

## TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: RESERVED





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## CHAPTER 91: ABANDONED VEHICLES

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#### ▪ 91.01 PURPOSE AND SCOPE.

The City Council of the City of Maple Plain finds that abandoned vehicles have the capacity to impede traffic in the streets, interfere with the enjoyment and value of private property, create safety and health hazards, interfere with the comfort and well-being of the public, and contribute to community blight. For the protection of the public against such impacts, it is determined that abandoned vehicles must be regulated, abated, or prohibited.

(Prior Code, ' 29.01) (Ord. 213, passed 8-14-2006)

#### ▪ 91.02 DEFINITIONS.

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

***ABANDONED.*** A motor vehicle that has remained for a period of more than 48 hours on public property illegally or in a wrecked condition lacking vital components, parts, or that has remained in a wrecked or inoperable condition on private property for more than 96 hours, unless it is kept in an enclosed structure pursuant to ' 91.05.

***PERSON.*** Any person, firm, partnership, association, corporation, company, or organization of any kind.



***PRIVATE PROPERTY.*** Any real property which is not a duly dedicated street or highway.

***STREET*** or ***HIGHWAY.*** The dedicated traveled portion of any public way between the boundaries of private property, whenever the same is open to the use of the public for the purposes of travel.

***VEHICLE.*** Any device or machine designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property, and shall include without limitation, automobiles, trucks, trailers, wagons, tractors, and motorcycles.

***WRECKED*** or ***JUNK.*** A motor vehicle that is extensively damaged, with the damage including such things as broken or having missing or deflated wheels; is in an inoperable condition; meaning that it has missing or defective parts that are necessary for normal and legal operations, is stored on blocks, jacks or other supports, and/or the vehicle does not have a valid, current registration plate.

(Prior Code, ' 29.02) (Ord. 213, passed 8-14-2006)

#### ▪ **91.03 ABANDONMENT OF VEHICLES.**

No person shall abandon any vehicle within the city, and no person shall leave any vehicle at any place within the city for the time or under the circumstances as to cause the vehicle reasonably to appear to have been abandoned.

(Prior Code, ' 29.03) Penalty, see ' 10.99

#### ▪ **91.04 LEAVING A WRECKED, NON-OPERATING VEHICLES ON STREET.**

No person shall leave on any street or highway within the city, any partially dismantled, non-operating, wrecked, or junked vehicle or any vehicle not properly and currently licensed by the State of Minnesota.

(Prior Code, ' 29.04) (Ord. 213, passed 8-14-2006) Penalty, see ' 10.99

#### ▪ **91.05 DISPOSITION OF WRECKED OR DISCARDED VEHICLES.**

No person in charge or control of any private property in the City of Maple Plain, whether as owner, tenant, lessee, or otherwise, shall permit or allow partially dismantled, non-operating, wrecked, junked, or discarded vehicle, or any vehicle not properly licensed for operation within the State of Minnesota by the State of Minnesota to remain on the property longer than 96 hours; except that this code shall not apply to vehicles within a closed building or to vehicles screened on the premises of a business or enterprise operated in a lawful place and manner when necessary to the operation of the business or enterprise.

(Prior Code, ' 29.05) (Ord. 213, passed 8-14-2006) Penalty, see ' 10.99

• **91.06 AUTHORITY TO REMOVE.**

Any vehicle parked or stored in violation of any code of the City of Maple Plain or of the law of the State of Minnesota is hereby declared to be a public nuisance and the same may be summarily abated by removing the vehicle by or under the direction of any police officer of the City of Maple Plain by means of towing or otherwise. Within 24 hours thereafter, written notice that the vehicle has been impounded shall be mailed by the police officer to the owner thereof at his or her last known address, as shown by the records of the Secretary of the State of Minnesota, and if the owner be unknown, or the vehicle be impossible to identify, the police officer shall publish notice of impounding 1 time in the official newspaper of the city, as soon as practical after impounding. The notice shall contain as complete a description of the vehicle as is practical, place of impounding, and name of owner, if known.

(Prior Code, ' 29.06)

• **91.07 PROSECUTION.**

The impounding of any vehicle shall not prevent or preclude the institution or prosecution of any criminal proceedings against the owner or operator of the impounded vehicle.

(Prior Code, ' 29.07)

• **91.08 CLAIMING VEHICLE.**

Before the owner or his or her agent shall be permitted to remove a vehicle from the possession of the police officer, he or she shall:

(A) Furnish satisfactory evidence to the police officer of his or her identity and ownership of the vehicle; and

(B) Pay the expenses of towing and storage.

(Prior Code, ' 29.08)

• **91.09 SALE OF THE VEHICLE.**

If, at the expiration of 60 days after mailing or publication of the notice as provided in ' 91.06, the vehicle is not redeemed by the owner or his or her agent, the Chief of Police of the City of Maple Plain shall proceed to sell the same at public auction after first giving at least 10-days notice of the sale by publication 1 time in the official newspaper of the city of the time and place of the sale, the vehicle or vehicles to be sold, and, if possible, the name and address of the record owner thereof, and, if unknown, that fact shall be stated. If the name of the owner be known, the Chief of Police shall mail at least 7 days prior to the sale.

(Prior Code, ' 29.09)

**▪ 91.10 PROCEEDS OF SALE.**

The proceeds of the sale as is provided for in ' 91.09, less the necessary expenses thereof, including towing and storage charges, shall be retained by the city for 1 year, and at the expiration of 1 year, the sums shall be paid to the Administrator/Clerk of the City of Maple Plain for credit to the General Fund. If, at any time within 1 year from and after the sale, the former owner of the vehicle makes application and satisfactory proof of ownership, he or she shall be paid the proceeds of the sale remaining after payment of expenses.

(Prior Code, ' 29.10)

**▪ 91.11 RECORDS.**

The Chief of Police shall keep a record of all vehicles impounded by manufacturer=s trade name, motor vehicle license number, motor number, and the names and addresses of the owner and of all persons claiming the vehicle and the nature and circumstances of the impounding thereof, together with the violation on account of which the vehicle were impounded.

(Prior Code, ' 29.11)

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## CHAPTER 92: ANIMALS

### Section

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- 92.02 Licenses and fees
- 92.03 Display of license
- 92.04 Prohibitions
- 92.05 Designation of dangerous or potentially dangerous dogs; registration requirement
- 92.06 Violations
- 92.07 Cats and other animals
- 92.08 Limitations on number of animals permitted
- 92.09 Harboring and keeping of chickens, ducks and geese

#### • 92.01 DEFINITIONS.

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

**ANIMAL CONTROL OFFICER.** The city=s police/public safety agency or such other person or agency under contract with the city to provide animal control services.

**ANIMALS - NON-DOMESTICATED (NON-DOMESTIC) ANIMAL.** Animals which are naturally wild and not naturally trained or domesticated, or which are inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:

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

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

(3) Any member or relative of the rodent family including and skunk (whether or not de-scented), raccoon, or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets;

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

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(5) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this division, including but not limited to bears, deer, monkeys and other species non-indigenous to Minnesota.

