *DEFINITION OF KENNEL.* The keeping of three or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a “kennel;” except that a fresh litter of pups may be kept for a period of three months before that keeping shall be deemed to be a “kennel.” Licensed veterinary clinics, located in non-residential areas are excepted from the definition of kennel.

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

Penalty, see § 901.99

#### **§ 901.07 NUISANCES.**

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

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

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

(D) *OTHER.* Any animals kept contrary to this section are subject to impoundment as provided in § 901.05.

Penalty, see § 901.99

#### **§ 901.08 SEIZURE OF ANIMALS.**

Any police officer or Animal Control Officer may enter upon private property and seize any animal provided that the following exist:

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

(B) The officer reasonably believes that the animal meets either the barking dog criteria set out in § 901.07(A); the criteria for cruelty set out in § 901.13; or the criteria for an at large animal set out in § 901.01(E);

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

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

(E) The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other authorized person to have that key shall not be considered unauthorized entry; and

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

#### **§ 901.09 ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY.**

If, in the reasonable belief of any person or the Animal Control Officer or police officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under § 901.05. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with § 901.05(C).

#### **§ 901.10 DISEASED ANIMALS.**

(A) *RUNNING AT LARGE.* No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of the city, even though the animal be properly licensed under this section.

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

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

(C) *RELEASE*. If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.  
Penalty, see § 901.99

## **§ 901.11 DANGEROUS ANIMALS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) **PROPER ENCLOSURE.** Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) If no appeal is filed, the orders issued will stand or the Animal Control Officer may order the animal destroyed.

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

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

(H) *STOPPING AN ATTACK.* If any police officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever



means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

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

Penalty, see § 901.99

## **§ 901.12 DANGEROUS ANIMAL REQUIREMENTS.**

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

(1) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in § 901.11(C)(3);

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

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

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

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

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

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

(B) *SEIZURE*. Any police officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

(C) *RECLAIMING ANIMALS*. A dangerous animal seized under §901.12(B) may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to animal control that each of the requirements under §901.12(B) is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under §901.11(F), and the owner is liable to the city for costs incurred in confining and impounding the animal.

(D) *SUBSEQUENT OFFENSES*. If an owner of an animal has subsequently violated the provisions under § 901.11 with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in § 901.11(F). If the owner is found to have violated the provisions for which the animal was seized, the Animal Control Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of § 901.12(C). If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under § 901.11(F) and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

### **§ 901.13 BASIC CARE.**

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

### **§ 901.14 ANIMALS IN HEAT.**

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

### **§ 901.15 ENFORCING OFFICER.**

The Council DESIGNATES The Chief of Police as the animal control officer(s) to enforce the provisions of this section. In the officer's duty of enforcing the provisions of this section, he or she may from time to time, with the consent of the City Council, designate assistants.

## **§ 901.16 POUND.**

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

## **§ 901.17 INTERFERENCE WITH OFFICERS.**

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

Penalty, see § 901.99

## **§ 901.18 PROHIBITING USE OF LEG HOLD TRAPS WITHIN THE CITY LIMITS.**

**§ 901.181.** *PURPOSE:* It is the purpose of the Ordinance to preclude the potential harm that may occur when persons or domestic animals come into contact with traps in use, in or near a populated or developed area of the City.

**§ 901.182.** *DEFINITIONS:* As used in this Ordinance the following terms shall have the following meaning:

a. A Trap. Means any mechanical device or snare designed to capture any animal and which will kill, injure, or harmfully hold an animal including metal jaw type devices, but excluding devices designed to kill rats, mice, gophers, or moles, and excluding cage type live traps.

b. Dangerous Trap. A trap with a jaw spread equal to or greater than 5 and ½ inches, including traps of such size commonly known as steel traps, jawed traps, long-spring traps, coil-spring traps, flat-under spring traps, foot traps, foot-hold traps, game traps, or connibear traps.

c. Trapping. The setting or laying or other use of a trap with the intent of capturing or killing an animal.

**§ 901.183.** *TRAPPING PROHIBITED.* Trapping anywhere in the city limits of Dundas is prohibited.

**§ 901.184.**     *EXCEPTION.* The provisions of this Ordinance do not apply to:

a.       Persons who may employ a trap on their own private property to prevent an unsafe condition or the waste or destruction of their property when such persons have complied with the provisions of the law of the State of Minnesota.

b.       The provisions of this Ordinance do not apply to representatives of the City, County, or State who may in the course of their duties be required to use a trap to trap, snare, kill, or otherwise restrain the free movement of any animal, wildlife, or birds for humane or authorized purposes.

**§ 901.99 PENALTY.**

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

(B)     *MISDEMEANOR.* Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable as provided in § 100.99.

(C)     *PETTY MISDEMEANOR.* Violations of §§ 901.02, 901.07, 901.13 and 901.14 are petty misdemeanors punishable as provided in § 100.99.

## **CHAPTER 902: HEALTH AND SAFETY; NUISANCES**

### Section

#### ***General Provisions***

- 902.01 Assessable current services
- 902.02 Tree diseases

#### ***Nuisances***

- 902.15 Public nuisance
- 902.16 Public nuisances affecting health
- 902.17 Public nuisances affecting morals and decency
- 902.18 Public nuisances affecting peace and safety
- 902.19 Duties of city officers
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- 902.35 Short title
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- 902.38 Owners responsible for trimming, removal and the like
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#### ***Open Burning***

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- 902.62 Permit required for open burning
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- 902.68 Denial of open burning permit
- 902.69 Burning ban or air quality alert
- 902.70 Rules and laws adopted by reference

## **GENERAL PROVISIONS**

### **§ 902.01 ASSESSABLE CURRENT SERVICES.**

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

**CURRENT SERVICE.** Shall mean one or more of the following: snow, ice, or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal of leaves and grass clippings; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S. §§463.15 through §463.26 as they may be amended from time to time; installation or repair of water service lines; street sprinkling, street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

(B) *SNOW, ICE, DIRT AND RUBBISH.*

(1) Duty of owners and occupants. The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt, leaves and grass clippings, or rubbish to remain on the walk longer than 24 hours after its deposit thereon. Failure to comply with this section shall constitute a violation.

(2) Removal by city. The City Clerk or other person designated by the City Council may cause removal from all public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning 24 hours after any matter has been deposited thereon or after the snow has ceased to fall. The City Clerk or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel.

(C) *PUBLIC HEALTH AND SAFETY HAZARDS.* When the city removes or eliminates public health or safety hazards from private property under the following provisions of this chapter, the administrative officer responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and annually deliver that information to the City Clerk.

(D) *INSTALLATION AND REPAIR OF WATER SERVICE LINES.* Whenever the city installs or repairs water service lines serving private property under Chapter 502 of this code, the City Clerk shall keep a record of the total cost of the installation or repair against the property.

(E) *REPAIR OF SIDEWALKS AND ALLEYS.*

(1) Duty of owner. The owner of any property within the city abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians.

