

## CHAPTER 90: NUISANCES; HEALTH AND SAFETY

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**GENERAL PROVISIONS****§ 90.01 DEFINITION.**

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

**PUBLIC NUISANCE.** Any thing, act, occupation, condition, use or property which:

- (1) Unreasonably annoys, injures or endangers the health, safety, comfort or repose of the public;
- (2) In any way renders the public insecure in life or obstructs the free use of property;
- (3) Greatly offends the public morals or is indecent;
- (4) Is offensive to the senses; or
- (5) Unlawfully and substantially interferes with, obstructs or tends to obstruct or render dangerous for passage any sidewalk, street, alley, highway, navigable body of water or other public way. (Ord. 151, 2nd Series, passed 10-12-2015)

**§ 90.02 PUBLIC NUISANCES AFFECTING HEALTH.**

The following acts, commissions, places, conditions and things are hereby specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition of § 90.01:

- (A) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;
- (B) Unlawful acts relating to animals (See Chapter 93).
- (C) Carcasses of animals, birds, fish and fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death;
- (D) Accumulations of decayed animal or vegetable matter, unwholesome food, manure, trash, rubbish, debris, rotting lumber, bedding, packing material, cardboard, plastic bags and containers, bottles, cans, scrap metal, brush, or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed;

(E) All stagnant water in which mosquitoes, flies or other insects can multiply;

(F) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the city limits in quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property;

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

(H) All noxious weeds, including all weeds defined by the State Commissioner of Agriculture to be injurious to public health, roads, crops, livestock and other property including obviously neglected lawns and/or yards, as determined by the city.

(1) It is the primary responsibility of any owner, occupant or agent of any lot or parcel of land to maintain any weeds or grass growing thereon at a height of not more than six inches; to remove all public health or safety hazards therefrom; to install or repair water service lines thereon; to treat or remove insect-infested or diseased trees thereon; and, when deciduous trees have seasonally lost their leaves, to clean up and remove the leaves from the premises.

(2) It is unlawful for any owner, occupant or agent of any lot or parcel of land to allow any weeds or grass growing upon any lot or parcel of land to grow to a greater height than six inches or to allow the weeds or grass to go to seed.

(3) It is unlawful for any owner, occupant or agent of any lot or parcel of land to fail to promptly remove leaves from the premises after deciduous trees have lost their leaves.

(4) It is unlawful for any owner, occupant or agent of any lot or parcel of land to fail to remove all public health or safety hazards thereon, to fail to install or repair water service lines thereon or to fail to treat or remove insect-infested or diseased trees thereon.

(5) If any owner, occupant or agent fails to comply with this division (H)(5), and after notice given by the city, has not within 48 hours of the notice complied, the city shall cause the weeds or grass to be cut, or leaves to be cleaned up and removed, or public health or safety hazards removed, or water service lines repaired, or diseased or insect-infested trees treated or removed, and the expense thus incurred, including administrative costs, shall be the personal liability of the owner of the premises. A bill, indicating the cost, shall be sent to the owner, occupant or agent. If the total amount is not paid in accordance with the terms indicated on the bill, the amount of the costs and expenses incurred, plus accrued interest on the unpaid balance, shall be charged 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.

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### (I) *Tree diseases.*

(1) *Trees constituting nuisance declared.* The following are public nuisances whenever they may be found within the city:

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

(b) Any living or standing ash tree or part thereof infected to any degree with the Emerald Ash Borer [*Agrilus Planipennis* Fairmaire (Coleoptera: Bupretidae)] Beetle or which harbors any of the Emerald Ash Borer Beetle.

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

(d) Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt Fungus (*Ceratocystis Fagacearum*);

(e) 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; and/or

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

(2) *Abatement of nuisance.* It is unlawful for any person to permit any public nuisance as defined in division (I)(1) above 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 property affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At the 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.

(3) *Record of costs.* The City Administrator 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.

(4) *Unpaid charges.* On or before September 1 of each year, the City Administrator 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.

(J) Any use of property, substances or things within the city emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the city.

(K) *Storage restrictions.*

(1) *Firewood.* Firewood shall be stored in a compact and orderly fashion so as not to constitute a hazard to adjacent buildings or property or to endanger the public health. All firewood shall be stored or stacked up off the surface of the ground. Stacks of wood in the open shall not exceed six feet in height and without consent of adjacent property owners shall not be located less than five feet from a boundary line. There shall be no front yard or front lot storage of firewood in the city; provided that, this division (K)(1) shall not prevent businesses that sell firewood from displaying firewood to the public in a manner that is deemed necessary for the business purposes, as long as the storage and display does not violate any other of the provisions of this section.