(6) Any animal defined as livestock by the Minnesota Department of Agriculture Rule 1515.3100.

***ANIMALS - URBAN FARM ANIMALS.*** Ducks, geese, chickens, bees and rabbits.

***AT LARGE.*** A dog is ***AT LARGE*** when he or she is off the property of his or her owner and not under restraint.

***BEEKEEPING.*** The occupation of owning and breeding bees for their honey.

***CHICKEN.*** A fowl of the genus *Gallus* and species *Gallus domesticus* that is commonly referred to as domesticated fowl.

***CHICKEN COOP.*** Any structure used for the housing of chickens.

***CHICKEN RUN.*** A fenced outdoor area for the keeping and exercising of chickens.

***DANGEROUS DOG.*** Any dog that has:

- (1) Without provocation, inflicted substantial harm on a human being on public or private property;
- (2) Killed a domestic animal without provocation while off the owner=s property; or
- (3) Been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

***KENNEL.*** A place where more than 2 dogs over 6 months of age are kept, or a place at which the business of selling, boarding, breeding, showing, or treating dogs is conducted.

***OWNER.*** Any person, group, or corporation owning, harboring, or having custody of a dog.

***POTENTIALLY DANGEROUS DOG.*** Any dog that:

- (1) Without provocation, inflicts bites on humans or domestic animals on public or private property;
- (2) Without provocation, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner=s property, in an apparent attitude of attack; or



(3) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

**PROVOCATION.** An act that could reasonably be expected to cause a dog to attack or bite.

**ROOSTER.** A male chicken.

**UNDER RESTRAINT.** A dog is **UNDER RESTRAINT** if he or she is controlled by a leash not exceeding 6 feet in length, or at heel beside a competent person having custody of him or her and where the dog is obedient to that person=s commands, or within a vehicle being driven or parked on a public street or within the property limits of his or her owner=s premises. An unattended dog on the property of another, without the consent of the property owner, is Aat large.@

(Prior Code, ' 35.01) (Am. Ord. 226, passed 10-27-2008; Am. Ord. 277, passed 12-8-2014)

#### ▪ 92.02 LICENSES AND FEES.

(A) No person shall own, harbor, keep, or have custody of a dog within the city limits unless a license for the animal has been obtained as herein provided. A dog license shall continue in force for the life of the dog.

(B) The license fees shall be as follows:

(1) For each dog - \$5;

(2) For each kennel - \$20; and

(3) For lost tag - \$2.

(C) All dogs subject to being licensed under this code shall be vaccinated for rabies with a modified live virus vaccination by a licensed veterinarian. It is unlawful for any owner, or other possessor, of a dog to fail to obtain a rabies vaccination certificate and tag from a licensed veterinarian. The owner or possessor shall furnish same for inspection by any police officer so requesting.

(D) Upon payment of the proper license fee, the city shall execute a duplicate receipt, the duplicate copy being given to the licensee, the original retained. The city shall also procure a sufficient number of metallic tags suitably numbered and lettered and shall deliver 1 appropriate tag to each such licensee for each dog upon which a fee is paid.

(Prior Code, ' 35.02) Penalty, see ' 10.99



**▪ 92.03 DISPLAY OF LICENSE.**

Except when the dog for which the license is issued is indoors on the premises of his or her owner, the animal shall have a collar or harness on which the license is affixed. No person shall counterfeit any such tag of the city or use a counterfeit tag. A license tag is not transferable to any other animal or to a new owner of a dog for which it is issued. If any tag is lost or stolen, the owner may obtain a new tag by surrendering the receipt for the first tag and paying the sum of \$2.

(Prior Code, ' 35.03) Penalty, see ' 10.99

**▪ 92.04 PROHIBITIONS.**

(A) It is unlawful for any person to keep, harbor or feed any non-domesticated animal (including feral cats and dogs), not in transit, except:

- (1) Animals used in a parade for which a permit has been issued;
- (2) Animals kept in an animal hospital or clinic for treatment by a licensed veterinarian;
- (3) Animals kept in a pet shop licensed under the city code;
- (4) Lost, injured or stray domesticated animals; or
- (5) As otherwise provided in this section.

(B) 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 ADogs or Cats Prohibited.@

(C) (1) *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 5 minutes with less than 1 minute of interruption. The barking must also be audible off of the owner=s or caretaker=s premises.

(2) *Warrant required.* The animal control officer or police officer shall not enter the property of the owner of an animal described in this division (B) unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in ' 10.20, to search for and seize the animal.

(D) Any person in control of a dog off the property of its owner shall be responsible to pick up and dispose of the dog=s feces.

(Prior Code, ' 35.04) (Am. Ord. 277, passed 12-8-2014) Penalty, see ' 10.99

• **92.05 DESIGNATION OF DANGEROUS OR POTENTIALLY DANGEROUS DOGS; REGISTRATION REQUIREMENT.**

(A) *Designation.*

(1) Upon receipt of evidence that a dog has acted in a manner meeting the definition of a dangerous dog or a potentially dangerous dog, the Animal Control Officer shall so designate the dog. The Animal Control Officer will notify the owner of the dog in writing that the dog is dangerous or potentially dangerous. The notice will include a brief explanation of the incident(s) or act(s) leading to the designation.

(2) If the dog is designated dangerous, the Animal Control Officer will provide the owner with a registration form and request for hearing form. Any dog determined to pose a serious threat to public safety, including due to lack of proof of a current rabies vaccination, shall be impounded.

(3) No dog may be declared dangerous or potentially dangerous due to posing a threat or causing injury or damage to a person:

(a) Who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;

(b) Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or

(c) Who was committing or attempting to commit a crime.

(B) *Registration requirement.* Any person who owns or possesses a designated dangerous dog in the city must register the dog as provided herein. Within 14 days of notice of a dangerous dog designation or, in the event the designation is appealed, within 14 days of a completed registration form with the Animal Control Officer. The city shall issue the registration along with an easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol, which must be affixed to the dog's collar at all times, upon the owner's presentation of proof that:

(1) The dog will be kept in a property enclosure and the premises have been posted with a clearly visible warning sign that there is a dangerous dog on the property, including a warning symbol to inform children;

(2) The owner has obtained a surety bond issued by a company authorized to conduct business in Minnesota, or a policy of liability insurance issued by an insurer authorized to conduct business in Minnesota, in a form acceptable to the city in the amount of at least \$300,000, payable to any person injured by a dangerous dog, or insuring the owner for any personal injuries inflicted by a dangerous dog;

(3) The owner will pay an annual fee of \$500, in addition to any regular dog licensing fees, to obtain and maintain the registration;

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- (4) The owner has a microchip identification implanted in the dangerous dog; and
- (5) The dog is current on all vaccinations.

(C) *Exemptions.* The provisions of this section do not apply to police K-9 dogs used by law enforcement officials for police work.

