

## **CHAPTER 95: HEALTH AND SAFETY; NUISANCES**

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### **§ 95.01 OBSTRUCTION.**

It is unlawful for any person to oppose or obstruct any health officer or physician charged with the enforcement of health laws, in performing any legal duty, or obstruct or hinder the entry of the health officers upon premises or into buildings or other places where contagion, infection, filth, or other source or cause of preventable disease exists or is reasonable suspected to exist. (Prior Code, § 9.02) Penalty, see § 10.99

### **§ 95.02 TOILET INSTALLATION REQUIRED.**

It is the duty of every owner or occupant of any property within the city, having a dwelling house or business building situated thereon, which property is within 500 feet of any municipal water and sewer mains, to install a toilet in the dwelling or business building and make connection thereof with the water and sewer mains. Whenever the non-compliance of the owner or occupant of the property is reported to the Building Official, he or she shall forthwith make the investigation as he or she deems necessary or proper and report his or her findings to the Council. If the Building Official or designee finds and reports that in his or her opinion the lack of toilet facilities is an unhealthful or unsanitary condition, the city shall forthwith serve written notice upon the owner or occupant requiring the installation of toilet facilities upon premises described in the notice, and connection thereof with the sewer and water mains, all of which shall be done within 30 days after service of the written notice. Whenever any owner or occupant shall default in compliance with the written notice, the Council may by resolution direct that a toilet be installed and connection made with the water and sewer mains and that the actual cost of the installation be paid in the first instance out of the General Revenue Fund, and assessed against the property so benefitted. After the installation and connection is completed by order of the Council, the city shall serve a written notice of intention to make an assessment therefore. If the assessment is not paid within 10 days the city shall certify the amount thereof to the County Auditor in the same manner as with other special assessments, provided that the Council may by resolution provide that the assessment be spread over a term of 3 years upon written request by the owner of the property. (Prior Code, § 9.08) Penalty, see § 10.99

### **§ 95.03 DISPLAY OF ADDRESS IDENTIFICATION NUMBERS.**

(A) *Purpose.* It is determined by the City Council that the general welfare and public safety will be served by requiring assigned address identification numbers to be placed on all residential, commercial, and industrial buildings in the city.

(B) *Requirements.* The owners of all residential, commercial, or industrial buildings in the city shall affix the assigned address identification numbers to the front of the building. When a building is occupied by more than 1 dwelling unit, business, or industry, each entrance shall display the address identification number.

(C) *Placement.* All assigned address identification numbers shall be affixed to the building so as to be clearly visible at all times from the public street in front of the building when traveling in either direction.

(D) *Specifications.* Address identification numbers shall be at least 4 inches high, at least 1/2-inch wide and in Arabic numeral form. The color of the address identification numbers shall contrast with the color of the principal building.

(E) *Compliance.* All buildings existing on the effective date of this section shall be in compliance by 7-1-1989. All buildings presently under construction or constructed after the effective date of this section shall comply with this section before a certificate of occupancy is issued by the city.

(F) *Violations.* No property owner will be subject to prosecution for violating this section until after 2 written warnings, at least 1 week apart, have been sent to the owner by the city. Thereafter, any violations of this section shall be a petty misdemeanor. (Prior Code, § 9.33) Penalty, see § 10.99

## **§ 95.04 TREE DISEASES AND TREE THREATENING PESTS.**

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

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

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

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

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

(5) Any other shade tree with an epidemic pest or disease. Pests include Emerald Ash Borer (*Agrilus Planipennix*) or other insect or microorganism that is harmful to trees; and

(6) All wood from shade trees with an epidemic pest, such as Emerald Ash Borer, shall be stored and/or moved only in accordance with state and federal guidelines.

(B) *Abatement of nuisance.* It is unlawful for any person to permit any public nuisance as defined in division (A) of this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in § 95.24.

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

(D) *Unpaid charges.* On or before September 1 of each year, the City Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges or any portion thereof against the property involved as a special assessment as authorized by M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes. (Am. Ord. 2010-07, 3rd Series, passed 4-5-2010) Penalty, see § 10.99

## **§ 95.06 ALARM SYSTEM PERMIT.**

(A) *Purpose.* The City of Hastings supports the use of alarm systems to protect life and property. It is the purpose of this ordinance to provide incentive to owners of alarm systems to have properly working systems to effectively perform as intended; to reduce the number of false alarms which result in city services being used to respond to unnecessary alarms; and to provide added benefit to property owners by maintaining up to date information relating to alarm systems.