Repairs shall be made in accordance with the standard specifications approved by the City Council and on file in the office of the City Clerk.

(2) Inspections; notice. The City Council or its designee shall make inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians or vehicles. If it is found that any sidewalk or alley abutting on private property is unsafe and in need of repairs, the City Council shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property, ordering the owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so, the city will do so and that the expense thereof must be paid by the owner, and if unpaid it will be made a special assessment against the property concerned.

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

(F) *PERSONAL LIABILITY.* The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of the service. As soon as the service has been completed and the cost determined, the City Clerk, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the City Clerk.

(G) *DAMAGE TO PUBLIC PROPERTY.* Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment, object or contrivance, but is operating, driving or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. § 514.67, as it may be amended from time to time.

(H) *ASSESSMENT.* On or before September 1 of each year, the City Clerk shall list the total unpaid charges for each type of current service and charges under this section against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges against property benefitted as a special assessment under the authority of M.S. § 429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Penalty, see § 100.99

**§ 902.02 TREE DISEASES.**

(A) *TREES CONSTITUTING NUISANCE DECLARED.* The following are public nuisances whenever they may be found within the city:

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

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

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

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

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

(B) *ABATEMENT OF NUISANCE.* It is unlawful for any person to permit any public nuisance as defined in division (A) of this section to remain on any premises the person owns or controls within the city. The City Council may by resolution order the nuisance abated. Before action is taken on that resolution, the City Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to the affected property owner and published once no less than one week prior to the meeting. The notice shall state the time and place of the meeting, the street affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At such hearing or adjournment thereof, the City Council shall hear any property owner with reference to the scope and desirability of the proposed project. The City Council shall thereafter adopt a resolution confirming the original resolution with modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

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

(D) *UNPAID CHARGES.* On or before September 1 of each year, the City Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges or any portion



thereof against the property involved as a special assessment as authorized by M.S. § 429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes.

Penalty, see § 100.99

## *NUISANCES*

### **§ 902.15 PUBLIC NUISANCE.**

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

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

(B) Offends public decency, or urinates in public;

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

(D) Commits any other act or omission declared by law or §§ 902.16, 902.17 or 902.18, or any other part of this code to be a public nuisance.  
Penalty, see § 100.99

### **§ 902.16 PUBLIC NUISANCES AFFECTING HEALTH.**

The following are hereby declared to be nuisances affecting health:

(A) Exposed accumulation of decayed or unwholesome food or vegetable matter;

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

(D) Carcasses of animals not buried or destroyed within 24 hours after death;

(E) Accumulations of manure, refuse or other debris;

(F) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

(G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;

(H) All noxious weeds and other rank growths of vegetation upon public or private property;

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

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

(K) Any offensive trade or business as defined by statute not operating under local license.

Penalty, see § 100.99

### **§ 902.17 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.**

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

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

(B) Betting, bookmaking and all apparatus used in those occupations;

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

(D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place;

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

Penalty, see § 100.99

### **§ 902.18 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 people from having a clear view of all traffic approaching an intersection;

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

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

(5) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle, snowmobile or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.

(6) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby. Operation of any device referred to above between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section.

(7) The participation in a party or gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property, between the hours of 10:00 p.m. and 7:00 a.m.

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

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

(10) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;

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

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

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

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

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

(16) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material in a manner conducive to the harboring of rats,

mice, snakes or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation;

(17) Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;

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

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

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

(21) All outdoor vending machines five feet high or higher that are not anchored to prevent them from tipping over.

(22) *Prohibited Structures.* The existence of a structure which because of fire, wind, natural disaster, or physical deterioration is no longer suitable as a dwelling, nor useful for any other purpose for which it was intended, is prohibited within the city if such existence occurs for a period of more than 30 days.

(23) *Vacant Buildings.* The existence of any vacant building, garage or other out building, is prohibited within any areas zoned for residential purposes within the city, unless such building is kept securely locked, windows kept glazed or neatly boarded up, and is otherwise protected to prevent entrance thereto by vandals.

## **§ 902.19 DUTIES OF CITY OFFICERS.**

The Police Department shall enforce the provisions relating to nuisances. Any peace officer shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

## **§ 902.20 ABATEMENT.**

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

(1) Notice of violation. Written notice of violation shall be served by a peace officer on the owner of record or occupant of the premises either in person or by certified

or registered mail. If the premises 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.

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

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

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

(B) *PROCEDURE.* Whenever a peace officer determines that a public nuisance is being maintained or exists on the premises in the city, the officer shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement.

(C) *EMERGENCY PROCEDURE; SUMMARY ENFORCEMENT.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health, safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) of this section, and may

order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(D) *IMMEDIATE ABATEMENT.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

Penalty, see § 100.99

#### **§ 902.21 RECOVERY OF COST.**

(A) *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 or other official 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 City Clerk.

(B) *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, the City Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other the charges as well as other charges for current services to be assessed under M.S § 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Penalty, see § 100.99

## **WEEDS**

### **§ 902.35 SHORT TITLE.**

Sections 902.35 to 902.43 shall be cited as the “Weed Ordinance.”

### **§ 902.36 JURISDICTION.**

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

### **§ 902.37 DEFINITIONS; EXCLUSIONS.**

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

**DESTRUCTION ORDER.** The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the ordinance violation.

**PROPERTY OWNER.** The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license or lease.

**WEEDS, GRASSES and RANK VEGETATION.** Includes but is not limited to the following:

(1) Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip

(2) Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years;

(3) Bushes of the species of tall, common, or European barberry, further known as berberis vulgaris or its horticultural varieties;

(4) Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding 12 inches.



(5) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants.

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

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

#### **§ 902.38 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.**

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

Penalty, see § 100.99

#### **§ 902.39 FILING COMPLAINT.**

Any person, including the city, who believes there is property located within the corporate limits of the city which has growing plant matter in violation of this subchapter shall make a written complaint signed, dated and filed with the City Clerk. If the city makes the complaint, an employee, officer or Council Member of the city shall file the complaint in all respects as set out above.

#### **§ 902.40 NOTICE OF VIOLATIONS.**

(A) Upon receiving notice of the probable existence of weeds in violation of this subchapter, a person designated by the City Council shall make an inspection and prepare a written report to the City Council regarding the condition. The City Council, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in the form of a "Destruction Order" to the property owner or the person occupying the property as that information is contained within the records of the City Clerk or any other city agency. The notice shall be served in writing by certified mail. The notice shall provide that within seven regular business days [Cite: Ord. 5.02 Allows 10 days] after the receipt of the notice that the designated violation shall be removed by the property owner or person occupying the property.

(B) (1) All notices are to be in writing and all filings are to be with the City Clerk.

(2) Certified mailing to the City Clerk or others is deemed filed on the date of posting to the United States Postal Service.