(D) *Destruction of dangerous dogs or animals.* The Animal Control Officer may order the destruction and disposal of any dangerous dog or other animal, and the owner is liable to the Animal Control Authority for costs incurred. In the event a dangerous dog designation is appealed and the designation is upheld on appeal, the Animal Control Officer may order the dog destroyed. Additionally, any dog or other animal that is impounded for other lawful reasons may be destroyed if not reclaimed within 5 days unless the animal has bitten or is suspected of having bitten a person and rabies testing is required.

(Prior Code, ' 35.05) (Am. Ord. 226, passed 10-27-2008)

#### • 92.06 VIOLATIONS.

(A) Any dog found in violation of this code may be taken up by the police or persons employed by the city to control dogs, and impounded in an animal shelter and there confined in a humane manner for a period of not less than 5 days exclusive of Saturday, Sunday, and holidays. If not claimed thereto by its owner, it shall thereafter become the property of the city and may be disposed of in a humane manner or placed in the custody of some other suitable person, or disposed of in accordance with M.S. ' 35.71, as it may be amended from time to time.

(B) Immediately upon the impounding of a dog wearing a license, the city shall make every reasonable effort to notify the owner of the dog of the impoundment and of the conditions whereby the owner may regain custody of the dog.

(C) (1) Any dog impounded hereunder not being held for suspected disease may be reclaimed by the owner within 5 days exclusive of Saturdays, Sundays, and holidays upon proof of current immunization and licensing, and upon payment by the owner to the City of Maple Plain of the following fees:

- (a) \$25 for the first impound of a dog;
- (b) \$50 for the second impound of a dog;
- (c) \$100 for the third impound of a dog; and
- (d) The above fees shall be doubled if the dog is not licensed.

(2) The owner shall also pay the reasonable expenses incurred in the keeping of the dog, and shall be required to comply with the licensing requirements of this code.

(D) Whenever the Health Officer has reason to believe that any dog in the City of Maple Plain has been exposed to rabies, or whenever the Health Officer has reason to believe that a dog has bitten any person, the Health Officer is hereby authorized to take the dog to the animal shelter and there keep the dog for the time as the Health Officer shall order, to give the Health Officer an opportunity to determine whether the dog is diseased. The laws of the State of Minnesota on this subject and any other order of the Department of Health of the state in respect to any dog shall be controlling in the event that there is a conflict with any order of the Health Officer.

(E) It shall be the duty of every physician or any other person to report to the city the names and addresses of persons treated for bites inflicted by animals within the City of Maple Plain together with the other information as will be helpful in rabies control, and the city shall immediately inform the Health Officer of the report.

(F) It shall be the duty of every licensed veterinarian to report to the city his or her diagnosis of any animal within the City of Maple Plain observed by him or her as a rabies suspect, and the city shall immediately inform the Health Officer of the reports.

(Prior Code, ' 35.06) Penalty, see ' 10.99

#### • 92.07 CATS AND OTHER ANIMALS.

This chapter, except for the licensing provision, shall apply to cats and to all other similar animals. In the event of impounding of animals other than dogs, every reasonable effort shall be made by the city to notify the owner of the impoundment and the condition whereby the owner may regain custody.

(Prior Code, ' 35.07)

#### • 92.08 LIMITATIONS ON THE NUMBER OF ANIMALS PERMITTED.

(A) *Non-domesticated animals.* No person may own, keep, harbor, or maintain any non-domestic animal within the city limits.

(B) *Limitations on number of dogs.* Within the limits of the city, no person may own, keep, harbor, or maintain more than 2 dogs over the age of 6 months unless a conditional use permit for a kennel is obtained from the city.

(C) *Limitations on number of cats.* Within the limits of the city, no person may own, keep, harbor, or maintain more than 3 cats over the age of 6 months.

(D) *Limitations on number of urban farm animals.* Within the limits of the city, no person may keep, harbor, or maintain more than 2 urban farm animals except as permitted in ' 92.09. Beekeeping shall not be permitted within the city limits.

(Ord. 277, passed 12-8-2014)

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### ▪ 92.09 HARBORING AND KEEPING OF CHICKENS, DUCKS AND GEESE.

(A) *Permit required.* It is unlawful for any person to keep, harbor, maintain, possess, or otherwise control any chickens, ducks, or geese within the city, except pursuant to a permit issued by the city under this section on a parcel of record zoned for single family detached dwelling.

(B) *Permit application and permit fees.* An application for a permit hereunder shall be filed with the City Administrator upon an application form furnished by the city. The permit fee shall be in an amount established by City Council resolution. A permit issued hereunder shall be for the duration of 1 year from its date of issuance.

(C) *Conditions of permit.* A permit granted under this section shall be subject to the following conditions:

(1) *Ownership.* The owner of the chickens, ducks and geese must occupy the premises for which the permit is issued.

(2) *Inspection.* The premises, including the urban farm animal coop and run thereon, for which a permit is issued shall at all reasonable times be open to inspection by the Animal Control Officer or any other city official to determine compliance with this section, other city code provisions, and state laws relating to zoning, health, fire, building or safety.

(3) *Specifications for feeding chickens, ducks and geese.* All feed for the chickens, ducks and geese shall be stored in water-tight and vermin-proof containers.

(4) *Specifications of the coop and run.* An urban farm animal coop and run are required. The construction and location of the coop and run shall be in compliance with the applicable building and zoning regulations of the city and the following requirements:

(a) The interior floor space of the coop shall be a minimum size of 2 square feet for each chicken, duck or goose authorized under the permit.

(b) The exterior finish materials of the coop shall be weather-resistant and in accordance with the accessory structure regulations set forth in the zoning regulations in this code.

(c) The construction of and materials used for the coop and run must be adequate to prevent access by rodents.

(d) The run shall be attached to the coop. The coop and run shall be deemed as a single structure

and subject to the accessory structure regulations set forth in the zoning regulations of this code.

(e) The floor area of the run shall be a minimum size of 5 square feet for each urban farm animal authorized under the permit.

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(f) The run shall be fully enclosed by fencing or other similar material.

(g) No coop or run, or any portion thereof, shall be within 25 feet of the outer perimeter of any inhabitable building.

(h) The coop and run shall meet all applicable setbacks and requirements of accessory structures in this section.

(i) The coop and run shall be kept in a sanitary and odor-free condition, including the regular and frequent removal and proper disposal of any accumulated feces or waste, dirt or filth that could create a safety or health hazard.

(5) *Regulations.* The keeping, harboring, maintaining, or possessing of any chickens, ducks, and geese under a permit issued pursuant to this section shall be in accordance with the following.

(a) No more than 5 chickens, ducks or geese, or combination thereof, shall be kept or harbored on the premises to which the permit applies.

(b) Roosters are prohibited.

(c) Slaughtering of chickens, ducks, and geese on any property zoned for residential use is prohibited.

(d) No chickens, ducks and geese shall be kept, maintained, housed or permitted inside any residential dwelling or any garage.