(B) *Definitions.* For the purposes of this section, the following words and phrases shall have the meanings set forth in this subsection except where the context clearly indicates that a different meaning is intended:

**ALARM COMPANY.** The business of any individual, partnership, corporation, or other entity involved in the selling, leasing, maintaining, servicing; repairing, altering, replacing, moving, monitoring, or installing any alarm system at an alarm site located within the city or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved, or installed any alarm system in or on any building, structure, facility, or other alarm site located within the city.

**ALARM REGISTRATION PERMIT.** A permit issued by the Hastings Police Department to an alarm system owner as defined in this ordinance.

**ALARM SYSTEM.** Any assembly of equipment devices, including but not limited to systems interconnected with a radio frequency method such as cellular or private radio signal, arranged to emit or transmit a remote or local audible, visual or electronic signal, indicating an alarm condition to which the police or fire-fighting personnel are intended to respond, including but not limited to, burglary, holdup, panic, and fire alarm systems.

**ALARM SYSTEM USER.** A person, employee, firm, partnership, association, corporation, company, or other entity, which uses or is in control of an alarm system at an alarm site, regardless of whether the user owns or leases the alarm system.

**ANNUNCIATOR.** The instrumentality in or on the premises of an alarm system through which audible, visual and/or electric signals are communicated to any person.

**AUTOMATIC DIALING DEVICE.** A device which utilizes the public primary telephone trunk lines or other dedicated lines to select a predetermined or assigned telephone number and which

transmits, by a prerecorded voice message or code signal, to the Hastings Police Department or Hastings Fire Department, a message that an incident of the kind noted in the definition of "alarm system" has occurred.

**DESIGNATED CONTACT PERSON.** A person designated by the alarm system user as contact person for the purpose of alarm-related matters and who can provide for twenty four-hours-per-day availability and has the ability to control the alarm system.

**FALSE ALARM,** The activation of an alarm system which is intended to summon a police response or fire response by the alarm system, through intentional misuse; mechanical failure *or* malfunction; improper installation, maintenance or supervision; or negligence. The term does not include alarms caused by force majeure, or other conditions which are clearly beyond the control of the alarm user. Alarm systems must be equipped with a working battery backup system that will power the system in the event of a power outage. Alarms caused by a power outage lasting long enough to exhaust the battery back up will be reviewed on a case by case basis.

*(C) Alarm system registration.*

(1) *Permit required.* term. Upon the effective date of this section, every alarm system user shall register each alarm system with the City of Hastings. Upon proper registration, an alarm registration permit will be issued which shall be valid for a one (1) year period and which will expire on December 31 annually provided a new permit issued on or after July 1 of any year shall be valid for the remainder of the current year plus the following year and shall expire on December 31 of the following year. Any alarm system user requesting renewal of a permit must apply for renewal at least thirty (30) days before the existing alarm permit expires.

*(2) Permit; exemption.*

(a) *Alarm registration; renewal.* Alarm system users operating alarm systems existing on the effective date of this section shall obtain an alarm registration permit within thirty (30) days after the effective date of this section. Alarm system users operating newly installed alarm systems shall obtain an alarm registration permit within thirty (30) days after the new alarm system is operational. Alarm system users more than sixty (60) days delinquent in renewing an existing alarm registration permit, and alarm system users more than ninety (90) days delinquent in obtaining a new alarm registration permit shall be charged and shall pay a late fee as set by ordinance,

(b) *Exemption.* An alarm system user which is a political subdivision of the federal or state government, including the County, City and school districts, shall not be subject to the provisions of this ordinance.

(3) *Application; requirements,* Any alarm system user registering an alarm system shall complete a registration application form which shall include, at a minimum, the following

information:

- (a) Accurate and complete contact information for the alarm system user(s), designated contact person(s), and designated alarm company(ies), including names, addresses, and phone numbers;
- (b) The physical address and location within the building where the alarm system is installed and maintained;
- (c) The type and brand name of the alarm system installed and/or used;

(4) *Registration and issuance of permit.* Upon its receipt of a complete application and determination that all requirements of this section are met, the Hastings Police Department will issue an alarm registration permit to the alarm system user.

(5) *Denial of registration permit.* In the event an application for grant, issuance or renewal does not meet all the requirements of this section, the alarm registration permit shall not be issued. An alarm system user that is denied a permit may appeal the decision to the Board of Adjustment and Appeals as provided in § 30.02(C) of the City Code. The appeal must be in writing, must specify the grounds for the appeal, and must be submitted to the city clerk within ten business days of the decision that is the basis of the appeal.

