

CHAPTER 92: HEALTH AND SAFETY; NUISANCES

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GENERAL PROVISIONS

' 92.01 ASSESSABLE CURRENT SERVICES.

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

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

(B) *Snow, ice, dirt and rubbish.*

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

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

(C) *Public health and safety hazards.* When the city removes or eliminates public health or safety hazards from private property under the following provisions of this chapter, the administrative officer

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responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and annually deliver that information to the City Administrator/Clerk.

(D) *Installation and repair of water service lines.* Whenever the city installs or repairs water service lines serving private property under Chapter 52 of this code, the City Administrator/Clerk shall keep a record of the total cost of the installation or repair against the property.

(E) *Damage to public property.* Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment, object or contrivance, but is operating, driving or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. ' 514.67, as it may be amended from time to time. Penalty, see ' 92.99

' 92.02 TREE DISEASES AND SHADE TREE PEST CONTROL.

(A) *Declaration of policy.* The health of the trees in the city is threatened by shade tree pests, and the loss or ill health of trees growing upon public and private property substantially depreciates the value of property within the city and impairs the safety, good order, general welfare and convenience of the public. In addition to and in accordance with M.S. " 89.001, 89.01 and 89.51 through 89.64, as those sections may be amended from time to time, the provisions of this section are adopted to attempt to control and prevent the spread of these shade tree pests.

(B) *Jurisdiction.* The city shall have control of all street trees, shrubs, and other plantings now or hereafter in any street, park, public right-of-way or easement, or other public place within the city limits, and shall have the power to plant, care for, maintain, remove, and replace such trees, shrubs and other plantings.

(C) *Declaration of a shade tree pest.* The Council may declare any vertebrate or invertebrate animal, plant pathogen, or plant threatening to cause significant damage to a shade tree or community forest as defined by M.S. ' 89.001, to be a shade tree pest and prescribe control measures to effectively eradicate, control or manage the shade tree pest including necessary timelines for action.

(D) *Public nuisances declared.* A shade tree pest declared by Council occurring within a declared control zone is a public nuisance.

(E) *Shade tree pest nuisances are unlawful.* It is unlawful for any person to permit any public nuisance as defined in this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in this section.

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(F) *Definition of control areas.* Upon declaring a shade tree pest, the Council may define one or more locations within the geographic boundaries of the city to be within a shade tree pest control area provided such locations are characterized by biologic, composition, environmental and size factors favorable to successful application of the control measures prescribed by Council.

(G) *Tree Inspector.* The Council may appoint a Tree Inspector to coordinate the activities of the city relating to the control and prevention of damage by shade tree pests. The Tree Inspector will recommend to the Council the details of any program for the declaration, control and prevention of shade tree pests. The Tree Inspector is authorized to enforce or cause to be enforced the tasks incident to such a program adopted by the Council. The term **TREE INSPECTOR** includes any person designated by Council or the Tree Inspector to carry out activities authorized in this section.

(H) *Abatement of shade tree pest nuisances.*

(1) In abating a nuisance declared by ordinance under divisions (B) and (C), the organism, condition or plant and any tree, wood or material identified as injurious to the health of shade trees shall be removed or effectively treated so as to destroy and prevent as fully as possible the spread of the shade tree pest. Such abatement procedures shall be carried out in accordance with the control measures and areas prescribed by ordinance according to divisions (C) and (K) and (O) .

(2) In addition, should the appropriate abatement procedure be removal and the tree(s) and/or hedge(s) be within the limits of a highway in a rural area within the city's jurisdiction, M.S. ' 160.22, as it may be amended from time to time, shall be complied with as necessary.

(I) *Reporting discovery of shade tree pest.* Any owner or occupier of land or any person engaged in tree trimming or removal who becomes aware of the existence of public nuisance caused by a shade tree pest as defined under division (C) shall report the same to the city.

(J) *Registration of tree care firms.* Any person, firm or corporation that provides tree care, tree trimming or removal of trees, limbs, branches, brush, or shrubs for hire must be registered with the Minnesota Commissioner of Agriculture under M.S. ' 18G.07, as it may be amended from time to time.

(K) *Inspection and application of control measures.*

(1) The Tree Inspector is authorized to inspect premises and places within the city to determine whether shade tree pests exist thereon and to investigate all reported incidents of shade tree pests. The Tree Inspector is authorized to take all reasonable measures to prevent the maintenance of public nuisances and may enforce the provisions relating to abatement in this section. Diagnosis of shade tree pests may be by the presence of commonly recognized symptoms or by tests as may be recommended by the Commissioner of the Minnesota Department of Agriculture or the Commissioner of the Minnesota Department of Natural Resources or other reliable means.

(2) Except in situations of imminent danger to human life and safety, the Tree Inspector shall not enter private property for the purpose of inspecting or preventing maintenance of public nuisances

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without the permission of the owner, resident or other person in control of the property, unless the Tree Inspector has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.

(3) No person, firm, or corporation shall interfere with the Tree Inspector acting under his authority while engaged in activities authorized by this section.

(L) *Standard abatement procedure.* Except as provided in divisions (M) and (O), whenever a Tree Inspector determines with reasonable certainty that a public nuisance as described by this section is being maintained or exists on premises in the city, the Tree Inspector is authorized to abate a public nuisance according to the following procedure.

(1) The Tree Inspector will notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice may be given in person or by mail. Failure of any party to receive the mail does not invalidate the service of the notice. A copy of the notice shall be filed with the City Administrator/Clerk.

(2) The notice of abatement shall state that unless the public nuisance is abated by the owner or occupant, it will be abated by the city at the expense of the owner or occupant. The notice shall specify the control measures to be taken to abate the nuisance, and provide a reasonable amount of time to abate the nuisance. The notice will also state that the owner or occupant has the right to appeal the determination that a public nuisance exists by submitting a request in writing to the City Administrator/Clerk within seven days after service of the notice, or before the date by which abatement must be completed, whichever comes first.

(3) If no timely appeal is submitted, and the notice of abatement and its prescribed control measures are not complied with within the time provided by the notice or any additional time granted, the Tree Inspector or designated person shall have the authority to obtain permission or an administrative search warrant, enter the property and carry out abatement in accordance with the notice of abatement.

