

900. Nuisances

901. Nuisance

901.01 Public Nuisance Defined. A nuisance is a thing, act, occupation or use of property which:

- (1) Shall unreasonably annoy, injure or endanger the safety, health, comfort or repose of any considerable number of members of the public;
- (2) Shall offend public decency;
- (3) Shall unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for passage, a lake, navigable river, bay, stream, canal or basin, or a public park, square, street, alley or highway;
- (4) Shall in any way render the public insecure in life or in use of property;
- (5) Is declared by law or ordinance to be a public nuisance and for which no sentence is specifically provided.

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

- (1) All decayed or unwholesome food offered for sale to the public;
- (2) All diseased animals running at large;
- (3) All ponds or pools of stagnant water;
- (4) Milk which is produced by cows which have not been tested and found free of tuberculosis within the year previous to the offering of such milk for sale to the public;
- (5) Carcasses of animals not buried or destroyed within twenty-four hours after death;
- (6) Accumulations of manure or rubbish;
- (7) Privy vaults and garbage cans which are not fly-tight or which are so maintained as to constitute a health hazard or to emit foul or disagreeable odors;

- (8) Pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes, or other substances;
- (9) All noxious weeds and other rank growths upon public or private property. Exemption: Upon approval by the City Weed Inspector properties with native vegetation are permitted. **Amended: Ord. No. 195, 4/4/2000**
- (10) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- (11) Any offensive trade or business as defined by statute not operating under local license;
- (12) All public exposure of persons having a contagious disease;
- (13) The use of a common public drinking cup or roller towel;
- (14) The distribution of samples of medicines or drugs unless such samples are placed in the hands of an adult person.

901.03 Public Nuisances Affecting Morals and Decency. The following are hereby declared as nuisances affecting public morals and decency:

- (1) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- (2) All indecent or obscene pictures, books, pamphlets, magazines and newspapers;
- (3) Betting, bookmaking, and all apparatus used in such occupations.

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

- (1) All snow and ice not removed from public sidewalks in front of business houses within twenty-four hours after the snow and ice has ceased to be deposited thereon;
- (2) All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient

time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached;

- (3) All limbs of trees which are less than eight feet above the surface of any public sidewalk, or nine feet above the surface of any street;
- (4) All wires which are strung less than eighteen feet above the surface of any public street, alley or sidewalk;
- (5) All buildings, walls, and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half their original value, and which are so situated as to endanger the safety of the public;
- (6) All explosives, inflammable liquids and other dangerous substances stored in any manner or in any amount other than that provided in ordinance or state law;
- (7) All use or display of fireworks, except as provided by state law;
- (8) All unnecessary noises and annoying vibrations;
- (9) Obstruction and excavations affecting the ordinary use by the public of streets, alleys, sidewalks or public grounds except under such conditions as are provided by ordinance;
- (10) All hanging signs, awnings and other similar structures over the streets or sidewalks so situated as to endanger public safety, or not constructed and maintained as provided by ordinance;
- (11) The allowing of rain water, ice or snow to fall from all buildings or structures upon any street or sidewalk or to flow across any sidewalk;
- (12) All barbed wire fences, unless the barbed wire on said fence is at least seven feet above the surface of the ground;
- (13) All dangerous, unguarded machinery, all junked, abandoned or unlicensed automobiles in any public place, or so situated or operated on private property as to attract and endanger or offend the public;
- (14) All other conditions or things which are liable to cause injury

to the person or property of anyone;

- (15) The burning of rubbish or other material on any public street, alley or sidewalk or the throwing of rubbish or other material on any public street, alley or sidewalk;
- (16) The casting of paper from billboards on the ground and allowing the same to blow across any public street, alley or sidewalk;
- (17) Any dirt, paper or filth, the sweepings of any house, store, shop or office, or any ashes, filthy water, offal, straw, wood, stone, earth, manure or rubbish of any kind thrown, deposited or permitted to be thrown, deposited, or allowed to remain on any street, sidewalk, alley, or public grounds.
- (18) The storing of any household furnishings or appliances on public or private property other than in a licensed junk yard, unless housed within a lawfully erected building. **Amended: 12/05/95 Ord. No.131**

901.05 Other Nuisances. The enumeration of particular nuisances in 901.02, 901.03, 901.04, and other sections of this code shall not be deemed to exclude any other nuisances as defined in 901.01.