(6) *Alarm registration permit to be displayed.* The alarm registration permit shall be conspicuously displayed upon the premises where the alarm system is located, and readily visible from the exterior thereof.

(D) *Public nuisance; false alarms; operating without a permit; penalty.*

(1) *Public nuisance.* It is hereby deemed to be a public nuisance for any alarm system user to maintain or have actual physical control over any alarm system that:

- (a) Emits, by an annunciator, an audible or visual alarm system signal with more than twenty (20) minutes of continuous duration;
- (b) Emits, through the reactivation of an annunciator of an alarm system, an audible or visual signal which occurs more than twice in a one-hour period; or
- (c) Signals a false alarm.

(2) *False alarms; fee schedule.* An alarm system user operating an alarm system in violation of Subsections D(1)(a) or (b) by permitting a public nuisance shall immediately modify the alarm system components to abate the public nuisance. Any alarm system user found to be in violation of Subsection D(1)(c) by permitting a public nuisance shall be issued a warning for the first two (2) of such violations thereof within any calendar year. For each false alarm in excess of two (2) per calendar year, a fee shall be imposed on the alarm system user and immediately paid by the alarm system user to the City of Hastings. The fee shall be set by ordinance. Any fees not paid by the alarm system user within 30 days after a notice of delinquency is sent to the alarm system user may be certified to the county auditor in the county in which the alarm system user owns real property as provided in Minnesota Statutes §

366.012, or any amendments thereto, and the fees shall then be collected together with property taxes levied against the property owned by the alarm system user.

(3) *Use of alarm system without an alarm registration permit; penalty.* It shall be unlawful for an alarm system user to operate an alarm system without a current alarm registration permit issued for the alarm system under this section. When the Police or Fire Department respond to an alarm signal from an alarm system at a location for which there is no current alarm registration permit issued by the Police Department, the Hastings Police or Fire Department may issue a citation to the alarm system user for violation of this section. Alarm systems users who are more than sixty (60) days delinquent in renewing their alarm system registration permit shall be considered to be using an alarm system without an alarm system registration permit in violation of this section. Any person or responsible party who violates any provision of this ordinance is subject to the penalty as provided under § 10.99 of the City Code. Ord. 2011-6, 3<sup>rd</sup> Series, passed 4-18-11

## **§ 95.20 PUBLIC NUISANCE.**

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

- (A) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;
- (B) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or
- (C) Is guilty of any other act or omission declared by law or §§ 95.20, 95.21, or 95.22, or any other part of this code to be a public nuisance and for which no sentence is specifically provided. Penalty, see § 10.99

## **§ 95.21 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 § 10.99

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

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

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

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

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

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

(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 § 10.99

## **§ 95.23 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 48 hours after the snow or other precipitation causing the condition has ceased to fall;( 2011-04, 3<sup>rd</sup> Series, passed 2-7-11)



(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) 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;

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

(F) 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;

(G) 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;

(H) 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;

(I) Any barbed wire fence less than 6 feet above the ground and within 3 feet of a public sidewalk or way;

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

(K) Waste water cast upon or permitted to flow upon streets or other public properties;

(L) 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;

(M) 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;

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

(O) 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;

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

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

(R) (1) *Prohibited Noises.*

(a) *General Prohibition.* No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of this section. All noises in violation of the Minnesota Pollution Control Agency Rules, Chapter 7030, as they may be amended from time to time, which are hereby incorporated by reference into this code, are prohibited.

(b) *Nuisance Factors-Noises.* The characteristics and conditions which shall be considered in determining whether a noise 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 for the purposes of paragraph (a) of this subsection, shall include, without limitation, the following:

- (i) The time of day or night when the noise occurs;
- (ii) The duration of the noise;
- (iii) The proximity of the noise to a sleeping facility, residential area, church, school, institution of learning or hospital
- (iv) The land use, nature and zoning of the area from which the noise emanates and the area where it is perceived;
- (v) The number of people and their activities that are affected or are likely to be affected by the noise; and
- (vi) The sound peak pressure level of the noise, in comparison to the level of ambient noise.