(M) *High-cost abatement.* If the Tree Inspector determines that the cost of abating a nuisance will exceed \$5,000 based on a reasonable, good faith estimate, the written notice referred to in division (L) must provide that if the nuisance is not abated within the reasonable amount of time provided, the matter will be referred to the City Council for a hearing. The date, time, and location of the hearing must be provided in the notice.

(N) *Appeal procedure.* If the City Administrator/Clerk receives a written request for a hearing on the question of whether a public nuisance in fact exists, the City Council shall hold a hearing within seven calendar days following receipt by the Administrator/Clerk of the written request. At least three days' notice shall be given to the individual who made the written request for the hearing. The Council may modify the abatement notice or extend the time by which abatement must be completed. Each owner, agent of the owner, occupant and lienholder of the subject property or properties in attendance, if any, shall be given the opportunity to present evidence at the hearing. After holding the hearing, the City Council may issue an order requiring abatement of the nuisance.

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(O) *Abatement procedure in event of imminent danger.*

(1) If the Tree Inspector determines that the danger of infestation to other shade trees is imminent and delay in control measures may put public health, safety or welfare in immediate danger, the Tree Inspector may provide for abatement without following (L) or (M). The Tree Inspector must reasonably attempt to notify the owner or occupant of the affected property of the intended action and the right to appeal the abatement and any cost recovery at the next regularly scheduled City Council meeting.

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

(P) Recovery of cost of abatement; liability and assessment.

(1) The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Administrator/Clerk or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Administrator/Clerk.

(2) After notice and hearing as provided in M.S. ' 429.061, as it may be amended from time to time, the City Administrator/Clerk may list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. ' 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then certify the charges against the property under that statute and other pertinent statutes to the County Auditor for collection along with current taxes the following year or in annual installments as the City Council may determine in each case.

(Q) *Penalty.*

(1) Any person, firm, or corporation who violates any provision of this section shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this section, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(2) Upon conviction of a misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(3) The failure of any officer or employee of the city to perform any official duty imposed by this section shall not subject the officer or employee to the penalty imposed for a violation.

(4) In addition to any penalties provided for in this section, if any person, firm or corporation fails to comply with any provision of this section, the City Council or any official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

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(R) *Declared shade tree pests, control measures and control areas.*

(1) *Oak Wilt.* Oak Wilt is declared a shade tree pest and is defined as any living or dead tree, log, firewood, limb, branch, stump or other portion of a tree from any species of the genus *Quercus* existing within the control area defined that has bark attached and that exceeds three inches in diameter or ten inches in circumference and contains to any degree any spore or reproductive structures of the fungus *Ceratocystis fagacearum*. Control measures prescribed for abating Oak Wilt Disease are:

(a) *Installation of a root graft barrier.* A root graft barrier can be ordered installed to prevent the underground spread of Oak Wilt Disease. The city will mark the location of the root graft barrier. The barrier disrupts transmission of the fungus within the shared vascular systems of root grafted trees. The barrier is created by excavating or vibratory plowing a line at least 42 inches deep between any oak tree infected with Oak Wilt Disease and each nearby and apparently healthy oak tree within 50 feet of the infected tree.

(b) *Removal and disposal of trees on property zoned for residential and commercial use.* On property that is zoned residential and commercial the city may mark for removal trees that have the potential to produce spores of the fungus *Ceratocystis fagacearum*. After, and in no case before the installation of the root graft barrier and no later than May 1 of the year following infection all marked trees must be felled. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked. If, however, after the city prescribes the location for a root graft barrier, the city determines that installation of the barrier is impossible because of the presence of pavement or obstructions such as a septic system or utility line, the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

(c) *Removal and disposal of trees on all other property.* On all other property the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

(d) *Wood disposal.* All wood more than three inches in diameter or ten inches in circumference from such felled trees must be disposed of by burying or debarking or chipping or sawing into wane-free lumber or by splitting into firewood, stacking the firewood and immediately covering the woodpile with unbroken 4-mil or thicker plastic sheeting that is sealed into the ground until October 1 of the calendar year following the calendar year in which the tree was felled or by burning before May 1 of the year following infection. Wood chips from infected trees may be stockpiled or immediately used in the landscape.

(e) The control area for Oak Wilt Disease is defined as all lands within the boundaries of the city.

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(2) *Emerald Ash Borer*. Emerald Ash Borer is declared a shade tree pest and is defined as an insect that attacks and kills ash trees. The adults are small, iridescent green beetles that live outside of trees during the summer months. The larvae are grub or worm-like and live underneath the bark of ash trees.

(a) Control measures prescribed for abating Emerald Ash Borer are those provided in the document, *Guidelines to Slow the Growth and Spread of Emerald Ash Borer* from the Minnesota Department of Agriculture.

(b) *Definition of control areas*. The control area for Emerald Ash Borer is defined as all lands within the boundaries of the city.

(3) *Dutch Elm Disease*. Dutch Elm Disease is declared a shade tree pest and is defined as a disease of elm trees caused by the fungus *Ophiostoma ulmi* or *Ophiostoma novo-ulmi*, and includes any living or dead tree, log, firewood, limb, branch, stump or other portion of a tree from any species of the genus *Ulmus* existing within the control area defined that has bark attached and that exceeds three inches in diameter or ten inches in circumference and could contain bark beetles or any spore or reproductive structures of the fungus *Ophiostoma ulmi* or *Ophiostoma novo-ulmi*.

(a) Control measures prescribed for abating Dutch Elm Disease are:

1. *Use of fungicide*. Fungicides may be effective in preventing Dutch elm disease when injected into living trees that do not already show symptoms of Dutch elm disease. Fungicide injections on private lands are optional and, if performed, are at the landowner's expense.

2. *Removal and disposal of trees*. Prompt removal of diseased trees or branches reduces breeding sites for elm bark beetles and eliminates the source of Dutch elm disease fungus. Trees that wilt before July 15 must be removed within 20 days of detection [alternative: 30 days]. Trees that wilt after July 15 must be removed by April 1 of the following year. Diseased trees not promptly removed will be removed by the city at the landowner's expense. Wood may be retained for use as firewood or sawlogs if it is de-barked or covered from April 15 to October 15 with 4 mil plastic. The edges of the cover must be buried or sealed to the ground.

(b) *Definition of control areas*. The control area for Dutch Elm Disease is defined as all lands within the boundaries of the city.