901.06 Enforcement and Inspection. The officers designated by the council to enforce this chapter shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

901.07 Abatement.

Subdivision 1. General. Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the city, the officer shall notify, in writing, the owner or occupant of the premises of such fact and order that the nuisance be terminated and abated.

The notice shall be served in person or certified or registered mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding thirty days, within which the nuisance is to be abated; provided the time for abatement shall not exceed ten days in the case of noxious weeds. If the order is not complied with within the time specified, the enforcing officer shall report that fact forthwith to the council. Thereafter, the council, after notice and hearing, may cause the nuisance to be abated by the city.

Subd. 2. Emergency Abatement. When the officer charged with enforcement determines that a nuisance constitutes a serious and imminent danger to the public health or safety, the officer may summarily abate the nuisance after a reasonable attempt to notify the owner or occupant of the property. The officer shall immediately thereafter notify the owner or occupant of the premises of the action taken. The notice shall be served in person or by registered or certified mail.

Subd. 3. Cost of Abatement. The owner or occupant of premises upon which a nuisance has been abated shall be personally liable for the cost of abatement. The cost of abatement of any health or safety nuisance may be assessed as a current service against the property upon which the nuisance existed or which created the nuisance.

901.08 Nuisances Prohibited. No person, group or entity shall cause, conduct, create, continue, maintain or allow a nuisance, including but not limited to nuisances set forth in this Chapter 901. **Added: 8/1/00 Ord. No. 197**

901.09 Violations.

Subd. 1. Violation of this Ordinance is a misdemeanor.

Subd. 2. Failure to abate a nuisance as directed by notice given in accordance with Section 901.07 is a misdemeanor.

Subd. 3. Each separate day on which a continuing violation occurs is a separate violation. Added: 8/1/00 Ord. No. 197

901.41 Nuisances Affecting Property

Subd. I. Definitions. In this chapter, the following terms are defined to mean:

a. "Unreasonable State of Partial Construction" means any unfinished building or other structure of any kind (1) which has been under construction more than one year or where no substantial work has occurred for more than six months and, (2) because of the incomplete construction, exterior finish, or painting the building or structure substantially detracts from the safety or attractiveness, or both, of the immediate neighborhood or otherwise adversely affects neighboring properties,

b. "Abandoned" means any building which is in a substantial state of disrepair and has not been occupied

for 12 months.

Subd. 2. Declaration of nuisance. The following are declared to be public nuisances because they (a) are unsightly, (b) decrease adjoining landowners' and occupants' enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhood patterns, or violate land use regulations that are otherwise difficult to fully enforce by other means:

- a. Buildings that are Abandoned or are in an Unreasonable State of Partial Completion.
- b. Other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood.
- c. Buildings or other structures or property conditions that do not comply with requirements in City Code Chapters: Chapter 1002 Dwelling Maintenance Code; Chapter 1002A Property Maintenance Regulations, Chapter 1004 Building Code; Chapter 1007 Erosion and Sediment Control; Chapter 612 Rental Unit Registration.

Subd. 3. Enforcement.

- a. Actions to remedy nuisances declared in this section shall be as provided in City Code Chapter 901; and also
- b. After declaration that a nuisance exists, the City, in its discretion, may obtain such orders, judgments or other relief from the District Court as the City deems necessary to fully remedy the nuisances, and such relief shall include an award to the City of all of its costs and expenses of enforcement which shall be charged against the nuisance property as provided by Minn, Stat. 463.21. **Amended/Added May 12, 2009, ORD. 332**

902. Tree Disease

902.01 Policy Findings. The council has determined that the health of the trees within the municipal limits is threatened by fatal tree diseases. It is further determined that the loss of trees growing upon public and private property would substantially depreciate the value of the property within the city and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the council to control and prevent the spread of tree disease

and this chapter is enacted for that purpose.

902.02 Forester.

Subdivision 1. Position Created. The powers and duties of the city forester as provided by this chapter are conferred on the street commissioner.

Subd. 2. Duties. It is the duty of the forester to coordinate, under the direction and control of the council, all activities of the city relating to the control and prevention of tree diseases. The forester shall recommend to the council the details of a program for the control of tree disease, and perform the duties incident to such a program adopted by the council.