(2) *Pipe, lumber and the like.* The storage of pipe, lumber, forms, steel, machinery or similar materials shall not be allowed on residential property.

(3) *Solid fuel.* For the purpose of this division (K)(3), **SOLID FUEL** includes, but is not limited to, corn, shelled or unshelled, and wood pellets. Outdoor storage requirements for solid fuel shall be as follows.

(a) The storage container shall be painted and designed to blend in with the structure it serves or be screened from view of neighboring properties.

(b) The container shall be permanently attached to the ground.

(c) The container shall be of sturdy leak-proof construction with a leak-proof lid.

(d) Storage of grain shall not be allowed in Zoning Districts R-1, R-2, R-3, B-1 or B-3 except as provided in this section.

(4) *Junk yards.* For the purpose of this division (K)(4), the words **JUNK YARDS** shall be defined as: land or buildings where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled or handled, including, but not limited to, scrap metal, rags, paper,

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hides, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other vehicles. All junk yard storage shall be hidden from view from any public right-of-way and adjacent properties. This shall be accomplished by fencing and/or screening as specified in Ch. 152 of this code of ordinances. This division (K)(4) shall not prevent businesses that sell salvaged material from displaying material to the public in a manner that is deemed necessary for the business purposes, as long as the storage and display does not violate any other of the provisions of this chapter. (Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

***Cross-reference:***

*Animals, see Chapter 93*

**§ 90.03 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.**

The following acts, commissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but the enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of § 90.01:

(A) All illegal gambling devices; and

(B) Any place or premises where the ordinances or state laws relating to public health, safety, peace, morals or welfare are continuously, repeatedly and intentionally violated. (Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

**§ 90.04 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.**

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but the enumerations shall not be construed to exclude other nuisances affecting public peace and safety coming within the provisions of § 90.01:

(A) All trees, fences, hedges, signs, billboards, vehicles, recreational vehicles, items of personal property or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk. All limbs of trees which project over a public sidewalk less than eight feet above the surface thereon or 13 feet above the road surface of a public street;

(B) All use or display of fireworks, except as provided by the laws of the state and ordinances of the city;

(C) Reflected glare or light from private exterior lighting exceeding one-half footcandles, as measured on the property line of the property where the lighting is located, when the property abuts any residential parcel and one footcandle when the property abuts any commercial or industrial parcel;

(D) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;

(E) Any fence that is not constructed in a substantial workmanlike manner and of substantial material reasonably suitable for the purpose for which the fence is proposed to be used; any fence that has been constructed of improper materials for the district in which it is located, such as the use of barbed wire or electric fencing in a residential district or as a boundary fence; any fence that has not been maintained and is in a condition of disrepair or has become a danger to public safety, health or welfare;

(F) All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface of the street or ground;

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

(H) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by ordinance;

(I) All open and unguarded pits, wells, in-ground pools, excavations or unused basements freely accessible from any public street, alley or sidewalk;

(J) Accumulations in the open of discarded or disused items including, but not limited to, machinery, household appliances, household furniture and flooring, consumer electronics (i.e. computer equipment, cell phones, TVs, other audio and/or visual equipment), any materials not designed for outdoor use, motor vehicle bodies or parts, tires, batteries, unused and/or discarded construction materials; accumulations of any materials 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 accumulations in a manner creating fire, health or safety hazards;

(K) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks;

(L) Any abandoned above or underground tank whose capacity is in excess of 1,100 gallons;

(M) All loud or discordant noises or vibrations of any kind;

(N) Radio aerials or television antennas erected or maintained in a dangerous manner;

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

(P) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, metal scraps, garbage, leaves, tin cans, grass or tree limbs, shreds or rubbish, or to empty any water containing salt or other injurious chemical thereon, which may injure any person or animal or damage any pneumatic tire when passing over the substance. It is a violation of this section to haul any soil or material, not adequately enclosed or covered, thereby permitting the same to fall upon the streets;

(Q) All other conditions or things which are likely to cause injury to the person or property of another; and/or

(R) *Fire and explosion danger.* It is unlawful for any person to deposit or dispose of any refuse which is in flames, or heated to the point that it could cause danger of fire, or any other material which is flammable or so volatile as to create a danger of fire or explosion. If ashes are to be disposed of as part of the refuse collection system, the ashes must be placed in a separate container and not commingled with any other garbage or refuse to be collected. The ashes must be contained in a way that the refuse collectors are able to distinguish same as ashes and be able to observe that they are safe to be deposited in the refuse collection vehicle.

(Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

#### § 90.05 STATE DEFINED NUISANCES.

Any nuisance so defined by M.S. § 561.01, as amended from time to time, supplemented or replaced, or by the common law of the state, is also a nuisance under this chapter.  
(Ord. 151, 2nd Series, passed 10-12-2015)

#### § 90.06 PROHIBITED ACTS.

No owner or occupant of any premises shall permit any nuisance to be or remain in or upon the premises; nor shall he, she or they allow for the storage of firewood or junk vehicles in violation of the terms of this chapter.

(Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

#### § 90.07 ABATEMENT PROCEDURE.

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

**NUISANCE.** Public nuisances affecting health in §§ 90.02(A)-(G), (J), and (K); public nuisances affecting morals and decencies as codified in § 90.03; public nuisances affecting peace and safety as codified in § 90.04; state defined nuisances as codified in § 90.05; and inoperable, unlicensed or junk vehicles as codified in § 90.55.

(B) *Report of nuisance.*

(1) Whenever the Building and Zoning Department receives a signed written complaint form which alleges that a nuisance exists, an official from the Building and Zoning Department shall conduct an inspection of the real estate where the nuisance is alleged to exist.

(2) If the official determines that a nuisance exists, the official shall notify the owner of the real estate in writing that a nuisance exists and order that the nuisance be abated. The notice shall also specify the time the owner has to either abate the nuisance or request a hearing before the Nuisance Board.

(C) *Property owner's response.* If the owner of the real estate where the nuisance exists fails to either abate the nuisance or request a hearing within the time specified in the notice, the city at the city's sole and exclusive discretion may or may not abate the nuisance. The city shall have the right to recover all costs, including administrative costs, to abate the nuisance in the manner provided in division (D).

(1) If the owner requests a hearing, the request must be in writing and made within the time specified in the notice received from the Building and Zoning Department.

(2) Upon receipt of a timely written request for a hearing, the Building and Zoning Department shall notify the owner in writing of the time, date, and place of the hearing. The owner may appear in person at the hearing and/or present a written statement in time for consideration at the hearing.

(3) If the Nuisance Board determines that a nuisance exists, the Board shall inform the owner in writing of the amount of time the owner has to abate the nuisance. If the owner fails to abate the nuisance within said time, the city may abate the nuisance. The city shall have the right to recover all costs, including administrative costs, to abate the nuisance in the manner provided in division (D).

(D) *Recovery of costs.*

(1) *Personal liability.* The owner of the real estate where a nuisance has been abated by the city shall be personally liable for all costs the city incurred to abate the nuisance, including administrative costs. As soon as the work has been completed and the costs determined, the city shall prepare an invoice for the costs and mail it to the owner. Thereupon the amount shall immediately be due and payable at the Office of the City Clerk.

(2) *Assessment.* If the owner of the real estate fails to pay the costs of the abatement and/or the administrative costs, then after notice and hearing as provided by M.S. § 429.061, as it may be amended from time to time, the City Administrator shall, on or before December 31 next following abatement of the nuisance, list the total unpaid charges to abate the nuisance, including administrative costs, against each separate lot or parcel to which the charges are attributable. The special assessments levied under this chapter shall be payable in installment(s) as the City Council may determine.

(E) *Immediate abatement.*

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

(2) If the city abates a nuisance that posed an imminent and serious hazard to human life or safety, the city shall have the right to recover all costs, including administrative costs, to abate the nuisance in the manner provided in division (D).

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(F) *Notice.* For the purpose of giving written or mailed notice under this section, the notice shall be mailed by first class U.S. mail to the owner of the real estate where the nuisance is alleged to exist. The owner shall be those individual(s) shown to be such in the records of the County Auditor/Treasurer of Cottonwood County, Minnesota, but other appropriate records may also be used for this purpose.