92.03 City of Lanesboro Tree Ordinance

Section 1 PURPOSE: It is hereby declared to be the policy of the City of Lanesboro, Minnesota, to regulate and maintain, and protect the trees in the City in order to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks, or other public property of the City; to promote and enhance the beauty and general welfare of the

City; to prevent damage to any public utility, street, sidewalk, or other public property; to protect trees and shrubs located in public areas from undesirable and unsafe planting, removal, treatment, and maintenance practices; and to guard all trees and shrubs within the City against the spread of disease or pests. It is the intent of the City Council that the provisions of this ordinance shall apply to all trees growing or hereafter planted in or upon any public right-of-way or other premises owned or controlled by the City, and also to all trees growing or to be planted in or upon any private premises which shall threaten the lives, health, safety, or welfare of the public or of the property owned or controlled by the City.

Section 2 DEFINITIONS: Whenever the following words or terms are used in this ordinance they shall be construed to have the following meanings:

- City: The City of Lanesboro, Minnesota.
- Person: The word "person" shall mean person, firm, association, or corporation.
- Public Property: Any area or building owned by the City of Lanesboro including but not limited to: boulevards, parks, playgrounds, dikes, streets, sidewalks and alleys, and public parking lots.
- Public Right-of-way: Portion of property reserved for public use and accepted for such use by the city to provide circulation and travel to abutting properties, including but not limited to: streets, boulevard, alleys, sidewalks, provisions for public utilities and cut and fill slopes.
- Canopy Tree: Any deciduous or coniferous tree exceeding a mature height of 25 feet.
- Under Story Tree: Any deciduous or coniferous tree not exceeding a mature height of 25 feet.
- Shrub: A woody plant, deciduous or coniferous, that is smaller than a tree and has several main stems arising at or near the ground.
- Park Tree: Any trees or shrubs growing in public parks (All parks, Campgrounds, Ballfield, Bass Pond as defined by the Park Board).
- Street Tree: Any trees or shrubs growing on either side of all streets, avenues and right-of-ways within the City of Lanesboro.
- Boulevard: The area between the edge of a street or curb and the property line.
- Private Tree: All trees growing on private property within the city limits.
- Hazard Tree: Any public or private tree or part thereof which:

Has an infectious or destructive disease, insect problem or other pestilence which endangers the growth, health, life or well-being of trees in the City, or which threatens to or is capable of causing a spread of a disease, pestilence or insect infestation; is dead, dying, broken or decayed; obstructs street lights, traffic signs, or the view of any street intersection; obstructs the free passage of pedestrians or vehicles; is causing the surface of a public street, curb, or sidewalk to be up-heaved or otherwise disturbed; injures or poses an imminent threat of injury to the sewer system, electric power lines, gas lines, water lines or other public improvement; or constitutes an imminent danger to the health, safety or well-being of the general public

- Boulevard: Area between curb and the private property line that is publicly owned.
- Public Utility: Any public or private facility or system for producing, transmitting or distributing communications, electricity, gas, oil products, water, waste or storm water, which directly or indirectly serves the public or any part thereof within the corporate limits of the City.

- Landmark Tree: Any tree which meets one or more of the following criteria; species rarity, old age, historical significance, abnormality or scenic or aesthetic significance as determined by the City Council.
- Topping: The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Sometimes referred to as "top".
- Forester: That person that the City Council assigns the duties to oversee the activity of this ordinance

Section 3 CITY COUNCIL DUTIES AND POWERS: The City Council acting as the Tree Board or its authorized agent shall direct, regulate, and control the planting, care, and removal of all public trees and shrubs within the city and shall cause the provision of this ordinance to be enforced. However, owners or tenants may keep the shade trees along the public streets and avenues adjoining their property properly trimmed in such manner that such trees shall not interfere with travel on said streets, avenues, and sidewalks aforesaid.

Section 4 PLANTING, CARE AND REMOVAL OF PUBLIC TREES AND SHRUBS:

- Permit required: No person, except the Lanesboro Public Utility Department or upon order of the City Council, shall plant, transplant, treat, remove, destroy, alter, or do surgery on any public tree or shrub within the City, or cause such acts to be done by others, without first obtaining a written permit for such work from the City Council as herein provided with the exception as provided in Section 3.
- Exemptions: No owner or tenant shall be required to have a permit to cultivate, fertilize, or water public trees or shrubs adjoining his property. The Lanesboro Public Utilities Department shall not be required to obtain a permit for purposes of line-clearing activities. The City Council may authorize any person to do any work or act described in subsection (1) of this section without written permit whenever it determines that such work or action will not be detrimental to the public interest and will be in accord with the spirit and other requirements of this ordinance.
- Requirements and Conditions of Permit: If the City Council determines that the proposed work or planting described in an application for permit is necessary and in accord with the purposes of this ordinance, taking into account the safety, health, and welfare of the public, location of utilities, public sidewalks, driveways, and street lights, general character of the area in which the tree shrub is located or proposed to be located, type of soil, characteristics and physiological needs of the species or variety of tree, the City Council may require that the permittee plant one or more trees or shrubs in place of the one removed, and no permittee under such a conditional permit may fail, refuse, or neglect to plant trees of the type, size, and in the location specified in his permit.
- Permits to Public Utilities: Whenever a permit is issued under this section to a public utility other than Lanesboro Public Utilities Department, to move, trim, prune, cut, disturb, alter, or do surgery on any public tree or shrub, the City Council may limit the work to be done to the actual necessities of the utility and may assign an inspector to supervise the work done under the provision of the permit.
- Tree Species: The City of Lanesboro promotes a diverse urban forest so as to minimize the spread of tree disease. To assist in meeting this goal, the City Council acting as the Tree

Board has listed specific trees for boulevard planting.

Section 5 HOUSE MOVING PERMITS: No person shall move any building, structure, or object exceeding 12 feet in height or width upon, over, or along any public right-of-way or other public place without first obtaining a written permit from the City Council, who may require the applicant to furnish a bond or certificate of insurance to cover the cost of repairing or replacing any public trees or shrubs which are injured as a result of the moving operations, specify the route to be taken, and impose any other conditions reasonably necessary for the protection of nearby public trees from injury. Permits issued under this section shall expire 30 days after date of issue.