(e) No chickens, ducks and geese shall be permitted to run at large. The term ***RUN AT LARGE*** is defined as any chickens, ducks and geese freely roaming in any area not on the premises to which the permit applies.

(f) If the chickens, ducks and geese are not contained at all times to the coop and run and allowed to freely roam within the yard, the property shall be enclosed by a fence in accordance with the fence regulations set forth in the zoning regulations of this code and which by material and design prevents a chicken, duck or goose from leaving the premises.

(g) Chickens, ducks and geese shall not be kept in such a manner as to constitute a public

nuisance. Any violation of the provisions of this section shall be deemed a public nuisance.

(h) No eggs shall be sold or offered for sale; all eggs shall be for personal use or consumption.

(6) *Revocation of permit.* A violation of any provision of this section or any provisions of the permit issued hereunder shall constitute grounds for revocation of a permit.

(Ord. 277, passed 12-8-2014)

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## CHAPTER 93: HEALTH AND SAFETY; NUISANCES

### Section

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*GENERAL PROVISIONS*

## ▪ 93.01 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; and

(5) Any other tree with an epidemic disease or determined as dead or dying by a forestry specialist or designated officer.

(B) *Abatement of nuisance.* It is unlawful for any person to permit any public nuisance as defined in division (A) above to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in this chapter.

(C) *Record of costs.* The City Administrator/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 Administrator/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.

(Am. Ord. 239, passed 1-25-2010) Penalty, see ' 10.99



*NUISANCES*▪ **93.15 PUBLIC NUISANCE DEFINED.**

Public nuisance is a thing, act, or use of property which shall:

(A) Annoy, injure, or endanger the health, safety, comfort, or repose of the public;

(B) Offend public decency;

(C) Unlawfully interfere with the use of or obstruct or tend to obstruct or render dangerous for passage a public water, park, square, street, alley, or highway;

(D) Depreciate the value of the property of the inhabitants of the City of Maple Plain or of a considerable number thereof; or

(E) In any way render the inhabitants of the City of Maple Plain or a considerable number thereof insecure in life or in use of property.

(Prior Code ' 43.01) (Ord. 201, passed 4-11-2005)

▪ **93.16 PROPERTY MAINTENANCE DEFINED.**

To prohibit the creation or continuation of general degradation of dwellings and properties, building structures in all zoning areas must be maintained in the condition that they do not pose a threat to public health or safety. Conformance to all building codes is required.

(Prior Code ' 43.02) (Ord. 201, passed 4-11-2005)

▪ **93.17 DEFINITIONS.**

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

*ABANDONED PROPERTY.* Deteriorated, wrecked, or derelict property in unusable condition, which has no apparent value other than nominal scrap or junk value, if any, and which has been left unprotected from the elements, and shall include, machinery, refrigerators, washing machines, plumbing fixtures, furniture, cut trees, branches, building materials, general rubbish, tools, benches, deteriorated, wrecked, inoperative or partially dismantled motor vehicles, trailers, boats as defined in ' 91.02, abandoned vehicles, or any other similar articles in the condition.

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**APPROVED DRIVEWAY.** An off street area of asphaltic, concrete, or gravel surfacing which provides access to required off street parking areas.

**CITY.** The City of Maple Plain, in Hennepin County.

**CITY COUNCIL.** The City Council of the City of Maple Plain, Minnesota.

**PERSON.** Includes any person, firm, or corporation and the singular shall include the plural. Where references are made herein to particular officers, councils, boards, or agencies are those of the City of Maple Plain.

**PRIVATE PREMISES.** Any premises for which ownership is not within the category described as public premises in this section, and shall include, but not be limited to, that property on which the owner has a place of business or a residence.

(Prior Code ' 43.03) (Ord. 201, passed 4-11-2005; Am. Ord. 213, passed 8-14-2006)

#### • 93.18 PUBLIC NUISANCE AFFECTING HEALTH, SAFETY, COMFORT, OR REPOSE.

The following are hereby declared to be public nuisances affecting health, safety, comfort, or repose:

(A) Privy vaults and garbage cans which are not fly-tight;

(B) Dumping the contents of any cesspool, privy vault, or garbage can except at places authorized by law; or allowing any cesspool, or individual sewage system to overflow in any manner;

(C) All noxious weeds, tall grasses, and other rank growths:

(1) It shall be the responsibility of all homeowners and landowners to cut grass in excess of the following height and to maintain real property within the city at or below this level of growth:

(a) Residential, developed land - 12 inches of growth; and

(b) Commercial/industrial, developed areas - 12 inches of growth.

(2) (a) Should the owner fail to cause removal of the weeds, tall grasses, or other rank growths, the city may cause and shall assess the cost of the removal to the property, collectible with taxes through Hennepin County.

(b) Because weeds, tall grasses and other rank growths create an immediate and increasing nuisance, the city is authorized to cause their removal after 7 days written notice to the property owner or occupant. If the property is unoccupied, the notice shall be posted at the property for the same period of time.

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(D) Construction rubbish and miscellaneous debris must be removed from properties in all zoning districts within 14 days of project completion. A special circumstance may be filed with the City Administrator/Clerk at the Maple Plain City Hall;

(E) Cut brush shall not remain on properties in all zoning districts longer than 14 days after being cut. A special circumstances exemption may be filed with the City Administrator/Clerk at the Maple Plain City Hall;

(F) Growing brush that becomes a nuisance to adjoining property owners or that obstructs driver vision to right-of-way entry and exit points within 30 feet must be removed by the property owner;

(G) An accumulation of tin cans, bottles, trash or debris of any nature or description; and the throwing, dumping or depositing of any dead animals, manure, garbage, waste, decaying matter, rubbish, tin cans, or other material or debris of any kind on private property;

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

(I) Offensive trades and businesses as defined by statute or code not licensed as provided by law;

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

(K) The distribution of samples of medicines or drugs unless the samples are placed in the hands of an adult person by someone properly licensed; and

(L) All other acts, omissions of acts, occupations, and uses of property which are deemed by the Board of Health to be a menace to the health of the inhabitants of the City of Maple Plain or a considerable number thereof.

(Ord. 201, passed 4-11-2005; Am. Ord. 236, passed 6-22-2009) Penalty, see ' 10.99

• **93.19 PUBLIC NUISANCE AFFECTING PEACE AND SAFETY.**

(A) *Generally.* The following are declared to be nuisances affective public peace and safety.

(B) *Specifically.*

(1) All snow and ice not removed from public sidewalks, trailways, bikeways and walkways within 12 hours after the snow has ceased to be deposited thereon. It shall be the responsibility of the property owner to remove all snow and ice from the public sidewalks, trailways, bikeways and walkways adjacent to their property.