#### **§ 902.41 APPEALS.**

(A) The property owner may appeal by filing written notice of objections with the City Council within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the City Council. It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants or crops or is not otherwise in violation of this subchapter, and should not be subject to destruction under the subchapter.

(B) An appeal by the property owner shall be brought before the City Council and shall be decided by a majority vote of the Council Members in attendance and being at a regularly scheduled or special meeting of the City Council.

#### **§ 902.42 ABATEMENT BY CITY.**

In the event that the property owner shall fail to comply with the "Destruction Order" within seven regular business days and has not filed a notice within 48 hours to the City Clerk of an intent to appeal, the City Council may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means.

#### **§ 902.43 LIABILITY.**

(A) The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subchapter.

(B) The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorney's fees and interest on any unpaid amounts incurred by the city. If the city uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

(C) All sums payable by the property owner are to be paid to the City Clerk and to be deposited in a general fund as compensation for expenses and costs incurred by the city.

(D) All sums payable by the property owner may be collected as a special assessment as provided by M.S. § 429.101, as it may be amended from time to time.

## ***OPEN BURNING***

### **§ 902.60 DEFINITIONS.**

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

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

**OPEN BURNING.** The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a “recreational fire” as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as “open burning.”

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

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

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

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

### **§ 902.61 PROHIBITED MATERIALS**

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

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

(C) No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.  
Penalty, see § 100.99

#### **§ 902.62 PERMIT REQUIRED FOR OPEN BURNING.**

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in § 902.60.

Penalty, see § 100.99

#### **§ 902.63 PURPOSES ALLOWED FOR OPEN BURNING.**

(A) Open burn permits may be issued only for the following purposes:

(1) Elimination of fire or health hazard that cannot be abated by other practical means.

(2) Ground thawing for utility repair and construction.

(3) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and right-of-ways where chipping, composting, landspreading or other alternative methods are not practical.

(4) Disposal of diseased trees generated on site, diseased or infected nursery stock, diseased bee hives.

(5) Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical.

(6) Burning of grass and leaves if it can be accomplished without endangering public safety, or creating a public nuisance.

(B) Fire Training permits can only be issued by the Minnesota Department of Natural Resources.

Penalty, see § 100.99

#### **§ 902.64 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.**

(A) Open burning permits shall be obtained by making application on a form prescribed by the Department of Natural Resources (DNR) and adopted by the Fire Department. The permit application shall be presented to the Fire Chief or designee for reviewing and processing those applications.

(B) An open burning permit may require the payment of a fee. Permit fees shall be in the amount established in the Ordinance Establishing Fees and Charges, authorized by § 300.11 and Chapter 101, as it may be amended from time to time.

Penalty, see § 100.99

#### **§ 902.65 PERMIT PROCESS FOR OPEN BURNING.**

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

#### **§ 902.66 PERMIT HOLDER RESPONSIBILITY.**

(A) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or his or her competent representative. The open burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan.

(B) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site. No fire may be allowed to smolder with no person present. It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Police Department, Fire Department, MPCA representative or DNR forest officer.

(C) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees.

Penalty, see § 100.99

#### **§ 902.67 REVOCATION OF OPEN BURNING PERMIT.**

The open burning permit is subject to revocation at the discretion of a DNR forest officer, the Fire Chief or designee. Reasons for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.

Penalty, see § 100.99

#### **§ 902.68 DENIAL OF OPEN BURNING PERMIT.**

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

#### **§ 902.69 BURNING BAN OR AIR QUALITY ALERT.**

No recreational fire or open burn will be permitted when the city or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert.

Penalty, see § 100.99

#### **§ 902.70 RULES AND LAWS ADOPTED BY REFERENCE.**

The provisions of M.S. §§ 88.16 to 88.22 and the Minnesota Uniform Fire Code, Minn. Rules Ch. 1510, as these statutes and rules may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

## CHAPTER 903: STREETS AND SIDEWALKS

### Section

#### ***General Provisions***

- 903.01 Unloading on street or sidewalk
- 903.02 Street and sidewalk obstruction
- 903.03 Materials on street or sidewalk
- 903.04 Repair of sidewalks
- 903.05 General offenses against public property
- 903.06 Closing west mill street to through traffic  
*HISTORY: AMENDED ORD. 2003-15*
- 903.07 Street numbers to be visible from sidewalk or street

#### ***Right-Of-Way Construction Regulations***

- 903.20 Election to manage the public right-of-way
- 903.21 Definitions and adoption of rules by reference
- 903.22 Permit requirement
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- 903.40 Appeal
- 903.41 Reservation of regulatory and police powers

#### **Cross-reference:**

*Assessable current services, see § 902.01*

## ***GENERAL PROVISIONS***

### **§ 903.01 UNLOADING ON STREET OR SIDEWALK.**

No person shall unload any heavy material in the streets of the city by throwing or letting the material fall upon the pavement of any street, alley, sidewalk, or other public way, without first placing some sufficient protection over the pavement.

Penalty, see § 100.99

### **§ 903.02 STREET AND SIDEWALK OBSTRUCTION.**

No person shall obstruct any street, alley, sidewalk, or other public way within the city by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any fence or building is permitted to remain upon the public way shall constitute a separate offense.

Penalty, see § 100.99

### **§ 903.03 MATERIALS ON STREET OR SIDEWALK.**

No person shall encumber any street or sidewalk. No owner, occupant or person having the care of any building or lot of land, bordering on any street or sidewalk, shall permit it to be encumbered with barrels, boxes, cans, articles, or substances of any kind, so as to interfere with the free and unobstructed use thereof.

Penalty, see § 100.99

### **§ 903.04 REPAIR OF SIDEWALKS.**

(A) The owner of any property within the City abutting a public sidewalk shall keep the sidewalk in repair and safe for pedestrians. Repairs shall be made in accordance with standard specifications approved by the Council and on file in the office of the City Clerk.

(B) It shall be the duty of the street commissioner to make such inspections as are necessary to determine that public sidewalks within the City are kept in repair and safe for pedestrians. If he finds that any sidewalks abutting on private property is unsafe and in need of repairs, he shall cause a notice to be served, by registered mail or by personal service, upon the record owner of the property and the occupant, if the owner does not reside within the City or cannot be found therein, ordering such owner to have the sidewalk repaired and made safe within 30 days and stating that if the owner fails to do so, the street commissioner will do so on behalf of the City, that the expense thereof must be paid by the owner, and that if unpaid it will be made a special assessment against the property concerned.



(C) If the sidewalk is not repaired within 30 days after receipt of the notice, the street commissioner shall report the facts to the Council and the Council shall by resolution order the street commissioner to repair the sidewalk and make it safe for pedestrians or order the work done by contract in accordance with the law. The street commissioner shall keep a record of the total cost of the repair attributable to each lot or parcel of property and report such information to the City Clerk.