902.03 Program. It is the intention of the council to conduct a program of plant pest control pursuant to the authority granted by Minnesota Statutes 18.022. This program is directed specifically at the control and elimination of tree diseases, and is undertaken at the recommendation of the Commissioner of Agriculture. The forester shall act as coordinator between the Commissioner of Agriculture and the council in the conduct of this program.

902.04 Nuisance Declared. The following are declared to be 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 Dutch Elm Disease fungus, *Ceratocystis Ulmi* (Buisman) Moreau, or which harbors any of the elm bark beetles, *Scolytus multistriatus* (eich.) or *Hylurgopinus rufipes* (March).
- (2) Any elm tree or part thereof, including logs, 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 disease fungus *Ceratocystis fagacearum*.
- (4) Any dead oak trees or part thereof which in the opinion of the forester constitutes a hazard, including, but not limited to, logs, branches, stumps, firewood, or other oak material, which has not been stripped of its bark and burned or sprayed with an effective fungicide.

- (5) Any other shade trees with an epidemic disease.

902.05 Abatement. It is unlawful for any person to permit any public nuisance as defined in 902.04 to remain on any premises owned or controlled by him within the city. Such nuisance may be abated in the manner prescribed by 902.09 - 902.13.

902.06 Inspection and Investigation. The forester shall inspect all premises and places within the city as often as practicable to determine whether any condition described in 902.04 and 902.05 of this chapter exists thereon. He shall investigate all reported incidents of diseased trees.

902.07 Entry on Private Premises. The forester or his duly authorized agents may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned him under this chapter.

902.08 Diagnosis. The forester shall, upon finding conditions indicating disease infestation, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis, or take such other steps for diagnosis as may be recommended by the Commissioner of Agriculture. Except as provided in 902.10 through 902.12 no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

902.09 Abatement of Tree Disease Nuisances. In abating the nuisances defined in 902.04 and 902.05, the forester shall cause the infected tree or wood to be sprayed, removed, burned, or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of tree diseases. Such abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the Commissioner of Agriculture.

902.10 Procedures for Removal of Infected Trees and Wood

Subdivision 1. Ordinary Procedure. Whenever the forester finds with reasonable certainty that the infestation defined in 902.04 and 902.05 exists in any tree or wood in any public or private place in the city, he shall proceed as follows:

- (1) If the forester finds that the danger of infestation of other trees is not imminent because of dormancy, he shall notify the abutting property owner and/or the owner of the property upon which the tree is located, by certified mail that the nuisance will be abated within a specified time, not less than five days from the date of mailing of such notice.
- (2) The forester shall immediately report such action to the council, and after the expiration of the time limited by the

notice, he may abate the nuisance by:

(a) Abating the nuisance as a public improvement under Minnesota Statutes, Chapter 429.101; or

(b) Abating the nuisance as provided in 902.11.

Subd. 2. Immediate Action. If the forester finds with reasonable certainty that immediate action is required to prevent the spread of the disease, he may proceed to abate the nuisance forthwith. He shall report such action immediately to the council and to the owner of the property where the nuisance is located.

902.11 Council Action. Upon receipt of the forester's report required by 902.10, Subdivision 1, the council shall, by resolution, order the nuisance abated. Before action is taken on such resolution, the council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one week prior to such 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 bases of assessment, if any, of costs. At the hearing or adjournment thereof, the council shall hear property owners with reference to the scope and desirability of the proposed project. The council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for the doing of the work of day labor or by contract.

902.12 Records. The forester shall keep a record of the costs of abatements done under this section and shall report monthly to the city administrator all work done for which assessments are to be made stating and certifying the description of land, lots, parcels involved and the amount chargeable to each.

902.13 Assessments. 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 chapter. The council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota Statutes 429.101 and other pertinent statutes for certification to the county auditor and collection the following year along with current taxes.

902.14 Treatment. Whenever the forester determines that any tree or wood within the city is infected with disease, he may spray or otherwise treat all nearby high value trees, with an effective disease destroying agent. Spraying and other treatment activities authorized by this section shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of

Agriculture and under the supervision of the Commissioner and his agents whenever possible. The notice provisions of 902.11 apply to spraying and treatment operations conducted under this section.

902.15 Transporting Wood Prohibited. It is unlawful for any person to transport within the city any diseased wood or any bark-bearing elm or oak wood without first obtaining permission from the forester. The forester shall grant such permission only when the purpose of this chapter will be served thereby minimizing the risk of spread of the disease.