Should the owner fail to cause removal of the snow and ice, the city may cause the snow and ice to be removed and shall assess the cost of the removal to the property, collectible with taxes through Hennepin County;



(2) All wires which are strung above the surface of any public street or alley, other than utility wires or wires strung by an approved public franchise;

(3) Abandoned buildings/structures and grounds must be maintained to prohibit entry by the general public. All buildings, walls, and other structures which have been damaged by fire, decay, or otherwise to an extent exceeding 2 of their original value or which are so situated as to endanger the safety of the public. If reconstruction is planned, the structure must be brought into conformance with all building codes within a 12-month period;

(4) All explosives, inflammable liquids, and other dangerous substances or materials stored or accumulated in any manner or in any amount other than that provided by law or code;

(5) All use or display of fireworks except as provided by law or code;

(6) All buildings and all alterations to buildings made or erected in violation of Fire Code concerning manner and materials and construction;

(7) Obstructions and excavations affecting the ordinary use of the public streets, alleys, sidewalks, or public grounds, except under the conditions as are provided by code, and any other excavation left unprotected or uncovered indefinitely or allowed to exist in the manner as to attract minor children;

(8) Radio aerials strung or erected in any manner except that provided by law or code;

(9) The piling, storing, or keeping of old machinery, wrecked or junked vehicles, and other junk or debris;

(10) The 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 public streets or sidewalks;

(11) All hanging signs, awnings, and other similar structures over public streets or sidewalks, or so situated as to endanger public safety, not constructed and maintained as provided by law or code, or without proper permit;

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

(13) All dangerous, unguarded machinery, equipment, or other property in any public place, or so situated or operated on private property as to attract minor children;

(14) Placing items for sale in the rights-of-way is prohibited. Only the homeowner or resident may place items for sale in the front yard setback area;



(15) Throwing, dropping, or releasing printed matter, paper, or any other material or objects over and upon the city from an airplane, balloon, or other aircraft, or in such a manner as to cause the material to fall on land in the city;

(16) Placing entrance culverts, or doing any act which may alter or affect the drainage of public streets, alleys, or sidewalks without proper permit;

(17) Making repairs to motor vehicles, or tires in public streets or alleys: excepting only emergency repairs when it will not unduly impede or interfere with traffic;

(18) Throwing, placing, depositing, or burning leaves, trash, lawn clippings, weeds, grass, or other material in the streets, alleys, gutters, or drainage swales;

(19) Fences of all types must be maintained and of sturdy construction throughout the length of the fenced area. If in disrepair, or damaged, the fence must be repaired or removed. For multi-family, commercial, or industrial structures where large garbage containers are used, the containers must be contained behind a fence enclosure with a gate containing a positive closure device;

(20) Erecting, painting, or placing of unauthorized traffic signs or advertising signs in streets, or alleys, or on sidewalks;

(21) All unnecessary interference and disturbance of radios or TV sets caused by defective electrical appliances and equipment or improper operation thereof;

(22) All other conditions, acts, or things which are liable to cause injury to the person or property of anyone;

(23) The owner or occupant of any land within the city shall be deemed to have committed a public nuisance if the owner or occupant fails to maintain the land in the manner so as to prevent sand, soil, dirt, dust, or debris of any kind or nature from being transported by the wind or air currents from the land to the property of another in the quantities as to constitute a detriment to the property or so as to endanger the health, welfare, safety, or comfort of the public or any person. The owner or occupant of any land in the city is charged with the duty and responsibility of taking whatever steps that may be necessary, such as seeding, paving, blacktopping, sprinkling, or the other means as may be lawful to prevent the soil, dirt, dust, or debris from being transported by wind, air currents, or otherwise from its property to the property of another;

(24) It shall be unlawful for any person to place or allow a barrier in the existing rights-of-way; and

(25) Luminaries or lights situated to endanger public safety, impede vision or create night lighting, which were not constructed and maintained as provided by law or code, or without proper limit.

(Ord. 201, passed 4-11-2005; Am. Ord. 204, passed 11-14-2005; Am. Ord. 242, passed 2-22-2010) Penalty, see ' 10.99



▪ **93.20 PROHIBITED NOISES.**

(A) *General prohibition.* No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of any person, or precludes their enjoyment of property or affects their property=s value. This general prohibition is not limited by the specific restrictions contained in division (D) below.

(B) *Definition of restrictions.* For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***AMPLIFIED SOUND FROM MOTOR VEHICLES.*** Play, operate or permit the playing, use of operation of any radio, tape player, disc player, loud speaker or other electronic device used for the amplification of music or other entertainment, which is located within a motor vehicle on a public street or alley, which is audible by any person from a distance of 50 feet or more from the motor vehicle.

***ANIMALS.*** The provisions of Chapter 92 of this code shall govern unreasonable noises created by animals.

***AUDIO EQUIPMENT.*** Use, operation or permit the use or operation of any radio, musical instrument, phonograph, paging system, machine or other electronic or digital sounding device for the production or reproduction of sound in a distinct and loudly audible manner as to disturb the peace, quiet and comfort of any person nearby, or plainly audible at an adjacent property line.

***DEFECTIVE VEHICLES OR LOADS.*** Use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling or other noise.

***ENGINE BRAKING.*** Slowing of a vehicle by the practice known as engine braking, also referred to as Ajake braking@ or Adynamic braking,@ whereby rapid downshifting of a vehicle=s engine is used in lieu of applying a vehicle=s brakes, causing loud noises to emit from the vehicle=s engine and exhaust system.

***EXHAUST.*** Discharge of exhaust or permit the discharge of exhaust of any steam engine, stationary internal combustion engine, motor boat, motor vehicle or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises, and complies with all applicable state laws and regulations.

***HORNS, AUDIBLE SIGNALING DEVICES, AND THE LIKE.*** Any audible sound or signaling device on any vehicle used to warn of danger.

***LOADING, UNLOADING, UNPACKING.*** Loud and excessive noise created during the loading, unloading or unpacking of any vehicle.

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(C) *Restrictions of certain operations.*

(1) No persons shall operate any equipment, recreational vehicles, engage in construction-related activities or cause excessive noise as defined under division (B) above between the hours of 10:00 p.m. and 7:00 a.m. any day of the week, including weekends and holidays.

(2) Operation of snow removal equipment and refuse and recycling collection are exempt from this provision.

(3) Sections 70.15 through 70.20 of this code shall govern unreasonable noises created by snowmobiles.

(4) *Schools, churches, and the like.* No person shall at any time create any excessive noise on a street, alley or public grounds adjacent to any school, institution of learning or church when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents.

(5) *Commercial air conditioning units.* No person shall at any time place, maintain or operate an air conditioning unit in such a manner so as to unreasonably disturb the peace, quiet and comfort of persons using adjacent properties.

(D) *Special event permit.*

(1) Any person may apply to the city for a special event permit prior to doing those acts. Consideration of such a permit may only be for special community-related events, events open to the public, or private events with more than 50 attendees and with planned outdoor activities past 10:00 p.m.

(2) The applicant shall submit to the city a special event permit application at least two weeks prior to date of the planned event and pay all applicable fees. Application shall include the following information: date of event, duration, planned activities and other event-related information, and a parking plan. The city may approve or deny the permit. If approved, the city may impose reasonable conditions. Adjacent property owners shall be notified no less than one week prior to the planned event.