(1) The notice shall be mailed to the address of the owner as it appears in the records located in the County Auditor/Treasurer's Office of Cottonwood County, Minnesota, unless the city is reasonably aware of a different address for the owner, in which case the notice shall be sent to the known address of the owner.

(2) If the address of the owner is not on file in the Auditor/Treasurer's Office of Cottonwood County, Minnesota, and is unknown, service on the owner may be accomplished by posting a copy of the notice on the premises.

(G) *Violation a misdemeanor.* Any violation of Chapter 90 which is not corrected, as set forth herein, shall be considered a misdemeanor.  
(Ord. 151, 2nd Series, passed 10-12-2015)

***EXCESSIVE NOISE*****§ 90.20 GENERAL PROHIBITION.**

(A) No person shall make or cause to be made, any distinct and loud audible noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of any person, or precludes their enjoyment or diminishes their property value.

(B) This general prohibition includes, but is not limited to, the specific restrictions of the following sections.

(Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

**§ 90.21 HORNS, AUDIBLE SIGNALING DEVICES AND THE LIKE.**

No person shall sound any audible signaling device, except as a warning of danger, or as permitted in M.S. § 169.68, as amended from time to time.

(Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

**§ 90.22 MUFFLERS FOR MOTOR VEHICLES.**

Every motor vehicle shall at all times be equipped with a muffler in working order which blends the exhaust noise into the overall vehicle noise and is in constant operation to prevent excessive or unusual

noise; and no person shall use a dynamic engine or transmission brake, muffler cutout, bypass or similar device upon a motor vehicle on a street or highway.

(Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

**§ 90.23 RADIOS, TAPE AND DISC PLAYERS.**

No person shall use, operate or play any radio receiving set, tape or disc player, musical instrument, phonograph, loudspeaker, sound amplifier or other device in a manner as to disturb the peace, quiet and repose of a person or persons of ordinary sensibilities, except as allowed by city license or permit for civic and/or charitable activities and events.

(A) The play, use or operation of any radio, tape or disc players, musical instrument, phonograph or other machine or device for the production or reproduction of sound in a manner as to be plainly audible at a distance of one city block from the machine or device or for the purpose of commercial advertising, or attracting the attention of the public to any building structure, shall be prima facie evidence of a violation of this section; and/or

(B) When sound violating this subchapter is produced or reproduced by a machine or device that is located in or on a vehicle, the vehicle's owner(s) is guilty of the violation; provided, however, that, if the vehicle's owner is not present at the time of the violation, the person in charge or control of the vehicle at the time of the violation is guilty of the violation.

(Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

**§ 90.24 BUILDINGS.**

(A) No person shall engage in construction (including excavation), demolition, alteration or repair of any building between the hours of 9:00 p.m. and 6:00 a.m.; except that, individuals or families may work on single-family residences for their own occupancy.

(B) City officials may, in case of emergency, grant permission to repair at any time when they find repair work will not affect the health and safety of the persons in the vicinity.

(Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

**§ 90.25 PILE DRIVERS, HAMMERS AND THE LIKE.**

No person shall use or operate, between the hours of 9:00 p.m. and 6:00 a.m., any pile driver, power shovel, pneumatic hammer, derrick power, electrical hoist or other machine or appliance, the use of which is accompanied by loud or unusual noise.

(Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

**§ 90.26 PARTIES AND GATHERINGS.**

(A) *Prohibition.* No person shall congregate at or participate in any party or gathering from which noise emanates of a sufficient volume so as to disturb the peace, quiet or repose of another person. No person shall knowingly remain at a noisy party or gathering.

(B) *Evidence.* The following is prima facie evidence of violation of this section:

(1) Noise of a volume as to be clearly heard at a distance of one city block from the structure or building in which the party or gathering is occurring, or in the case of an apartment building, in the adjacent hallway or apartment; and

(2) Any complaint from a person that is verified by an officer.

(C) *Duty to disperse.* When an officer determines that a party or gathering is in violation of this section, the officer may order all persons present at the premises where the violation is occurring, other than the owner or tenants of the premises, to disperse immediately. No persons ordered to leave shall remain at or return to the party or gathering.