902.16 Interference Prohibited. It is unlawful for any person to prevent, delay or interfere with the forester or his agents while they are engaged in the performance of duties imposed by 902.01-902.15.

903. Land Maintenance and Nuisances

903.01 Purpose. It is the policy of the City of Detroit Lakes to protect and preserve public health, safety and property values by controlling noxious and/or hazardous weeds and long grasses, while not discouraging native vegetation.
Amended: Ord. No. 195, 4/4/2000

903.02 Declaration of Public Nuisance. The following are declared to be public nuisances and shall be subject to the provisions of Chapter 901 of the Detroit Lakes City Code:

- a. Land within the City having noxious weeds or hazardous plant infestations or more than 25% of its grasses at a height of 6 inches or more, except that properties approved by the City Weed Inspector using native vegetation is a permitted use of property and are not a nuisance. **(Amended: Ord. No. 195, 4/4/00**
- b. Land which is a site for the dumping of debris; and
- c. Land which is a site for dumping of vegetation, garbage, dirt or any other material that alters the normal condition of the land and makes adequate maintenance of said land difficult.

903.03 Inspection and Notice of Violation. The City's Weed Inspector shall inspect public and private property in the City to determine compliance with this ordinance. When a violation of this ordinance is discovered, the Weed Inspector will proceed with the abatement process provided by Detroit Lakes City Code, Chapter 901, provided that the Weed Inspector may order that violations of this ordinance be corrected within five (5) days after the notice provided by City Code 901.07.

903.04 Exempt Areas. Exempt areas are those areas that, based on the

approval of the City Weed Inspector, are managed for native vegetation or when the property cannot reasonably be maintained as required by this ordinance due to rugged terrain, wetland conditions or dense vegetative cover, the Weed Inspector may exempt the property from the provisions of this ordinance after receiving an application for exemption in such form as the City Administrator may require, and inspecting the property. The decision of the Weed Inspector is subject to review, affirmation or modification by the City Administrator.

Amended: Ord. No. 195, 4/4/00 ;Ord. No. 145, 9/3/97

904 ICE AND SNOW ON PUBLIC SIDEWALKS

904.01. Ice and Snow a Nuisance. All snow and ice remaining upon public sidewalks is hereby declared to constitute a public nuisance and shall be abated by the owner or tenant of the abutting private property within 72 hours in a Residential District and 24 hours in a Commercial District after the snow or ice has ceased to be deposited.

904.02. City to Remove Snow and Ice. The City may cause to be removed from all public sidewalks, beginning 24 hours in a Commercial District and 72 hours in a Residential District, after snow or ice has ceased to fall, all snow and ice which may be discovered thereon, and it shall keep a record of the cost of the removal and the private property adjacent to which the accumulations were found and removed.

904.03. Cost of Removal to be Assessed. The City Administrator shall, upon direction of the Council, and on receipt of the information provided for in the preceding subdivision, extend the cost of the removal of snow or ice as a special assessment against the lots or parcel of ground abutting on walks which were cleared, and the special assessments shall at the time of certifying taxes to the County Auditor be certified for collection as other special assessments are certified and collected.

904.04. Civil Suit for Cost of Removal. The City Administrator shall, in the alternative, upon direction of the Council, bring suit in a court of competent jurisdiction to recover from the persons owning land adjacent to which sidewalks were cleared, as provided in Subdivision 904.02 hereof, the cost of the clearing and the costs and disbursements of a civil action therefore.

904.05. City Administrator to Report Sidewalks Cleared. The City Administrator shall present to the Council at its first meeting after snow or ice has been cleared from the sidewalks as provided in Subdivision 904.02. hereof the report of the City thereon, and shall request the Council to determine by resolution the manner of collection to be used as provided in Subdivisions 904.03 and 904.04.

904.06. Placing Snow or Ice In Public Street or on Other City

Property. It is unlawful for any person, not acting under a specific contract with the City, to remove snow from private or public property and place the same on a public street in the quantity, or in the manner, as to cause a hazard to travel, without adequate arrangements for the immediate removal thereof. It is also unlawful for any person not acting under a contract with the City to dump snow on other City property. **Added: Ord. No. 323, 06/10/08**

(Pages 374-380 reserved)