(E) *Enforcement and impact statements; civil remedies.* In addition to criminal penalties, this chapter may be enforced by injunction, action for abatement or other appropriate civil remedies.

(Ord. 258, passed 10-11-2011) Penalty, see ' 10.99

***Cross-reference:***

*Regulation of snowmobiles, see ' ' 70.15 through 70.20*

**' 93.21 UNLAWFUL PARKING.**

(A) No person shall cause, undertake, permit, or allow the outside parking and storage of vehicles on residentially-zoned property unless it complies with the following requirements.

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(1) No more than 4 licensed and operable vehicles per lawful dwelling unit may be parked or stored anywhere outside a dwelling in the R1 or R2 zoned property, excluding vehicles of occasional guests who do not reside on the property.

(2) Parking or storing of motor vehicles, recreational camping vehicles, recreational equipment, and/or trailers shall not be allowed in the front yard unless parked on an approved driveway.

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(B) All vehicles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time, but still claim the property as their legal residence, shall be considered residents of the property.

(Ord. 201, passed 4-11-2005; Am. Ord. 213, passed 8-14-2006) Penalty, see ' 10.99

***Cross-reference:***

*For provisions on parking regulations generally, see Chapter 71: Parking Regulations*

▪ **93.22 ENFORCEMENT.**

It shall be the duty of the City Council to enforce the provisions of this code and the City Council may, by resolution, delegate to other officers or agencies power to enforce particular provisions of this subchapter, including the power to inspect private premises, and the officers charged with the enforcement of this code shall take all reasonable precautions to prevent the commission and maintenance of public nuisances.

(Ord. 201, passed 4-11-2005)

▪ **93.23 POWERS OF OFFICERS.**

Whenever, in the judgment of the officer charged with enforcement, it is determined upon investigation that a public nuisance is being maintained or exists within the city, the officer shall notify by issuing a compliance order to the person committing and maintaining the public nuisance and require him or her to terminate and abate the nuisance and to remove the conditions or remedy the defects. The written notice shall be served on the person committing or maintaining the nuisance in person or by registered mail. If the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting the compliance order on the premises. The compliance order shall require the owner or occupant of the premises or both to take reasonable steps within a reasonable time to abate and remove the nuisance, the steps and time to be designated in the notice, but the maximum time for removal of the nuisance after service of the compliance order shall not in any event exceed 30 days. Service of notice may be proved by filing an affidavit of service in the office of the City Administrator/Clerk setting forth the manner and time thereof when a compliance order so given is not complied with, the noncompliance shall be reported forthwith to the City Council for the action as may be necessary and deemed advisable in the name of the city to abate and enjoin the further continuation of the nuisance.

(Ord. 201, passed 4-11-2005)

▪ **93.24 ABATEMENT OF NUISANCE BY CITY COUNCIL.**

If, after the service of notice, the person served fails to abate the nuisance or make the necessary repairs, alterations, or changes in accordance with the directions of the compliance order within a

reasonable time to be determined by the City Council, the nuisance may be abated at the expense of the city and the city shall recover the expenditure, including all reasonable costs incurred. The cost of the remedy shall be a lien against the subject real estate and may be levied and collected as a special assessment in the manner provided by M.S. Chapter 429, as it may be amended from time to time, but the assessment shall be payable in a single installment.

(Ord. 201, passed 4-11-2005)

▪ **93.25 TEMPORARY ABATEMENT.**

If in the opinion of the official charged with the enforcement of this code the nuisance complained of constitutes an immediate hazard, one that is a threat to the life, health, safety, or welfare of any person or property, the officer shall, in addition to compliance with the other provisions of this code, temporarily abate the hazardous conditions by whatever means he or she deems proper taking into consideration the nature and extent of the hazardous condition involved.

(Ord. 201, passed 4-11-2005)

▪ **93.26 EFFECTIVE DATE.**

This subchapter shall have full force and effect upon its passage and publication.

(Ord. 201, passed 4-11-2005)

*OPEN BURNING*

▪ **93.40 DEFINITIONS.**

For the purpose of this subchapter, 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 3 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 1 recreational fire is allowed on any property at 1 time.

**RECREATIONAL FIRE SITE.** An area of no more than a 3-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 an 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 Recreational 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, Apresto 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 3-foot lengths.

#### • 93.41 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, sheet rock, 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.

(D) No person shall conduct, cause, or permit open burning of any leaves or grass clippings.  
Penalty, see ' 10.99

**▪ 93.42 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 ' 93.40.

Penalty, see ' 10.99

**▪ 93.43 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 rights-of-way 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;  
and

(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.

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

Penalty, see ' 10.99

**▪ 93.44 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.**

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

(B) An open burning permit shall require the payment of a fee. Permit fees shall be in the amount established in the Ordinance Establishing Fees and Charges, authorized by this code.

Penalty, see ' 10.99



▪ **93.45 PERMIT PROCESS FOR OPEN BURNING.**

Upon receipt of the completed open burning permit application and permit fee, the Fire Chief, Fire Marshal, or Assistant Fire Marshals shall 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.

▪ **93.46 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 ' 10.99

▪ **93.47 REVOCATION OF OPEN BURNING PERMIT.**

The open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief, Fire Marshal, or Assistant Fire Marshals. 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 ' 10.99

▪ **93.48 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, Fire Marshal, or Assistant Fire Marshals, these officers may deny the application for the open burn permit.

• **93.49 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 ' 10.99

• **93.50 RULES AND LAWS ADOPTED BY REFERENCE.**

The provisions of M.S. ' ' 88.16 to 88.22, as they 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 94: FIRE PREVENTION AND PROTECTION

Section

### *General Provisions*

94.01 Prohibition of barbecue grills

### *GENERAL PROVISIONS*

#### ▪ 94.01 PROHIBITION OF BARBECUE GRILLS.

(A) *Purpose.* It is the purpose of this section to promote fire safety and the general welfare of the citizens of Maple Plain living in multiple dwellings. It is the finding of the Maple Plain City Council that it is inherently dangerous to use, or permit the use and/or storage of barbecue grills, gas or charcoal, on decks attached to multiple-dwelling units.

(Prior Code, ' 45.01)

(B) *Prohibition.* It shall be unlawful for any person to use and/or store or permit the use of and/or storage of a barbecue grill, gas or charcoal, on any outside deck attached to a multiple residential housing (R3) or an apartment building within the City of Maple Plain.

(Prior Code, ' 45.02)

Penalty, see ' 10.99



## CHAPTER 95: PARKS AND RECREATION

### Section

- 95.01 Definition
- 95.02 Prohibited and restricted acts
- 95.03 Effective date

#### ▪ 95.01 DEFINITION.

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

***PUBLIC PARK OR PLAYGROUND.*** Includes (unless a different intention clearly appears or the context otherwise requires) any lot, yard, area, or place within the City of Maple Plain, Minnesota, which has been dedicated to or by the City of Maple Plain, for the purposes of using the same for public recreation, leisure, and/or sporting activities, and which has been designated, improved, and/or maintained as such, which is adjacent to, located upon, or connected with any such lot, yard, area, or place.