Section 6 GENERAL TREE REGULATIONS:

- **Trees to be Kept Trimmed:** Trees and shrubs standing in or upon any private premises adjacent to any public street, right-of-way, sidewalk, park, playground, or other place shall be kept trimmed by the owner or owners of the premises upon or in front of which such trees or shrubs are standing so that the lowest branches projecting over the public street of right-of-way provide a clearance of 12 feet; and over all other public places of not less than 8 feet. The City Council may waive the provisions of this section for newly planted trees if it determines that they do not interfere with public travel, obstruct the light of any street light, or endanger public safety. Any tree or shrub not trimmed as herein provided is hereby declared to be a public nuisance.
- **Remove Dangerous Trees:** The forester is authorized and directed to summarily remove any tree or bough or branch of a tree standing on any private property and overhanging any public street, road, alley or sidewalk, when in his judgement the presence of such tree, bough or branch constitutes and imminent danger to persons or private or public property. The provisions of this section include those trees found on the private property side of sidewalks but may properly be construed as boulevard trees.
- **Obstruction of View at Intersections Prohibited:** Notwithstanding any other provision of this ordinance, no person shall maintain, plant, or permit to remain on any private or public premises situated at the intersection of two or more streets or alleys in the City any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle approaching such intersection to the extent that such operator is unable to observe other vehicles or pedestrians approaching or crossing said intersection. Any such hedge, tree, shrub, or growth is hereby declared to be a public nuisance found within a distance of thirty (30) feet from the curb line, measured from the point of the nearest intersecting curbs or curb lines.
- **Spacing:** All trees whatever species and size will be planted no closer together than 25 feet; except in special plantings designated and approved by the City Council. Trees shall not be planted closer than 10 feet from future or existing curb returns at intersections.
- **Sidewalks:** No person shall plant any tree or shrub in an area reserved for a sidewalk as defined by the City of Lanesboro. Where there is a sidewalk and permission from the City Council has been obtained to plant a tree within the sidewalk, any tree planted within the sidewalk must be planted utilizing tree grates. A sidewalk planting is subject to design details approved by the City Council.
- **Street Intersections and hydrants:** No canopy tree shall be planted closer than 25 feet from any street intersection, and no street tree shall be planted closer than 15 feet to any existing or planned fire hydrant.

- Driveways: No canopy trees shall be planted closer than 15 feet from any driveway.
- Distance from edge of street or sidewalk:
 - a. Where there is a sidewalk and boulevard is greater than 12 feet wide, deciduous canopy trees are permitted provided they are planted no closer than 6 feet from the edge of the street or from the back of the curb, and no closer than 3 feet from the edge of the sidewalk.
 - b. Where there is a sidewalk and the boulevard is between 4 and 12 feet wide, deciduous canopy trees are permitted provided they are planted in the middle of the boulevard.
 - c. Where there is a sidewalk and the boulevard is less than 4 feet wide, no deciduous canopy trees may be planted.
- Utilities: No canopy trees may be planted under or within 10 lateral feet of any overhead transmission or primary utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line, or other utility. All trees must be kept trimmed back to less than ten feet from any utility line.
- Tree Topping: It shall be unlawful as a normal practice for any person, firm or city department to top any street trees, park trees or other trees on public property.
- Pruning and Clearance:
 1. Every owner of any tree on private property or street trees, overhanging any street right-of-way within the city shall prune the branches so that the branches shall not obstruct the view of any street intersection and so that there shall be a clear space of 8 feet above the surface of the sidewalk and 10 feet above any street,
 2. The owners shall remove any tree or part thereof which are dead, diseased, and/or dangerous or remove any broken decayed limbs which constitute a menace to the safety of the public and to other trees within the city.
 3. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or which interferes with the visibility of any traffic control device or sign
- Maintenance and Removal:
 1. The City of Lanesboro shall have the right to plant, maintain and remove trees, plants and shrubs within the right-of-way lines of all streets, alleys, lanes or squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of public grounds.
 2. The city may cause or order to be removed, any tree or part thereof, which is in an unsafe condition or by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines or is affected by any injurious fungus, insect or other pest.
 3. The city shall have the right to remove any dead or diseased trees on private property within the city, when the tree constitutes a hazard to life, property, or disease, which constitutes a potential threat to other trees within the city.
 4. Provisions relating to the inspection and designation of a tree as a public nuisance, and providing for its removal are established in the City of Lanesboro Nuisance Ordinance.
 5. The City of Lanesboro staff will make every effort to notify property owners adjacent to the trees that are planned to be removed. The adjacent property owners may, at their own expense, request a second opinion as to the need for removal of the tree. The property owner must provide written documentation by a licensed and insured company that standard practice is tree maintenance proof as to why they feel the tree should not be removed. The final decision will be made by the Tree Board of the City of Lanesboro.

- Stumps: All stumps of street and park trees shall be removed 6 inches below the surface of the ground so that the top of the stump will not project above the surface of the ground.

Section 7 AUTHORITY OF CITY COUNCIL TO PRESERVE OR REMOVE PUBLIC TREES AND SHRUBS, ABATE PUBLIC NUISANCES AND SET RULES AND REGULATIONS:

- Authority over Public Trees and Shrubs. The City Council shall have the authority, but not the obligation to plant, trim, spare, preserve, renew, and remove public trees and shrubs or cause such work to be done as may be necessary to insure the safety or preserve the symmetry and beauty of public streets or grounds and to protect public sidewalks, streets, and utilities from damage or injury, or to control the spread of disease.
- In order to secure uniform and continuous planting of trees along such streets and avenues as may be designated by the City Council, may plant trees to fill in blank planting areas.
- The City Council can require any new development within or connected to the City to provide buffer plantings along adjacent property lines. These buffer plantings should include a mixture of, Canopy Trees, Under Story Trees, and shrubs. These buffer plantings shall be presented on any master plan of said new development, along with the locations of any existing trees. The density of these plantings will be determined on a case by case basis as it related to existing growth.
- In order to secure uniform and continuous planting of trees along streets and avenues within new developments within the City, the Council shall order in plantings after said development is 80% occupied and the cost of such plantings may be paid in any of the following ways (or combinations of ways as determined by the Council):
 - Authority over Private Trees and Shrubs
 - a. Notice to Abate Nuisances. Whenever the City Council shall find on examination that any tree or shrub or part thereof growing or located upon part thereof growing or located upon private premises is a public nuisance as defined in this ordinance, or which endangers the life, health, safety, or property of the public, or which is infested with parasites or insect pests or disease which may spread or scatter to other trees and shrubs, they shall notify the owner or his agent in writing or by publication in the City's official paper that the nuisance must be sprayed, removed, or otherwise abated as directed in the notice within the time specified, which shall not be less than ten (10) days unless the City Council shall determine that immediate correction or removal is necessary for public safety.
 - b. Abatement by City. If the owner of such premises of his agent shall refuse or neglect to comply with the notice within the time specified, the City Council shall cause the nuisance to be sprayed, removed, or otherwise abated and any report the expense thereof to the City Clerk who may enter it as an assessment against the property upon which the tree or shrub is located.
- Authority is Set Rules and Regulations, Agents. The City Council shall adopt rules and regulations to carry out the purposes of this ordinance. Such rules and regulations as adopted shall be put into writing and made available for public distribution at the Office of the City Council. Further, a copy of these rules and regulations shall be attached to each commercial license and license application form. The City Council shall have the power to designate agents to carry out and enforce any provisions of this ordinance.