(D) *ASSESSMENT*. On or before September 1st of each year, the City Clerk shall list the total unpaid charges for each type of current services against each separate lot or parcel to which they are attributable under this ordinance. The Council may then spread the charges against property benefitted as a special assessment under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.

### **§ 903.05 GENERAL OFFENSES AGAINST PUBLIC PROPERTY.**

(A) *BLASTING PRECAUTIONS*. No person shall blast or cause to be blasted within 300 feet of any building of this City, rocks or other material without having the same covered by good sound timbers, or sheet metal of sufficient weight, length and thickness and so placed as effectively to prevent fragments of rock or other material blasted from ascending into the air, or shall fail to notify persons approaching the scene of any blasting that blasting is being done.

(B) *PLACING OBJECTS IN PUBLIC HIGHWAYS*. No person shall place, throw, or cause to be placed or thrown on any street, alley, sidewalk or other public property any glass, tacks, nails, bottles, or other substances or things that might wound any person or animal, or cut or puncture any pneumatic tire when passing over the same.

(C) *OBSTRUCTING SIDEWALKS*. No person shall leave or allow to be left any implements, tools, boxes, merchandise, goods, trash, cans, or crates on any sidewalk or other public way longer than is necessary for loading or unloading the same.

(D) *MAINTAINING SIDEWALK LEVEL*. No owner of any property having a sidewalk adjacent thereto shall permit any plank, brick, stone, or segment of said sidewalk to be raised above the established level of said sidewalk more than one-half inch, in any manner which might catch the foot of a pedestrian, or shall permit any holes or depressions to occur in the sidewalk in which a pedestrian might step or catch his foot in a manner liable to cause injury.

(E) *POSTING BILLS*. No person shall put up any handbills, advertisement, posters, showbills, or other sign on any building, pole or property not his own, without permission from the owner thereof.

(F) *DEFACING PUBLIC PROPERTY*. No person shall cut, carve, mark, etch, engrave any character, figure, letter or name upon any building owned, occupied or used by the City, or shall in any manner mar, deface or injure any trees, shrub, plant, vines, or any other public property in, on, or around the grounds upon which such building is situated.

(G) *WILLFUL DESTRUCTION OF PUBLIC PARK PROPERTY.* No person shall willfully and without authority cut, pluck, or otherwise injure any flowers, shrubs, or trees growing in or around any public park, or other public grounds of the City, or shall willfully injure or destroy any stand, bench, or other property situated on such park or ground.

(H) *INTERFERENCE WITH PUBLIC SEWERS AND CULVERTS.* No person shall willfully injure or destroy, or attempt to injure or destroy, any public sewer or culvert, or shall molest any sewer or culvert, or any part of said sewer or culvert, by removing the cover of any flush tank, manhole or other part of said public sewer system or culvert, without authority to do so.

(I) *WITHHOLDING CITY PROPERTY.* No person shall take possession of any property, real or personal, belonging to the City, or to the possession of which the City shall be entitled, or shall commit any trespass thereon, or shall unlawfully withhold the property from the City, and the unlawful withholding of such property, after demand therefor has been made under the direction of the City Council, shall be deemed a new and separate offense for every day the possession is withheld after such demand.

1. All City employees, contractors and elected officials must return all City property to Clerk before final check is issued.

(J) *DEPOSITS ON SIDEWALKS.* Whenever any lot or piece of land abutting on any sidewalk shall become or remain in such a condition that earth, grass, or other substances therefrom accumulate on such sidewalk, and the owner of such lot or piece of land shall refuse or neglect to place the same in such a condition as to prevent such washing or accumulating on such sidewalk, such owner shall be guilty of a misdemeanor, and each day that such owner shall refuse or neglect to abate said condition after notice from the street commissioner, shall constitute a separate offense.

(K) *INTERFERENCE WITH SIDEWALKS.* No person shall loosen or remove any plank, brick, block, or support from any sidewalk, crosswalk, curbing, or gutter. Provided, this section shall not apply to persons making repairs on any sidewalk, gutter, curb or cross-walk, or any person temporarily removing the same on account of building operations.

(L) *SNOW, GRASS, AND YARD WASTE.* No person shall place, leave, or allow to accumulate any snow, grass, or yard waste on any public sidewalk, street, or other public property.

## **§ 903.06 CLOSING WEST MILL STREET TO THROUGH TRAFFIC**

*HISTORY: AMENDED ORD. 2003-15*

**§ 903.061. FINDINGS.** The Dundas City Council finds that through traffic on West Mill Street in the City of Dundas, at its intersection with the CP Rail track, constitutes a possible traffic hazard. Said traffic hazard is created by reason of poor sight lines and elevation of West Mill Street. It is in the public interest that through traffic on West Mill Street be discontinued.

**§ 903.062** Traffic barricades shall be established and maintained on West Mill Street, at its intersection with the easterly and westerly boundary lines of the railroad right-of-way maintained by the Soo Line Railroad d/b/a CP Rail. Said traffic barricades shall prevent all vehicular traffic from crossing the railroad track at its intersection with West Mill Street. Provided however, the City shall retain the right to install and maintain utilities, water drainage and pedestrian walkways across said railroad track on West Mill Street.

**§ 903.063.** Any person who moves or attempts to move said traffic barricades or attempts to evade said barricades by driving any motor vehicle, motorcycle or snowmobile over the railroad right-of-way at the intersection of West Mill Street, is guilty of a misdemeanor.

*HISTORY: AMENDED ORD. 2003-15*

### **§ 903.07 STREET NUMBERS TO BE VISIBLE FROM SIDEWALK OR STREET**

Every house located in a residential or rural-residential district, and each other building located in a business or commercial district within the City of Dundas shall display the address number on the house or building in a place, and of sufficient size, to be visible from the public street or sidewalk adjacent to the front yard of said property. Failure to abide by the requirements of this section constitutes a petty offense and may be punished by a fine of up to \$100.00.

## ***RIGHT-OF-WAY CONSTRUCTION REGULATIONS***

### **§ 903.20 ELECTION TO MANAGE THE PUBLIC RIGHT-OF-WAY.**

In accordance with the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects pursuant to this chapter to manage right-of-ways within its jurisdiction.

### **§ 903.21 DEFINITIONS AND ADOPTION OF RULES BY REFERENCE.**

Minn. Rules Ch. 7819, as it may be amended from time to time is hereby adopted by reference and is incorporated into this code as if set out in full. The definitions included in Minn. Rules part 7819.0100 subps. 1 through 23, as it may be amended from time to time are the definitions of the terms used in the following provisions of this subchapter.

### **§ 903.22 PERMIT REQUIREMENT.**

(A) *PERMIT REQUIRED.* Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate permit from the city.

(1) Excavation permit. An excavation permit is required to excavate that part of the right-of-way described in the permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(2) Obstruction permit. An obstruction permit is required to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(B) *PERMIT EXTENSIONS.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless the person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and a new permit or permit extension is granted.