(D) *Exemption.* The following are exempt from violation of this section:

(1) Activities which are duly authorized, sponsored or licensed by the city so long as the activity is conducted pursuant to the conditions of the license, permit or contract;

(2) Person(s) who have gone to a party for the sole purpose of abating the violation;

(3) Church bells, chimes or carillons;

(4) School bells;

(5) Anti-theft devices; and

(6) Machines or devices for the production of sound on or in authorized emergency vehicles.  
(Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

**§ 90.27 ANIMALS, BIRDS AND THE LIKE.**

No person shall keep, or allow to be kept, any animal which is causing long continued noise which disturbs the comfort or repose of any person(s) in the vicinity.

(Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

*Cross-reference:*

*Animals, see Chapter 93*

**AIR POLLUTION****§ 90.40 UNAUTHORIZED, UNLAWFUL BURNING.**

(A) It is unlawful for any person to burn or permit burning of any grass, weeds, leaves, rubbish or other substance upon premises owned or occupied by him or her, except as otherwise provided by this code and as identified in M.S. § 88.16, Starting and Reporting Fires, M.S. § 88.17, Permission to Start Fires; Prosecution for Unlawfully Starting Fires, and M.S. § 88.171, Open Burning Prohibitions, as they may be amended from time to time.

(1) Exceptions allowed for open burning for permitted materials include:

(a) A fire started when the ground is snow-covered. **SNOW-COVERED** means that the ground has a continuous unbroken cover of snow, to a depth of three inches or more, surrounding the immediate area of the fire sufficient to keep the fire from spreading. Between 24 and 48 hours prior to starting a fire permitted pursuant to this § 90.40(A)(1)(a), the owner or occupant of the premises where the fire is going to occur shall notify the Cottonwood County Sheriff's Department or the Windom Fire Chief of the exact location where the fire will occur and the time the fire will start.

(b) A campfire.

(c) A fire contained in a charcoal grill, camp stove, or other device designed for the purpose of cooking or heating.

(d) A fire to burn dried vegetative materials and other materials allowed by Minnesota Statutes or official state rules and regulations in a burner of a design which has been approved by the Commissioner of Natural Resources and with which there is no combustible material within five feet of the base of the burner and is in use only between the hours of 6:00 p.m. and 8:00 a.m. of the following day, when the ground is not snow-covered.

(2) *Written permission required.* Excluding the previous exceptions allowed for open burning, it shall be unlawful to start or have any open fire without written permission.

(3) Burning of the following materials is prohibited:

(a) Rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke;

(b) Hazardous wastes;

(c) Industrial solid waste;

(d) Demolition debris;

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- (e) Salvage operations;
- (f) Motor vehicles; and
- (g) Garbage.

(B) (1) *Burning permitted.* Pursuant to the provisions of M.S. § 116.082, as amended from time to time, the open burning of dried leaves between September 15 and December 1 is hereby allowed in the city, subject to the limits and conditions specified in this division (B).

(2) *Limits and conditions.* The burning of leaves will only be permitted under the following limits and conditions:

- (a) The open burning of leaves will only be permitted between September 15 and December 1;
- (b) The Police Department must be notified by the property owner prior to each burning;
- (c) Burning shall be limited only to the areas of the city zoned residential;
- (d) A fire shall not be less than five feet from any property line and not less than 25 feet from any building, lumber pile, wood yard, haystack or other comparable hazard;
- (e) A responsible person shall be in constant attendance until the fire is completely extinguished;
- (f) Burning will only be allowed during daylight hours;
- (g) The burning of leaves is prohibited on city streets, alleys, sidewalks, boulevards or any public parking areas;
- (h) No burning shall take place during an air pollution alert, high fire danger alert, warning or other emergency declared by the city, the State Pollution Control Agency (MPCA) or the State Department of Natural Resources (DNR); and
- (i) The Fire Chief, or other local fire authority designee, will have the authority to discontinue a burn when:
  - 1. A fire hazard exists or develops during the course of the burn;
  - 2. Any of the conditions of the permit are violated during the course of the burn; and
  - 3. It is determined that the smoke emissions are offensive to occupants of the surrounding property.

(3) *Permits.*

(a) Upon determination that all necessary precautions have been taken to protect life and property, the Fire Chief, City Administrator or other authorized agent may issue a leaf-burning permit.

(b) The cost of obtaining a permit to burn dried leaves shall be at a rate as approved from time to time by the City Council. The fee will be paid by the applicant upon receipt of permit.

(c) Beginning on the date of issuance, the permit shall be valid until December 1 of the year it was issued.

(4) *Copy to state agencies.* A copy of this division (B), or any amendment thereof, shall be submitted to the MPCA and the DNR.