Section 8 INTERFERENCE WITH CITY COUNCIL PROHIBITED: No person shall prevent,

delay, or interfere with the City Council or its agents, employees, or servants while they are engaged in carrying out any work or activities authorized by this ordinance.

Section 9 VIOLATIONS: Any person who violates any provision of this ordinance or who fails to comply with any notice issued pursuant to provisions of the ordinance shall be guilty of a misdemeanor. If, as the result of the violation of any provision of this ordinance, the injury, mutilation, or death of a public tree is caused, the cost of repair or replacement of such tree may be ordered to be borne by the party in violation. The replacement value of tree shall be determined in accordance with the latest revision of the International Society of Arboricultural/Council of landscape Appraiser's system.

Section 10 SEPARABILITY: If any provision of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not invalidate any other provision of this ordinance. The City Council of the City of Lanesboro hereby declares that they would have adopted each and every provision of this ordinance separately regardless of the possible invalidity of any part thereof.

Section 11 CONFLICTS: Any ordinance or part thereof heretofore adopted which in any manner conflicts with any provision of this ordinance is hereby repealed.

Section 12 EFFECTIVE DATE: This revision of this ordinance shall take effect after its passage and publication as provided by law.

Approved June 13th, 2016

Master Tree List

Deciduous Trees			
Common Name	Botanical Name	Boulevard Allowable	Other
American Beech	<i>Fagus grandifolia</i>		X
American Mountain Ash	<i>Sorbus Americana</i>		X
America Plum	<i>Punus Americana</i>		X
American Yellowwood	<i>Cladrastis kentukea</i>		X
Beech	<i>Carpinus caroliniana</i>	X	X
	<i>Fagus sylvatica</i> "Red Obelisk"	X	X
Bigtooth Aspen	<i>Populus grandidentata</i>		X
Bitternut Hickory	<i>Carya cordiformis</i>		X
Black Cherry	<i>Prunus serotina</i>		X
Blue Beech	<i>Carpinus caroliniana</i>		X
Buckeye	<i>Aesculus sylvatica</i> "Autumn Splendor"	X	X
	<i>Aesculus glabra</i>	X	X
Bur Oak	<i>Quercus macrocarpa</i>		X
Butternut	<i>Juglans cinerea</i>		X
Catalpa	<i>Catalpa speciose</i>	X	X

Coffee Tree	<i>Gymnocladus dioicus</i> “Espresso”	X	X
	<i>Gymnocladus dioicus</i> “Stately Manor”	X	X
Common Chokecherry	<i>Prunus virginiana</i>		X
Crabapple spp.	<i>Malta spp</i>		X
Eastern Redbud	<i>Cercis canadensis</i>		X
Elm	<i>Ulmus japonica x wilsoniana</i> “Morton”	X	X
	<i>Ulmus x</i> “Cathedral”	X	X
	<i>Ulmus x</i> “Patriot”	X	X
	<i>Ulmus Americana</i> “Princeton”	X	X
Ginkgo	<i>Ginkgo biloba</i>	X	X
Hackberry	<i>Celtis occidentalis</i>	X	X
Hawthorn spp.	<i>Crataegus spp.</i>		X
Honeylocust	<i>Celtis occidentalis</i>	X	X
Ironwood	<i>Ostrya virginiana</i>		X
Linden	<i>Tilia Americana</i>	X	X
	<i>Tilia cordata</i>	X	X
Magnolia spp.	<i>Magnolia spp.</i>		X
Maple	<i>Acer x freemanii</i>	X	X
	<i>Acer platanoides</i>	X	X
	<i>Acer rubrum</i>	X	X
Oak	<i>Quercus ellipsoidalis</i>	X	X
Red Oak Cultivars	<i>Quercus rubra</i>	X	X
Paper Birch	<i>Betula papyrifera</i>		X
Quaking Aspen	<i>Populus tremuloides</i>		X
Red Mulberry	<i>Monts rubra</i>		X
River Birch	<i>Betula nigra</i>		X
Robinia	<i>Robinia pseudoacacia</i>	X	X
Serviceberry	<i>Amelanchier spp.</i>		X
Showy Mountain Ash	<i>Sorbus decora</i>		X
Swamp White Oak	<i>Quercus bicolor</i>		X
Tulip tree	<i>Liriodendron tulipifera</i>		X
White Oak	<i>Quercus alba</i>		X
Coniferous Trees			
Balsam Fir	<i>Abies balsatnea</i>		X
Colorado Spruce	<i>Picea pungens</i>		X
Black Hills Spruce	<i>Picea glauca var. densata</i>		X
Eastern Hemlock	<i>Tsuga occidentalis</i>		X
Eastern Red Cedar	<i>Juniperus virginiana</i>		X
Eastern White Pine	<i>Pinus stro bus</i>		X
Douglas Fir	<i>Pseudotsuga tnenziesii</i>		X
Fraser Fir	<i>Abies fraseri</i>		X
Jack Pine	<i>Pinus banksiana</i>		X
Northern White Cedar	<i>Thuja occidentalis</i>		X

Norway Spruce	<i>Picea abies</i>		X
Scots Pine	<i>Pinits sylvestris</i>		X
Tamarack	<i>Larix laricina</i>		X
White fir	<i>Abies concolor</i>		X
White Spruce	<i>Picea glauca</i>		X

NUISANCES

' 92.15 PUBLIC NUISANCE.