(C) *DELAY PENALTY.* In accordance with Minn. Rules part 7819.1000 subp. 3, as it may be amended from time to time and notwithstanding division (B) of this section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by the Ordinance Establishing Fees and Charges, adopted pursuant to § 300.11 and Chapter 101 of this code, as it may be amended from time to time.

(D) *PERMIT DISPLAY*. Permits issued under this subchapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Director.

Penalty, see § 100.99

### **§ 903.23 PERMIT APPLICATIONS.**

Application for a permit shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

(A) Submission of a completed permit application form, including all required attachments, scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, and the following information:

(1) Each permittee's name, gopher one-call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.

(2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

(3) A certificate of insurance or self-insurance:

(a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state, or a form of self insurance acceptable to the Director;

(b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;

(c) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all coverages;

(d) Requiring that the Director be notified 30 days in advance of cancellation of the policy or material modification of a coverage term;

(e) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the Director in amounts sufficient to protect the city and the public, and to carry out the purposes and policies of this chapter; but at least in the amount of \$50,000.00/\$100,000.00 with the City as named insured.

(4) The city may require a copy of the actual insurance policies.

(5) If the person is a corporation, a copy of the certificate required to be filed under M.S. § 300.06, as it may be amended from time to time as recorded and certified to by the Secretary of State.

(6) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have the certificate from the Commission or other state or federal agency.

(B) Payment of money due the city for:

(1) Permit fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to §§ 903.25 and 101.02 of this code, as that ordinance may be amended from time to time, estimated restoration costs and other management costs;

*HISTORY: Amended by Ord. 2003-02*

(2) Prior obstructions or excavations;

(3) Any undisputed loss, damage, or expense suffered by the city because of the applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city.

### **§ 903.24 ISSUANCE OF PERMIT; CONDITIONS.**

(A) *PERMIT ISSUANCE.* If the applicant has satisfied the requirements of this chapter, the City Clerk shall issue a permit.

(B) *CONDITIONS.* The City Clerk may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

### **§ 903.25 PERMIT FEES.**

*HISTORY: Amended by Ord. 2003-02*

(A) *EXCAVATION PERMIT FEE.* The city shall establish an excavation permit fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 101.02 of

this code, as that ordinance may be amended from time to time, in an amount sufficient to recover the following costs:

- (1) The city management costs; and
- (2) Degradation costs, if applicable.

(B) *OBSTRUCTION PERMIT FEE.* The city shall establish the obstruction permit fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 101.02 of this code, as that ordinance may be amended from time to time, and shall be in an amount sufficient to recover the city management costs.

(C) *PAYMENT OF PERMIT FEES.* No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay those fees within 30 days of billing.

(D) *NON-REFUNDABLE.* Permit fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 101.02 of this code, as that ordinance may be amended from time to time, that were paid for a permit that the Director has revoked for a breach as stated in § 903.40 are not refundable.

(E) *APPLICATION TO FRANCHISES.* Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

(F) All permit fees shall be established consistent with the provisions of Minn. Rules part 7819.100, as it may be amended from time to time.  
Penalty, see § 100.99

## **§ 903.26 RIGHT-OF-WAY PATCHING AND RESTORATION.**

(A) *TIMING.* The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under § 903.34.

(B) *PATCH AND RESTORATION.* The permittee shall patch its own work. The permittee may choose either to have the city restore the right-of-way or to restore the right-of-way itself.

- (1) City restoration. If the city restores the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If following the restoration, the pavement settles due to the permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with having to correct the defective work.

(2) Permittee restoration. If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minn. Rules part 7819.3000, as it may be amended from time to time.

(C) *STANDARDS.* The permittee shall perform patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rule part 7819.1100, as it may be amended from time to time. The Director shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis.

(D) *DUTY TO CORRECT DEFECTS.* The permittee shall correct defects in patching, or restoration performed by the permittee or its agents. The permittee upon notification from the Director, shall correct all restoration work to the extent necessary, using the method required by the Director. The work shall be completed within five calendar days of the receipt of the notice from the Director, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under § 903.34.

(E) *FAILURE TO RESTORE.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the Director, or fails to satisfactorily and timely complete all restoration required by the Director, the Director at its option may do the work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If the permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

(F) *DEGRADATION FEE IN LIEU OF RESTORATION.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 101.02 of this code, as that ordinance may be amended from time to time. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

*HISTORY: Amended by Ord. 2003-02*

(G) To leave at least one-half of the street clear for passage of vehicles and to provide safe bridgeways on sidewalks for foot pedestrian.

(H) *EXCAVATIONS TO BE GUARDED.* Every person who shall have charge of the construction of any excavation or obstruction adjacent to or under any sidewalk or street shall during the progress of such work cause such excavation to be securely guarded by a fence with at least two strings of good six-inch boards nailed not less than eighteen inches apart to posts securely fixed in place; such posts shall be not more than six feet apart, and the top of the highest post shall be not less than four feet and a half from the surface of the sidewalk or street and from one-half hour after sunset to one-half hour before sunrise shall illuminate such excavation or obstruction with red lights sufficient in number and so placed as to show the full extent thereof.



(I) *REMOVING BARRICADES.* No person shall remove, throw down, run over, or interfere with any barricade or barricades lawfully directed, placed to guard and protect any grading, paving, sidewalk construction or other work.

(J) *INJURING UNCOMPLETED CONSTRUCTION.* No person shall walk upon, drive or ride over or cross any pavement in course of construction before the same has been opened for public travel, or over or across any uncompleted grading, or sidewalk construction which has not been opened for travel.

#### **§ 903.27 SUPPLEMENTARY APPLICATIONS.**

(A) *LIMITATION ON AREA.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area make application for a permit extension and pay any additional fees required thereby, and be granted a new permit or permit extension.

(B) *LIMITATION ON DATES.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

#### **§ 903.28 DENIAL OF PERMIT.**

The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

#### **§ 903.29 INSTALLATION REQUIREMENTS.**

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules part 7819.1100, as it may be amended from time to time and other applicable local requirements, in so far as they are not inconsistent with M.S. §§ 237.162 and 237.163 as it may be amended from time to time.

### **§ 903.30 INSPECTION.**

(A) *NOTICE OF COMPLETION.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with Minn. Rule part 7819.1300, as it may be amended from time to time.

(B) *SITE INSPECTION.* The permittee shall make the work-site available to city personnel and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(C) *AUTHORITY OF DIRECTOR.*

(1) At the time of inspection, the Director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.

(2) The Director may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the Director that the violation has been corrected. If proof has not been presented within the required time, the Director may revoke the permit pursuant to § 903.40.

### **§ 903.31 WORK DONE WITHOUT A PERMIT.**

(A) *EMERGENCY SITUATIONS.*

(1) Each person with facilities in the right-of-way shall immediately notify the city of any event regarding its facilities which it considers to be an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the owner shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

(2) If the city becomes aware of an emergency regarding facilities, the city will attempt to contact the local representative of each facility owner affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the person whose facilities occasioned the emergency.