(Ord. 160, passed 2-27-1996)

#### ▪ 95.02 PROHIBITED AND RESTRICTED ACTS.

The following acts or conduct within or upon the public parks and/or playgrounds of the City of Maple Plain are deemed contrary to public health, safety, and welfare, and therefore, it shall be unlawful:

(A) To use public parks, playgrounds or other public property for the purpose of camping or overnight accommodations, sleeping or parking vehicles, except with prior approval of the City Council;

(B) To operate any motorized vehicle upon any portion of the public parks or playgrounds which is not graded, paved, and/or maintained as a public street or parking area, except that authorized police, fire, emergency, and maintenance personnel may operate the motorized vehicles upon any portion of the public parks or playgrounds as are reasonably necessary to perform their ordinary and necessary duties;

(C) To willfully and intentionally deface, damage, or destroy any structure, building, sign, fixture, table, tree, shrubbery, grass, fence, post, pole, light, slide, swing, plaything, or any other article or thing connected with and located upon the public parks or playgrounds;



(D) To loiter or be in a public park or playground between the hours of 11:00 p.m. CST and 6:00 a.m. CST;

(E) To sell, or allow to be sold, any intoxicating or non-intoxicating alcoholic beverages within or upon the public parks or playgrounds except by special license issued by the Maple Plain City Council; and/or (Ord. 160, passed 2-27-1996)

(F) To consume intoxicating liquor or 3.2% malt liquor within the public parks or playgrounds except by special license issued by the Maple Plain City Council.  
(Am. Ord. 243, passed 3-22-2010) Penalty, see ' 10.99

• **95.03 EFFECTIVE DATE.**

This chapter shall have full force and effect upon its passage and publication.  
(Ord. 160, passed 2-27-1996)



## CHAPTER 96: RIGHTS-OF-WAY

### Section

96.01	Purpose
96.02	Definitions
96.03	Permit procedure
96.04	Restoration and relocation
96.05	Company default
96.06	Indemnification
96.07	Other conditions
96.08	Violations
96.09	Effective date

#### ▪ 96.01 PURPOSE.

The purpose of this chapter is to protect and enhance the public health, safety, and welfare by governing the construction, installation, operation, repair, maintenance, removal, and relocation of facilities and equipment used for the transmission of facilities or related services on, over, in, under, or along the public ground of the city. (Ord. 192, passed 10-14-2003)

#### ▪ 96.02 DEFINITIONS.

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

**COMPANY.** A natural or corporate person, business association, or other business entity including partnership and sole proprietorships, political subdivision, public or private agency of any kind, its successors and assigns, who or which seeks to, or is required to construct, install, operate, repair, maintain, remove, relocate, or expand facilities in the city.

**DIRECTOR.** The Director of Public Works, City Administrator/Clerk, or the other agent as the City Council may designate from time to time.

**FACILITIES.** Communication, electric, gas, oil, or similar transmission lines or equipment or any kind including, but not limited to lines or equipment for the transmission of audio, video, data, gas, electricity, oil, or other similar transmission services including but not limited to trunk lines, service



connections, lines, cables, physical connections, switching equipment, wires, optic fibers, or other optic cables laser equipment, circuits, physical connections, wireless communications equipment of all kinds, poles, towers and any necessary appurtenances owned or leased or operated by a company on, over, in, under, or across public ground.

***PUBLIC GROUND.*** Roads, streets, alleys, sidewalks, public ways, utility easements, public easements, and public rights-of-way in the city.  
(Ord. 192, passed 10-14-2003)

▪ **96.03 PERMIT PROCEDURE.**

(A) *Permit required.* Except in the case of emergency work as set out in division (D) below, a company may not construct, install, repair, remove, or relocate facilities, or any part thereof, or otherwise open or disrupt any public ground without first obtaining a permit from the city. The city shall require a separate permit of a company for each location where construction, installation, or other disturbance of the public ground is to occur, or for each convenient subdivision or construction, installation or other related work for which the city in its sole discretion determines a permit is required. Each permit shall state specifically the location of any facilities, and the nature of the work necessitating the permit, and shall contain reasonable regulations and conditions to protect the health, safety and welfare of the populace of the city.

(B) *Application.* The company shall apply for a permit on such forms as the city may designate from time to time. In the event the city determines in its discretion the company shall promptly submit a survey to the Director at the company's expense. If the Director determines that City Planning Commission review and/or

(C) *Application requirements.* The company shall apply for a permit or renewal of a permit a minimum of 3 weeks before the date proposed to start work and shall submit detailed plans for street or sidewalk use and pedestrian and driver safety on major projects. The provisions of this division (C) or portions thereof may be waived by the city in the event of emergency work as provided in division (D) below.

(D) *Emergency work.* A company may open and disturb the surface of public ground without a permit only where an emergency exists requiring the immediate repair of its facilities. In that event, the company shall notify the city immediately of the need for emergency work, request a permit not later than the second working day thereafter and comply with the applicable conditions of the permit. In no event may a company undertake an activity which will result in the closing of a street or alley without prior notification to the Police Chief, Fire Chief, City Administrator/Clerk, and Public Works Director. City Council approval is required, the Director shall refer the application to the Planning Commission and/or City Council as appropriate.

(E) *Approval or denial of application.* Upon receipt of an application by a company for a permit, the city may approve or deny the application. Denial shall be accompanied by a written statement of the

reasons for the denial and may be appealed to the City Council which shall issue detailed findings in the event the denial is sustained. An appeal of denial shall be heard at the first regularly scheduled Council meeting and any findings issued within 30 days of the meeting.

(F) *Issuance of permit.* If a Director determines that the applicant has satisfied the requirements of this chapter, the Director may issue a permit to the company upon payment of the permit fee as specified in the division (G) below.

(G) *Permit fee.* The company shall pay a fee for each permit issued in an amount as the City Council may designate by resolution from time to time. The City Administrator/Clerk shall maintain a table of permit fees as approved by the City Council. The permit fee shall be determined so as to fully reimburse the city for all costs incurred as a result of the construction, installation, or other work approved by the permit, including but not limited to administrative, engineering, and inspection costs, any other costs incurred in returning the public ground to its original condition and additional sum to reimburse the city for any diminution in the useful life or value of the public ground. To the extent that a company applies for a permit to occupy public ground indefinitely, the City Council shall set an indefinite occupancy fee requiring periodic payments to be made at the times as determined by the city, but in any event at least annually.

(H) *Duration of permit.* Except as provided in ' 96.04(C)(D) and (E), an indefinite permit shall continue without expiration so long as the company holding the permit is in compliance with this chapter and all other applicable law. The maximum period allowed for a temporary permit to perform installations, repairs, or other work shall be 3 months. Construction, installation or other opening, disturbance or obstruction of public ground beyond the period covered by each permit, including construction, installation, repair or other opening of public ground covered by a permanent permit shall require obtaining a new permit with payment of applicable fees. Application for such permit shall be subject to the same review as the original application.