A person must not act, or fail to act in a manner that is or causes a public nuisance. For purpose of this chapter, a person who does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

- (A) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;
- (B) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or
- (C) Does any other act or omission declared by law or " 92.16, 92.17 or 92.18, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.

Penalty, see ' 92.99

' 92.16 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

- (A) Exposed accumulation of decayed or unwholesome food or vegetable matter;
- (B) All diseased animals running at large;
- (C) All ponds or pools of stagnant water;
- (D) Carcasses of animals not buried or destroyed within 24 hours after death;
- (E) Accumulations of manure, refuse or other debris;
- (F) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- (G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage,

industrial waste or other substances;

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

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

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

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

Penalty, see ' 92.99

92.161 AN ORDINANCE PROHIBITING LITTERING IN THE CITY OF LANESBORO AND PROHIBITING THE POSSESSION AND USE OF GLASS CONTAINERS ON PUBLIC WATERS IN THE CITY OF LANESBORO

Section 1:

Purpose and Intent: The purpose and intent of this ordinance is to protect the public health, safety, environment, and general welfare, through the regulation and prevention of litter and the carrying or depositing of glass containers on public waters in the City of Lanesboro. The objectives of this ordinance are:

1. Provide for uniform prohibition throughout the City of Lanesboro of any and all littering on public or private property; and prohibiting the carrying and possession of glass beverage containers or glass receptacles on that portion of the Root River in the City of Lanesboro,
2. Prevent the desecration of the beauty and quality of life of the City of Lanesboro and the Root River, preventing harm to public health, safety, environment, and general welfare including the degradation of water and aquatic resources caused by litter and the depositing of glass and broken glass in the Root River.

Applicability: This ordinance shall apply to all public and private property within the City of Lanesboro, including that portion of Root River within the City limits of the City of Lanesboro.

Compatibility with Other Regulations: This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law, to the extent any such is more restrictive or onerous than this ordinance.

Severability: If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

Section 2 Definitions:

"Litter" means any organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls, debris, metal, plastic and glass containers, broken glass, or intentionally or unintentionally discarded materials of every kind and description.

"Public or Private Property." Means the right-of-way of any road or highway; any body of water or watercourse or shores or beaches thereof; any park, playground, building, refuge or conservation recreation area; timberlands or force, and residential, commercial, industrial or farm properties.

Section 3 Prohibition against Littering on Public or Private Property or Public Waters:

It shall be unlawful for any person or persons to dump, deposit, throw, leave or to cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property in this City of Lanesboro, or any public waters in this City of Lanesboro unless:

1. The property is designated by the state or any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to use such property;
2. The litter is placed in a receptacle or container installed on such property; or,
3. The person is the owner or tenant in lawful possession of such property, has first obtained consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant, all in a manner consistent with the public welfare.

Section 4 Violations, Enforcement and Penalties:

Violations: It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance may be subject to enforcement actions outlined in this section or may be restrained by injunction or otherwise sentenced in the manner provided by law.

Evidence:

1. Whenever litter is shown, deposited, dropped her dump from any motor vehicle, boat, airplane, or other conveyance in violation of this ordinance, it shall be prima facie evidence that the operator of the conveyance has violated this ordinance.
2. Except as provided in (1), whenever any litter which is dumped, deposited, thrown or left on public or private property, in violation of this ordinance is discovered to contain any article or articles, including but not limited to litters, bills, publications or other writing which display the name of the person thereon in such manner as to indicate that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this ordinance.

Penalties:

Any person who violates this ordinance shall be guilty of a violation and, upon conviction thereof, shall be punished as follows

1. By a fine of not less than \$300.
2. In addition to the fine set out in (1) above, the violator shall reimburse the City of Lanesboro for the reasonable cost of removing the litter when the litter is ordered removed by the City of Lanesboro; and
3. In the sound discretion of the court, the person may be directed to pick up and remove from any public street or highway or public right-of-way for a distance not to exceed one mile any litter her or she has deposited, and any and all that are deposited thereon by anyone else prior to the date of execution of sentence; or
4. In the sound discretion of the court, the person may be directed to pick up and remove any and all litter from any public property, private right-of-way, or with prior permission of the legal owner or tenant in lawful possession of such property, any private property upon which it can be established by competent evidence that he or she has placed litter. Pickup and removal shall include any and all litter deposited thereon by anyone prior to the date of execution of sentence.

Enforcement:

All enforcement agencies, officers and officials of the State of Minnesota, or any political

subdivision thereof, or any enforcement agency, officer or any official of any commission of the State or any political subdivision thereof, are hereby authorized, empowered and directed to enforce compliance with this ordinance.

' 92.17 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

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

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

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

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

(D) All places where intoxicating or 3.2 malt liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating or 3.2 malt liquor, or where intoxicating or 3.2 malt liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place.

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

Penalty, see ' 92.99

' 92.18 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

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

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

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

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

(D) Any person participating in any party or other gathering that causes the unreasonable disturbing of the peace, quiet, or repose of another person in such a manner as to be plainly audible at the boundary of the real property, building, structure, or residence from which the noise originates, or at a distance of 50 feet from the source of the noise. Plainly audible is defined as sound that can be detected by a person using their unaided hearing faculties.

- (E) All unnecessary and annoying vibrations;
- (F) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under conditions as are permitted by this code or other applicable law;
- (G) Radio aerials or television antennae erected or maintained in a dangerous manner;
- (H) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;
- (I) All hanging signs, awnings and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
- (J) The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- (K) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;
- (L) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- (M) Waste water cast upon or permitted to flow upon streets or other public properties;
- (N) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material in a manner conducive to the harboring of rats, mice, snakes or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation;
- (O) Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- (P) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash of other materials;
- (Q) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;
- (R) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- (S) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one (1) footcandle when abutting any commercial or industrial parcel.

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

(U) (1) *Noises prohibited.*

(a) 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 in such a manner as to be plainly audible at the boundary of the real property, building, structure, or residence from which the noise originates, or at a distance of 50 feet from the source of the noise. (this general prohibition is not limited by any specific restrictions provided in this ordinance). Plainly audible is defined as sound that can be detected by a person using their unaided hearing faculties.