(B) *NON-EMERGENCY SITUATIONS.* Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, and as a penalty pay double the normal fee for the permit, pay

double all the other fees required by this code, deposit with the city the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter.

### **§ 903.32 SUPPLEMENTARY NOTIFICATION.**

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the Director of the accurate information as soon as this information is known.

### **§ 903.33 REVOCATION OF PERMITS.**

(A) *SUBSTANTIAL BREACH.* The city reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by the permittee shall include, but shall not be limited to, the following:

- (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- (3) Any material misrepresentation of fact in the application for a right-of-way permit;
- (4) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittees control; or
- (5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 903.37.

(B) *WRITTEN NOTICE OF BREACH.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the city shall make a written demand upon the permittee to remedy that violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(C) *RESPONSE TO NOTICE OF BREACH.* Within 24 hours of receiving notification of the breach, the permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. The permittee's failure to so contact the city, or the permittee's failure to submit

an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

(D) *REIMBURSEMENT OF CITY COSTS.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorney's fees incurred in connection with the revocation.

#### **§ 903.34 MAPPING DATA; INFORMATION REQUIRED.**

Each permittee shall provide mapping information required by the city in accordance with Minn. Rules parts 7819.4000 and 7819.4100, as it may be amended from time to time.

#### **§ 903.35 LOCATION OF FACILITIES.**

(A) Placement, location, and relocation of facilities must comply with applicable laws, and with Minn. Rules parts 7819.3100, 7819.5000 and 7819.5100, as they may be amended from time to time, to the extent the rules do not limit authority otherwise available to cities.

(B) *CORRIDORS.* The city may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

(C) *LIMITATION OF SPACE.* To protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use, the Director shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making those decisions, the Director shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

#### **§ 903.36 DAMAGE TO OTHER FACILITIES.**

When the city does work in the right-of-way and finds it necessary to maintain, support, or move facilities to protect it, the Director shall notify the local representative as early as is reasonably possible and placed as required. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each facility owner shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each facility owner shall be responsible for the cost of repairing any damage to the

facilities of another registrant caused during the city's response to an emergency occasioned by that owner's facilities.

#### **§ 903.37 RIGHT-OF-WAY VACATION.**

If the city vacates a right-of-way which contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules part 7819.3200, as it may be amended from time to time.

#### **§ 903.38 INDEMNIFICATION AND LIABILITY.**

By applying for and accepting a permit under this chapter, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rule 7819.1250, as it may be amended from time to time.

#### **§ 903.39 ABANDONED FACILITIES; REMOVAL OF ABANDONED FACILITIES.**

Any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the Director.

#### **§ 903.40 APPEAL.**

A right-of-way user that has been denied registration; has been denied a permit; has had permit revoked; or believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee as imposition will be writing and supported by written findings establishing the reasonableness of the decision.

#### **§ 903.41 RESERVATION OF REGULATORY AND POLICE POWERS.**

A permittees or registrants rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

## **CHAPTER 904: PROVIDING FOR THE CARE OF TREES AND SHRUBS**

### Section

- 904.01 Private care of trees and shrubbery
- 904.02 Public care of trees and shrubbery

**§ 904.01 PRIVATE CARE OF TREES AND SHRUBBERY.**

It shall be the duty of all persons, whether owners or tenants, to keep trees and shrubs planted or located within private property lines owned or occupied by said owners or tenants, any portion of which trees or shrubs project over or upon any street, sidewalk, or public way, trimmed in such manner that said trees and shrubs shall not interfere with or endanger travel on said street, sidewalk, or public way, as aforesaid.

(A) No person, whether the owner or tenant of any property along public streets and sidewalks shall permit any trees or shrubs to project over said streets and sidewalks less than 8 feet in height above such sidewalks or 12 feet above such streets.

**§ 904.02 PUBLIC CARE OF TREES AND SHRUBBERY.**

(A) The City Council shall designate by resolution on what streets, sidewalks, boulevards, or public ways the trees and shrubs should be trimmed and cared for, the kind of work to be done, and what unsound trees and shrubs should be removed.

(B) Before any tree care is performed pursuant to such resolution the Clerk shall publish notice that the City Council will meet to consider such tree care as current expense. Such notice shall be published in the official newspaper and a copy mailed to every person having an interest in the property concerned at their last known address at least once no less than one week prior to such meeting, and shall state the date, time, and place of such meeting, the streets, sidewalks, boulevards, or public ways affected, the particular tree care required, and the estimated cost of such tree care as service charges either in total amount or on the basis of the proposed assessment.

(C) At such hearing or at any adjournment thereof the Council shall hear property owners with reference to the scope and desirability of the proposed current service. The Council shall thereupon adopt a resolution confirming the original current service project with such modifications as it deems desirable and shall provide for the doing of the work by day labor or by contract.

(D) A record shall be kept of the cost and portion of the cost properly attributable to each lot and parcel of property abutting on the street, sidewalk, boulevard, or public way where the current service is done and shall be filed with the City Clerk.

(E) The owner of property on which or adjacent to which current service has been performed under this ordinance shall be personally liable for the cost of such service. As soon as said service has been completed and the cost determined, the City Clerk shall prepare a bill and mail it to the owner, and thereafter the amount stated shall be due and payable at the office of the City Clerk.

(F) On or before September 1 of each year, the City Clerk shall prepare a statement of the unpaid current service charges and a description of the property against which such charges

should be assessed under this ordinance. The City Council may by resolution then spread the charges against the property benefitted as a special assessment under Minnesota Statutes Section 429.101 and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.



**CHAPTER 905: CLEANUP OF CLANDESTINE DRUG LAB SITES  
AND CHEMICAL DUMP SITES**

*HISTORY: Adopted Ord 2003 - 06*

Section

- 905.01 General Provisions
- 905.02 Definitions
- 905.03 Declaration of Site & Contents as a Public Health Nuisance
- 905.04 Law Enforcement Action
- 905.05 Seize of Property
- 905.06 Action by City Building Official
- 905.07 Site Owner's Responsibility to Act
- 905.08 Site Owner's Responsibility for Cost
- 905.09 City Action & Recovery of Costs
- 905.10 Recovery of Costs from Persons Causing Damage
- 905.11 Site Owner & Address
- 905.12 Suspension of Residential Rental License
- 905.13 Unauthorized Removal of Postings
- 905.14 Entry unto or into Site
- 905.15 Removal of Personal Property from the Site

**§905.01        *GENERAL PROVISIONS***

(A)    PURPOSE AND INTENT – The purpose of this article is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals or residue from a suspected clandestine drug lab site or associated dump site may exist. Professional reports, based on assessments, testing and investigations, show that chemical used in the production of illicit drugs can condense, penetrate, and contaminate surfaces, furnishings, and equipment of surrounding structures. The City Council finds that such sites, and the personal property within such sites, may contain suspected chemicals and residues that place people, particularly children or adults of child bearing age, at risk when exposed through inhabiting or visiting the site or using or being exposed to contaminated personal property.