(5) *Penalty.* Any person violating the provisions of this division (B) shall be guilty of a misdemeanor.

(6) *Application.* The provisions of this division (B) shall only apply to the burning of leaves. It is unlawful for any person to burn any materials prohibited under the city ordinances or state statute.

(7) *Effective date.* This division (B) becomes effective on the date of its publication or upon the publication of a summary of the ordinance as provided by M.S. § 412.191, Subd. 4, as it may be amended from time to time, which meets the requirements of M.S. § 331A.01, Subd. 10, as it may be amended from time to time.

(Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

**§ 90.41 RULES ADOPTED BY REFERENCE.**

(A) The Air Pollution Control Rules, 1976, APC 1 through 32, 6 MCAR 4.0033, 6 MCAR 4.0039 and 6 MCAR 4.0041, updated through 1983, promulgated by the State Pollution Control Agency, are hereby adopted by reference as though set forth verbatim herein. One copy of the rules shall be marked "CITY OF WINDOM - OFFICIAL COPY" and kept on file in the office of the City Administrator and open to inspection and use by the public.

(B) It is unlawful to violate a provision of this section or of the Air Pollution Control Rules hereby adopted by reference.

(Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

***OTHER NUISANCES*****§ 90.55 INOPERABLE, UNLICENSED, JUNK VEHICLES.**

In the interest of promoting public health, safety and welfare, the city does hereby enact this section governing the parking and storing of junk vehicles as follows.

(A) No person shall leave any partially dismantled, non-operating wrecked or junked vehicle on any street or highway within the city.

(B) (1) All vehicles on property within the city limits shall be currently licensed and in running order (operable condition) or properly licensed and stored as a collector vehicle. No person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, non-operating, wrecked, junked or discarded vehicle to remain on the property longer than 96 hours.

(2) Except that, this section shall not apply to:

(a) A vehicle in an enclosed building;

(b) A vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of the business enterprise; provided that, the vehicle is located on the premises for a period of not longer than one year; or

(c) A vehicle which has been placed by the city in an appropriate storage place or depository maintained in a lawful place and manner.

(C) Vehicles, trailers and truck and/or van boxes are not approved accessory buildings as defined in Ch. 152 of this Code of Ordinances and shall not be used for storage of items that would typically be stored in an accessory building and also shall not be used for storage of garbage, trash or junk items. (Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

**§ 90.56 OPEN PITS, BASEMENTS AND OTHER EXCAVATIONS.**

(A) It is unlawful for any person owning or in control of real estate to have any pit, basement, well, septic tank, cesspool or other excavation on the premises open and without protection for the public.

(B) If the excavation is open for 72 hours or less, it shall be protected by use of flares or lights at night and a railing or other temporary protection during the day.

(C) If it shall be permanently installed, it shall be protected with a chain link fence at least 48 inches high, night and day.

(Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

**§ 90.57 OPEN STAIRWAYS AND BALCONIES.**

It is unlawful for the owner of any premises to construct or maintain thereon, or permit the construction or maintenance thereon, of a stairway opening to a public sidewalk without adequately protecting the opening with a gate, fence, bars or other barrier adequately protecting the same. It is unlawful for the owner of any premises to construct or maintain thereon, or permit the construction or maintenance thereon, of a balcony unless it is protected with a solid wall or screened with a firm material with openings no larger than eight inches in diameter, if round, or eight inches by eight inches, if square, and to a height of at least three feet.

(Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

**§ 90.58 RADIO AND TELEVISION INTERFERENCE.**

It is unlawful for any person to maintain, use or operate any apparatus or device whether electrical, mechanical or of any other type, so as to cause interference with radio or television reception. This section shall not apply to electro-medical devices; provided that, they are equipped so far as reasonably possible with apparatus tending to reduce the interference.

(Ord. 151, 2nd Series, passed 10-12-2015) Penalty, see § 90.99

**§ 90.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Every person violates §§ 90.01 through 90.07, 90.20 through 90.27 and 90.55 when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful or fails to act when the failure is prohibited or declared unlawful by a code adopted by reference by these sections and, upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof.

(C) Every person violates §§ 90.40, 90.41 and 90.56 through 90.58 when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when the failure is prohibited or declared unlawful by a code adopted by reference by these sections and, upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof.  
(Ord. 151, 2nd Series, passed 10-12-2015)

[Text continues on page 25.]