(I) *Security of completion of work.* Before beginning work, the company shall deposit with the city security in the form of a certified check in the sufficient amount as determined by the Director for the completion of the work. The security will be held until the work is completed plus a period of up to 3 months thereafter if necessary to guarantee that restoration work has been satisfactorily completed.

(J) *Inspection of work.* When the work is completed, the company shall request an inspection by Director. The Director will determine if the work has been satisfactorily completed and notify the company of the inspection approval.

(Ord. 192, passed 10-14-2003)

#### • 96.04 RESTORATION AND RELOCATION.

(A) *Restoration.* Upon completion of the work contemplated by a permit, the company shall restore the general area of the work, including the pavement and its foundations, to the same or better condition



than existed prior commencement of the work necessitating a permit. The work shall be completed as promptly as weather permits. If the company does not promptly perform and complete the work, remove all dirt, rubbish, equipment, and material and restore the public ground to the same condition, the city may put it in the same condition at the expense of the company. The company shall, upon demand, pay to the city the direct and indirect cost of the work done for or performed by the city, including but not limited to the city's administrative costs.

(B) *Restoration; cost recovery.* To recover its costs, the city will first draw on the security posted by the company and then recover the balance of the costs incurred from the company directly by written demand. This remedy is in addition to any other remedies available to the city.

(C) *Relocation initiated by company.* The company shall give the city written notice before relocating its facilities. A company-initiated relocation shall be at the company's expense and must be approved in advance by the city. The approval shall not be unreasonably withheld.

(D) *Relocation required by city.* The company shall promptly, without due regard for seasonal working conditions, at the company's expense, permanently relocate its facilities in the event that the city in writing requires the relocation.

(E) *Relocation where public ground vacated.* The vacation of public ground does not deprive the company of the right to operate and maintain its facilities in the city. If the vacation proceedings as initiated by the city, or the company, the Company shall pay the relocation costs.  
(Ord. 192, passed 10-14-2003)

#### ▪ 96.05 COMPANY DEFAULT.

(A) *Notice.* If the company is in default in the performance of the work or occupancy authorized by permit, including but not limited to restoration requirements or permanent occupancy fee payments for more than 30 days after receiving written notice from the city of the default the city may terminate the rights of the company under the permit, subject to the city's absolute right to revoke at any time in the exercise of the city's police powers. The notice of default shall be in writing and specify the provisions of the permit and or this section under which the default is claimed and state the grounds of the claim. The notice shall be served on the company by personally delivering it to an officer thereof to its principal place of business in the state or by certified mail to that address.

(B) *City action on default.* If the company is in default in the performance of the work or occupancy authorized by permit, the city may, after notice to the company as specified in division (A) and failure of the company to cure in default, take such action as may be reasonably necessary to abate the condition caused by the default. The company shall reimburse the city for the city's reasonable costs, including costs of collection and attorney fees incurred as a result of the company default. The security posted under ' 96.03(I) will be applied by the city first toward payment for such reimbursement.  
(Ord. 192, passed 10-14-2003)

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▪ **96.06 INDEMNIFICATION.**

(A) *Scope.* The company shall indemnify, keep, and hold the city, its elected officials, officers, employees and agents free and harmless from any and all claims and actions on account of injury or death of persons or damage to property occasioned by the construction, installation, maintenance, repair, and removal, relocation, or operation of the facilities affecting public ground, unless the injury or damage is the result of the gross negligence of the city, its elected officials employees, officers, or agents. The city will notify the company of claims or actions and provide a reasonable opportunity for the company to accept and undertake the defense.

(B) *Claim defense.* If a claim or action is brought against the city under circumstances where indemnification applies, the company, at its sole expense, shall defend the period wherein the company is not prejudiced in the defense of the claim or action by lack of the notice. The company shall have complete control of the claim or action, but it may not settle without the consent of the city, which shall not be unreasonable withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the city. In defending any action on behalf of the city, the company is entitled to assert every defense or immunity that the city could assert in its own behalf.

(C) *Insurance.* The company shall provide liability and indemnity insurance listing the city as a coinsured as may be required by the city.  
(Ord. 192, passed 10-14-2003)

▪ **96.07 OTHER CONDITIONS.**

(A) *Use of public ground.* Facilities shall be located, constructed, installed, maintained, or relocated so as not to endanger or unnecessarily interfere with the usual and customary traffic, travel, and other use of public ground. The facilities are subject to additional conditions of the permit including but not limited to the right of inspection by the city at reasonable times and places; the obligation to relocate the facilities pursuant to ' 96.04 and compliance with all applicable regulations imposed by the Minnesota Public Utilities Commission and all other applicable laws and regulations.

(B) *Location.* The facilities shall be placed in a location and in the manner as is designated in a permit by the city. The city may designate whether facilities shall be placed above ground or in subsurface conduits.

(C) *Street improvements paving or resurfacing.* Upon request, the city will give the company notice of plans for street improvements where permanent paving or resurfacing is involved. The notice will contain:

- (1) The nature and character of the improvements;
- (2) The streets upon which the improvements are to be made;

- (3) The extent of the improvements, the approximate time when the city will start work; and
- (4) If more than 1 street is involved, the sequence in which the work is to proceed.

(D) *Company protection or facilities.* The company shall take all reasonable measures to prevent its facilities from damage that could be inflicted on the facilities by persons, property or the elements. The company shall take all reasonable protective measures when the city performs work near the facilities.

(E) *Guarding of obstruction or dangers.* If the company obstructs any public ground, the company shall keep such obstruction properly guarded at all times. From sunset to sunrise, all obstructions shall be guarded by a sufficient number of warning lights placed in such manner that they will give proper warning of such obstruction. The city may require any other restrictions or safety precautions as may be in the public interest.

(F) *Prior service connections.* In cases where streets are at final width and grade and the city has installed to the property line abutting the streets prior to a permanent paving or resurfacing of the streets, and the facilities are located under the street; a company may be required to install service connections prior to the paving or resurfacing, if it is apparent that service will be required during the 5-year period following the paving or resurfacing.

(G) *Existing facilities.* This chapter applies to all facilities including those already existing on, over, in, under, across, or along any public ground in the city as of the effective date of this chapter except those that are otherwise governed by state law granting exclusive jurisdiction to the state.  
(Ord. 192, passed 10-14-2003)

#### ▪ 96.08 VIOLATIONS.

The city may seek injunctive relief or other equitable relief for violation of this chapter in Hennepin County District Court. If the city is successful in seeking the injunction, or other equitable relief, the property owner shall be responsible for all costs associated with the action, including reasonable attorney=s fees.  
(Ord. 192, passed 10-14-2003)

#### ▪ 96.09 EFFECTIVE DATE.

This chapter shall have full force and effect upon its passage and publication.  
(Ord. 192, passed 10-14-2003)