(B)    INTERPRETATION AND APPLICATION - In the interpretation and application of this article, the provisions herein shall be construed to protect the public health, safety and welfare. Where the conditions imposed by any provision of this article are either more or less restrictive to the public than comparable provisions imposed by any other law, ordinance, statute, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements on the public shall prevail. Should any court of competent jurisdiction declare any section or subpart of this article to be invalid, such decision shall not affect the validity of the article as a whole or any part thereof, other than the provision declared invalid.

**§905.02        *DEFINITIONS***

For the purpose of this article, the following terms or words shall be interpreted as follows:

(A)    *CHILD* – Shall mean any person less than eighteen (18) years of age

(B)    *CHEMICAL DUMP SITE* - Shall mean any place or area where chemicals or other waste materials used in a clandestine drug lab operation have been located.

(C)    *CITY* – Shall mean the City of Dundas

(D)    *CLANDESTINE DRUG LAB OPERATION* – Shall mean the unlawful manufacture or attempt to manufacture a controlled substance.

(E)    *CLANDESTINE DRUG LAB SITE* – Shall mean any place or area where law enforcement has determined that conditions associated with an unlawful clandestine drug lab operation exist. A clandestine drug lab site may include dwellings, accessory buildings, structures or units, a chemical dump site, a vehicle, boat, trailer or other appliance or any other area or location.

(F)    *CONTROLLED SUBSTANCE* – Shall mean any drug, substance or immediate precursor in Minnesota Statute §152.02, Schedules I through V, together with any amendments or modifications thereto. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

(G) *HAZARDOUS DRUG WASTE* – Shall mean waste generated from a clandestine drug lab operation.

(H) *MANUFACTURE* - In places other than a pharmacy, shall mean and include the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, and the packing, tableting, encapsulating, labeling, relabeling, or filling of drugs.

(I) *OWNER* – Shall mean any person(s), firms(s), corporation(s) or other entity who or which owns, in whole or in part, the land, building, structure, vehicle, boat, trailer or other location associated with a clandestine drug lab site or chemical dump site.

### **§905.03        DECLARATION OF SITE AND CONTENTS AS A PUBLIC HEALTH NUISANCE.**

All dwellings, accessory structures, buildings, vehicles, boats, trailers, personal property, adjacent property or other locations, associated with a clandestine drug lab site or chemical dump site are potentially unsafe due to health hazards and are hereby declared to be a public nuisance under §902.15.

### **§905.04        LAW ENFORCEMENT ACTION**

If law enforcement authorities determine the existence of a clandestine drug lab site or chemical dump site, the site and all personal property therein may be declared a public health nuisance. Law enforcement authorities who identify conditions associated with a clandestine drug lab site or chemical dump site, which may place neighbors, the visiting public, or present and future occupants of the site at risk for exposure to harmful contaminants and other associated conditions, are authorized to take the following action:

(A) Promptly notify the City Building Official, Child Protection, Public Health Authorities and the appropriate enforcement division of the drug enforcement administration of the U.S. Justice Department of the location of the site, and the owner if known, of the conditions found;

(B) Treat, store, transport or dispose of all hazardous drug waste found at the site in manner consistent with State Department of Health, Minnesota Pollution Control and County Health Department rules and regulations;

(C) Issue a temporary declaration of public health nuisance for the affected site and post a copy of the declaration at all doorway entrances to the site or, in the case of bare land, post the declaration in several conspicuous places on the property. This temporary declaration of public health nuisance issued by law enforcement shall expire after the City Building Official inspects the site and determines the appropriateness of issuing a permanent declaration of public health nuisance.

- (D) Notify all persons occupying the site that a temporary declaration of public health nuisance has been issued;
- (E) Require all persons occupying the site to immediately vacate the site, remove all pets from the site, and not return without written authorization from the City Building Official;
- (F) Notify all occupants vacating the site that all personal property at the site may be contaminated with dangerous chemical residue; and
- (G) Put locks on each doorway entrance to the site to prohibit people from entering the site without authorization after all occupants of the site have vacated.

The obligation to promptly notify the persons and organizations mentioned above may be delayed to accomplish appropriate law enforcement objectives, but only to the extent that public health and child protection responsibilities are not unnecessarily compromised.

#### **§905.05 SEIZURE OF PROPERTY**

When the clandestine drug lab site or chemical dump site is inside a vehicle, boat, trailer, or other form of moveable personal property, law enforcement authorities shall immediately seize it and not allow it to be transported except to a more secure location. In such circumstances, all other requirements of this article shall be followed as closely as possible given the specific type of property in which the site is discovered.

#### **§905.06 ACTION BY CITY BUILDING OFFICIAL**

(A) **INSPECTION & DECLARATION OF NUISANCE** – Within forty-eight (48) hours of notification that law enforcement authorities have determined the existence of a clandestine drug lab site or chemical dump site, the City Building Official shall inspect the site to determine the appropriate scope of a permanent declaration of public health nuisance. Based on the results of the inspection, the City Building Official may then promptly issue a permanent declaration of public health nuisance and a Do Not Enter – Unsafe to Occupy Order for the affected site to replace the temporary declaration issued and posted by law enforcement. A copy of the permanent declaration and order shall be posted on all doorway entrances to the site or, in the case of bare land, shall be posted in several conspicuous places on the property.

(B) **ABATEMENT ORDER** – After the permanent declaration of public health nuisance has been issued and posted, the city building official shall send written notice to the site owner ordering abatement of the public health nuisance. The abatement order shall include the following information:

- (1) A copy of the declaration of public health nuisance and Do Not Enter – Unsafe to Occupy Order;
- (2) Information about the potentially hazardous condition of the site;
- (3) Notification of suspension of the site’s rental license, if applicable;
- (4) A summary of the site owner’s and occupant’s responsibilities under this article;  
and
- (5) Information that may help the owner locate appropriate services necessary to abate the public health nuisance.

(C) NOTICE TO CONCERNED PARTIES - The building official shall also mail a copy of the permanent declaration of public health nuisance, a copy of this article, and a notification of the suspension of the site’s rental licensees, if applicable, to the following concerned parties at their last known address:

- (1) Occupants or residents of the site, if the identities of such persons are known;
- (2) Neighbors in proximity to the site who may be reasonably affected by the conditions found;
- (3) The City Administrator;
- (4) The City Police Department;
- (5) The appropriate enforcement division of the drug enforcement administration of the State of Minnesota or U.S. Justice Department; and
- (6) Other City, State and Local authorities, such as the City Water Department, the State Pollution Control Agency, the State Department of Health, and the Department of Natural Resources which are known to have public and protection responsibilities that are applicable to the situation.