(b) All obnoxious noises, motor vehicle or otherwise, in violation of Minn. Rules. Ch. 7030, as they may be amended from time to time, are hereby incorporated into this ordinance by reference.

(c) The use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.

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

(e) Any loud or excessive noise in the loading, unloading, or unpacking of any vehicle.

(f) The use or operation, or permitting the use or operation, of any radio receiving set, television set, musical instrument, music device, paging system, machine, or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet, and comfort of any person nearby.

(2) *Hourly restriction of certain operations.*

(a) *Domestic power equipment.* No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

(b) *Refuse hauling.* No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(c) *Construction activities.* No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except

between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(d) *Radios, music devices, paging systems, and the like.* The operation of any device referred to in subdivision (1) (f) between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.

(3) *Noise impact statements.* The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation or alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. It shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

Penalty, see ' 92.99

92.182 MINORS SIXTEEN YEARS OF AGE AND UNDER ON PUBLIC STREETS, ALLEYS, OR SIDEWALKS

A. LOITERING OF MINORS_SIXTEEN YEARS OF AGE OR UNDER, PROHIBITED. It shall be unlawful. for any minor sixteen years of age or under to be in or upon the public streets, alleys, parks, or sidewalks in the City of Lanesboro, between the hours of 10:30 o'clock P.M. and 5:00 o'clock A.M., unless it be that part of said street, sidewalk or alley contiguous to the premises where such person. resides, or unless such minor, sixteen years of age or under, is accompanied by his or her - parent, guardian, or other adult person who has the care, custody and control of such minor.

B. PENALTIES FOR VIOLATIONS. Any minor sixteen years of age or under who violates any of the provisions of Section 1 of this Ordinance shall be dealt with in accordance with juvenile court law and procedure.

' 92.19 NUISANCE PARKING AND STORAGE.

(A) *Declaration of nuisance.* The outside parking and storage on residentially-zoned property of large numbers of vehicles and vehicles, materials, supplies or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it (a) obstructs views on streets and private property, (b) creates cluttered and otherwise unsightly areas, (c) prevents the full use of residential streets for residential parking, (d) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (e) decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood, and (f) otherwise adversely affects property values and neighborhood

patterns.

(B) *Unlawful parking and storage.*

(1) A person must not place, store, or allow the placement or storage of ice fishing houses, skateboard ramps, playhouses or other similar non-permanent structures outside continuously for longer than 24 hours in the front-yard area of residential property unless more than 100 feet back from the front property line.

(2) A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in connection with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.

(3) A person must not cause, undertake, permit or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements:

(a) No more than four vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. This maximum number does not include vehicles of occasional guests who do not reside on the property.

(b) Vehicles that are parked or stored outside in the front-yard area must be on a paved or graveled parking surface or driveway area.

(c) Vehicles, watercraft and other articles 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 will be considered residents on the property.

Penalty, see ' 92.99

' 92.20 INOPERABLE MOTOR VEHICLES.

(A) *Declaration of a nuisance.* Any motor vehicles described in this section shall constitute a hazard to the health and welfare of the residents of the community as such vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin, and present physical danger to the safety and well-being of children and citizens. Motor vehicles also contain various fluids which, if released into the environment, can and do cause significant health risks to the community.

(B) It shall be unlawful to keep, park, store or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operation with the state, pursuant to M.S. _ 168.B,11, Subd. 3, as it may be amended from time to time.

(C) This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road or alley, and which does not foster complaint from a resident of the city. A privacy fence is permissible.

Penalty, see ' 92.99

' 92.21 BUILDING MAINTENANCE AND APPEARANCE.

(A) *Declaration of nuisance.* Buildings, fences and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood 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.

(B) *Standards.* A building, fence or other structure is a public nuisance if it does not comply with the following requirements:

(1) No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.

(2) Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:

(a) Any one wall or other flat surface; or

(b) All door and window moldings, eaves, gutters, and similar projections on any one side or surface.

(3) No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.

(4) Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.

(5) Cornices, moldings, lintels, sills, bay or dormer windows and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.

(6) Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.

(7) Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.

(8) Foundations must be structurally sound and in good repair.

Penalty, see ' 92.99

' 92.22 DUTIES OF CITY OFFICERS.

For purposes of " 92.22 and 92.23, the Police Department, or Sheriff or person designated by the City Council under ' 10.20, if the city has at the time no Police Department, may enforce the provisions relating to nuisances. Any peace officer or designated person shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no police officer or designated person shall enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing the entry, as provided in ' 10.20.

' 92.23 ABATEMENT.

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

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

(1) *Notice of violation.* Written notice of violation shall be served by a peace officer or designated person on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

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

unknown, or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.

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

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

(C) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer or designated person shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer or designated person shall notify in writing the occupant or owner of the premises of the nature of the nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in subdivision (A) of this section and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

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

(E) *Unlawful parties or gatherings.* When law enforcement determines that a gathering is creating such a noise disturbance as prohibited under Section Four, Subdivision D, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disburse immediately. No person shall refuse to leave after being ordered to do so by law enforcement. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

(F) *Judicial remedy.* Nothing in this section shall prevent the city from seeking a judicial remedy when no other adequate administrative remedy exists.

Penalty, see ' 92.99

' 92.24 RECOVERY OF COST.

(A) *Personal liability.* The owner of premises on which a nuisance has been abated by the city or a person who has caused a public nuisance on a property not owned by that person shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Administrator/Clerk or other

official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Administrator/Clerk.

(B) *Assessment.* After notice and hearing as provided in M.S. ' 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Administrator/Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. ' 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Penalty, see ' 92.99

WEEDS

' 92.35 SHORT TITLE.

This subchapter shall be cited as the Weed Ordinance.

' 92.36 JURISDICTION.

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

' 92.37 DEFINITIONS; EXCLUSIONS.

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

DESTRUCTION ORDER. The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the ordinance violation that shall conform to M.S. ' 18.83, Subd. 2, as it may be amended from time to time.

MEADOW VEGETATION. Grasses and flowering broad-leaf plants that are native to, or adapted to, the state of Minnesota, and that are commonly found in meadow and prairie plant communities, except weeds as defined herein.

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

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

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

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

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

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

(e) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants;

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

(g) Any other weed designated by M.S. ' 18.77, Subd. 8, as it may be amended from time to time, as noxious.