(D) MODIFICATION OR REMOVAL OF DECLARATION – The city building official is authorized to modify or remove the declaration of public health nuisance after the building official receives documentation from a city-approved environmental hazard testing and cleaning firm stating that the suspected health and safety risks, including those to neighbors and potential dwelling occupants, either do not exist or have been sufficiently abated or corrected to justify amendment or removal of the declaration.

**§905.07 SITE OWNER'S RESPONSIBILITY TO ACT**

Within ten business days of the date the abatement order is mailed to the owner of the site, the owner shall accomplish the following:

(A) Provide the City Building Official with written notification:

- (1) That the owner has confirmed that all persons and their pets have vacated the site;
- (2) Of the name(s) of all children who the owner believes were residing at the site during the time period the clandestine drug lab or chemical dump site is suspected to have been at the site; and
- (3) That the site will remain vacated and secured until the public health nuisance is completely abated as required by this article.

(B) Contract with one or more city-approved environmental hazard testing and cleaning firms to conduct the following work in accordance with the most current State Department of Health guidelines;

- (1) A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;
- (2) Soil testing of the site and testing of all property and soil proximity to the site which the environmental hazard testing and cleaning firm determines may have been affected by the condition found at the site;
- (3) A complete clean up of the site (including but not limited to, the clean up or removal of contaminated plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the site and a complete clean up of the demolished site;
- (4) A complete clean up, or disposal at an approved dump site, of all contaminated personal property in the site;
- (5) A complete clean up of all property and soil in proximity to the site which is found to have been affected by the conditions found at the site;
- (6) Remediation testing and follow-up testing, including but not limited to testing of the ventilation system and plumbing, to determine that all health risks are sufficiently reduced, according to State Department of Health guidelines, to allow safe human occupancy and use of the site and use of the personal property therein and of all property and soil in proximity to the site.

(C) Provide the City Building Official with the identity of the testing and cleaning firm with which the owner has contracted for abatement of the public health nuisance as required above; and

(D) Sign an agreement with the City Building Official establishing a clean up schedule. The schedule shall establish reasonable deadlines for completing all actions required by this article for abatement of the public health nuisance. In determining appropriate deadlines, the City Building Official shall consider practical limitations and the availability of contractors in approving the schedule for clean up.

The site owner must meet all deadlines established on the clean up schedule. Also, pursuant to the deadlines established by the clean up schedule, the site owner is required to provide the City Building Official with written documentation of the clean up process, including a signed statement from a city-approved environmental hazard testing and cleaning firm that the site, all personal property therein, and all property and soil in proximity to the site, is safe for human occupancy and use, and that the clean up was conducted in accordance with the most current State Department of Health guidelines.

#### **§905.08 SITE OWNER'S RESPONSIBILITY FOR COSTS**

The site owner shall be responsible for all costs, including those of the City, of dealing with and abating the public health nuisance, including contractor's fees and the City's costs for services performed in association with the clandestine drug lab site or chemical dump site clean up. The City's costs may also include, but are not limited to:

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

**§905.09 CITY ACTION AND RECOVERY OF COSTS**

(A) If the building owner fails to comply with any of the requirements of this article, the City Building Official is authorized to take all reasonable actions necessary to Abate the public health nuisance, including but not limited to, contracting with a city-approved environmental hazard testing and cleaning firm to conduct the work

The Building Official is also authorized to provide a copy of the declaration of public health nuisance to the lien and/or mortgage holders of the affected site to help assure that persons with interest in the site have access to information about the declaration of public health nuisance.

(B) If the costs to clean the site or to clean the personal property at the site are prohibitively high in relation to the value of the site or the personal property, the City is authorized to remove or demolish the site, structure or building and/or dispose of the personal property therein. These actions shall be taken in accordance with the provisions of Minnesota Statutes Chapter 463 together with any amendments or modifications thereto.

(C) If the City abates the public health nuisance, in addition to any other legal remedy, the City shall be entitled to recover all of its out of pocket costs plus an additional twenty-five (25%) percent of such costs for administrative and legal expense. The City may recover costs by civil action against the owner of the site or by assessing such costs as a special charge against the site as taxes and special assessments are certified and collected pursuant to Minnesota Statute §429.101 or according to the provisions of Minnesota Statutes §§ 463.15 – 463.26 together with any amendments or modifications thereto.

**§905.10 RECOVERY OF COSTS FROM PERSONS CAUSING DAMAGE**

No provisions of this article are intended to limit the site owner's, resident's or the City's right to recover costs incurred under this article from either the persons contributing to the public health nuisance, such as the operators of the clandestine drug lab, and/or from other lawful sources.

**§905.11 SITE OWNER AND ADDRESS**

When the site is real property and the owner or the address of the owner of the site is unknown, the owner and the owner's address is deemed to be that of the property's taxpayer's name and address as that information is maintained by the County Auditor's Office. When the site is a vehicle, boat or trailer and the owner or the address of the owner of the site is unknown, the owner and owner's address is deemed to be that of the person on file as the owner on the current or most recent title to the vehicle, boat or trailer.



**§905.12           SUSPENSION OF RESIDENTIAL RENTAL LICENSE**

Upon issuance of a permanent declaration of public health nuisance, any residential rental license issued by the City for the site, or any part thereof, is hereby declared to be immediately suspended pending full compliance with this article.

**§905.13           UNAUTHORIZED REMOVAL OF POSTING**

It is unlawful for any person, except authorized city personnel, to remove a temporary or permanent declaration of public health nuisance and/or Do Not Enter – Unsafe to Occupy Order from a chemical dump site or a clandestine drug lab site.

**§905.14           ENTRY UNTO OR INTO SITE**

While a declaration of public health nuisance for an affected site is in effect and has been posted at the site, no persons are permitted to be inside the site, or on the site property without prior written consent of the City Building Official or as otherwise authorized by this article. To confirm compliance with this article and to execute their duties under this article, law enforcement officers, the City Building Official, and any persons designed by the Building Official, may enter onto the site property or enter into the site at any time while a declaration of public health nuisance is in effect for the site.

**§905.15           REMOVAL OF PERSONAL PROPERTY FROM THE SITE**

While a declaration of public health nuisance for an affected site is in effect and has been posted at the site, no personal property may be removed from the site without prior written consent from the City Building Official. Consent to remove personal property shall only be granted at the reasonable discretion of the Building Official, and only in cases of hardship after:

- (A) A city-approved environmental hazard testing and cleaning firm has advised the City, in writing, that the item(s) of personal property can be sufficiently cleaned to remove all harmful contamination; and
- (B) The owner of the personal property agrees in writing:
  - (1) That the owner is aware of the danger of using contaminated property;
  - (2) That the owner will thoroughly clean the property to remove all contamination before the property is used; and
  - (3) That the owner releases and agrees to indemnify the City, its staff, and the City Council from all liability to the owner and/or third persons for injuries or damages caused, or alleged to have been caused, by the contaminated property.