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

' 92.38 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.

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

(B) These provisions shall not apply to an area established with meadow vegetation if:

(1) The prior vegetation is eliminated and the meadow vegetation is planted through transplanting or seed by human or mechanical means; and

(2) A sign is posted on the property in a location likely to be seen by the public, advising that a meadow or prairie is being established. This sign must be no smaller than ten inches square, no larger than one square foot, and no higher than three feet tall.

Penalty, see ' 92.99

' 92.39 FILING COMPLAINT.

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

' 92.40 NOTICE OF VIOLATIONS.

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

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

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

' 92.41 APPEALS.

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

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

' 92.42 ABATEMENT BY CITY.

In the event that the property owner shall fail to comply with the Destruction Order within seven regular business days and has not filed a notice within 48 hours to the City Administrator/Clerk of an intent to appeal, the City Council may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means. No person

shall enter the property to abate the nuisance, except with the permission of the owner, resident or other person in control of the property or has obtained a warrant issued by a court of competent jurisdiction.

' 92.43 LIABILITY.

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

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

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

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

OPEN BURNING

' 92.59 RULES AND LAWS ADOPTED BY REFERENCE.

The provisions of M.S. Ch. 88, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, permits, and all other matters pertaining to open burning are hereby adopted by reference and are made a part of this ordinance as if set out in full. It is the intention of the City Council that all future amendments of M.S. Ch. 88, are hereby adopted by reference as if they had been in existence at the time this ordinance was adopted.

' 92.60 DEFINITIONS.

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

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

OPEN BURNING. The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a recreational

fire as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as open burning.

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

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

RUNNING FIRE. An attended fire allowed to spread through surface vegetative matter under controlled conditions for the purpose of vegetative management, forest management, game habitat management, or agricultural improvement.

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.

VEGETATIVE MATERIALS. Dry leaves, dry grass clippings, twigs, branches, tree limbs, untreated or unpainted wood that contains no glues or resins, and other similar materials. Paper and cardboard are not considered vegetative materials.

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

' 92.61 PROHIBITED MATERIALS.

(A) No person shall conduct, cause or permit open burning of oils, petroleum fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as but not limited to: 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 materials from salvage operations; solid waste generated from an industrial or manufacturing process; materials 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 ' 92.99

' 92.62 PERMIT REQUIRED FOR OPEN BURNING.

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in ' 92.60.

Penalty, see ' 92.99

' 92.63 PURPOSES ALLOWED FOR OPEN BURNING.

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

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

(2) Ground thawing for utility repair and construction.

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

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

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

(6) Running fires.

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

(C) Permits for the operation of permanent tree and brush burning sites may only be issued by the Minnesota Department of Natural Resources (DNR).

Penalty, see ' 92.99

' 92.64 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.

(A) Open burning permits shall be obtained by making application on a form prescribed by the Department of Natural Resources (DNR) and adopted by the Fire Department. The permit application shall be presented to the Fire Chief, 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 ' 30.11, as it may be amended from time to time.

Penalty, see ' 92.99

' 92.65 PERMIT PROCESS FOR OPEN BURNING.

(A) If the established criteria for the issuance of an open burning permit are not met, the application will be denied.

(B) Upon receipt of the completed open burning permit application and permit fee, the Fire Chief, Fire Marshal, or Assistant Fire Marshals, if he or she reasonably believes necessary, may require 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.

' 92.66 PERMIT HOLDER RESPONSIBILITY.

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

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

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

Penalty, see ' 92.99

' 92.67 REVOCATION OF OPEN BURNING PERMIT.

An 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 ' 92.99

' 92.68 DENIAL OF OPEN BURNING PERMIT.

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

' 92.69 BURNING BAN OR AIR QUALITY ALERT.

(A) The designated fire official is authorized to determine when conditions make open burning potentially hazardous and declare a burning ban within the city.

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

Penalty, see ' 92.99

' 92.70 RESERVED.

' 92.71 EXTERNAL SOLID FUEL-FIRED HEATING DEVICES (OUTDOOR WOOD BURNING STOVES).

(A) *Definitions.*

(1) ***EXTERNAL SOLID FUEL-FIRED HEATING DEVICE.*** A device designed for external solid fuel combustion so that usable heat is derived for the interior of a building, and includes solid fuel-fired stoves, solid fuel-fired cooking stoves, and combination fuel furnaces or boiler which burn solid fuel. Solid fuel-fired heating devices do not include natural gas-fired fireplace logs or wood-burning fireplaces or wood stoves in the interior of a dwelling.

(2) **PERSON.** An individual, partnership, corporation, company or other association.

(3) **STACKS OR CHIMNEYS.** Any vertical structure incorporated into a building and enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device, especially, the part of such a structure extending above a roof.

(B) *Requirements for operation.*

(1) Any dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities, or any use of an external solid fuel-fired heating device to burn solid fuels other than those solid fuels for which the external solid fuel-fired heating device was designed, is declared a public nuisance.

(2) No person may install, use or operate an external solid fuel fired heating device on a lot less than four acres in size.

(3) All stacks or chimneys must be so constructed to withstand high winds or other related elements and in accordance to the specifications of the manufacturer of the external solid fuel-fired heating device. The stack height shall be a minimum of 25 feet above ground level, but shall also extend at least as high as the height of the roofs of residents within 500 feet. All stacks or chimneys must be of masonry or insulated metal with a minimum six-inch flue.

(4) All external solid fuel-fired heating devices must be setback a minimum of 50 feet from all property lines.

(5) All external solid fuel-fired heating devices must be setback a minimum of ten feet from any principal or accessory structure.

(C) *Fuels.*

(1) Only fuels designed for burning in an external solid fuel-fired heating device may be burned. No garbage may be burned in an external solid fuel-fired heating device.

(2) The only fuel permitted to be burned is untreated fuel. Wood may not be treated, processed, stained, finished or painted - specifically prohibited woods include plywood, particle board and similar products. Other fuels, such as corn, shall not contain any additives, treatments or chemicals. No petroleum products or processed materials of any kind may be burned.

' 92.99 PENALTY.

Violation of any provision of this chapter, including maintaining a nuisance after being notified in writing by first class mail of a violation of any provision of this chapter, shall be a misdemeanor and punished as provided in ' 10.99