(c) *Noisy Assembly.*

- (i) *Defined.* The term "noisy assembly" shall mean a gathering of more than one person in a residentially zoned or used area or building that would be likely to cause significant discomfort or annoyance to a reasonable person of ordinary sensitivities present in the area, considering the time of day and the residential character of the area, due to loud, disturbing or excessive noise.
- (ii) *Permitting Noisy Assembly.* It shall be a violation of this section for any person having dominion, care or control of a residentially zoned or used area or building knowingly to permit a noisy assembly.
- (iii) *Remaining at a Noisy Assembly.* It shall be a violation of this section to participate in, visit or remain at a gathering knowing or having reason to know that the gathering is a noisy assembly, except any person(s) who has/have come to the gathering for the sole purpose of abating the noisy assembly.

(d) *Animals.* It shall be a violation of this section to own, keep, have in possession or harbor any animal or animals which make any noise to the reasonable annoyance of another person or persons. The phrase “to the reasonable annoyance of another person or persons” shall include, but is not limited to, the creation of any noise by any animal or animals which can be heard by any person, including the animal control officer or a law enforcement officer, from a location outside of the premises where the animal or animals are located and which animal noise occurs repeatedly over at least a five-minute period of time with no more than a one-minute lapse of time between each animal noise during the five-minute period.

(e) *Amplified Sound.* It shall be a violation of this section to play, operate or permit the playing, use or operation of any radio, tape player, disc player, loud speaker or other electronic device used for the amplification of sound, unless otherwise permitted by law, located inside or outside, the sound of which carries to points of habitation or adjacent properties, and is audible above the level of conversational speech at a distance of fifty (50) feet or more from the point of origin of the amplified sound.

(f) *Motor Vehicles.*

- (i) *Generally.* It shall be a violation of this section to use any automobile, truck, motorcycle, motorboat, all terrain vehicle, snowmobile, recreational vehicle, other vehicle, or stationary internal combustion engine which causes or would be likely to cause significant discomfort or annoyance to a reasonable person of ordinary sensitivities present in the area due to loud, disturbing or excessive noise.
- (ii) *Amplified Sound from Motor Vehicles.* It shall be a violation of this section to play, operate or permit the playing, use or operation of any radio, tape player, disc player, loud speaker or other electronic device used for the amplification of music or other entertainment, which is located within a motor vehicle on a public street or alley, or in a commercial or residential parking facility, which is audible by any person from a distance of fifty (50) feet or more from the motor vehicle. When sound violating this section is produced or reproduced by any such device that is located in a motor vehicle, the motor vehicle’s owner, if present when the violation occurs, is guilty of the violation. If the motor vehicle’s owner is not present at the time of the violation, the person who has dominion, care or control of the motor vehicle at the time of the violation is guilty of the violation. In addition to an owner or a driver, any person who controls or assists with the production, reproduction, or amplification of sound in violation at this section is guilty of the violation.
- (iii) *Horns and Other Signals.* It shall be a violation of this section to sound any horn or signal device on an automobile, motorcycle, bus or other vehicle, except as a danger signal or traffic warning, which would be likely to cause significant discomfort or annoyance to a reasonable person of ordinary sensitivities in the area.

(iv) *Application of the MPCA Rules.* No person shall operate a motor vehicle in the City in violation of the motor vehicle noise limits of the Minnesota Pollution Control Agency Rules, Sections 7030.1000 through 7030.1060.

(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.

(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.

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

For purposes of § 95.24, 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.

## ***OPEN BURNING***

### **§ 95.40 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 1 recreational fire is allowed on any property at 1 time.

***RECREATIONAL FIRE SITE.*** An area of no more than a 3-foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile, or blocks or ferrous metal only and which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a ***RECREATION FIRE SITE*** as defined herein. ***RECREATIONAL FIRE SITES*** shall not be located closer than 25 feet to any structure.

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

***WOOD.*** Dry, clean fuel only such as twigs, branches, limbs, “presto logs,” charcoal, cord wood or untreated dimensional lumber. The term does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into 3-foot lengths.

## **§ 95.41 PROHIBITED MATERIALS.**

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

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

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

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

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

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in § 95.40. Penalty, see § 10.99

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

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

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

(2) Ground thawing for utility repair and construction;

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

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

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

(B) Fire training permits can only issued by the Minnesota Department of Natural Resources. Penalty, see § 10.99

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

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

(B) An open burning permit shall require the payment of a fee. Permit fees shall be in the amount established by the City Council from time to time. Penalty, see § 10.99

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

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

#### **§ 95.46 PERMIT HOLDER RESPONSIBILITY.**

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

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

(C) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees. Penalty, see § 10.99

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

The open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief, Fire Marshal, or Assistant Fire Marshals. Reasons for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present. Penalty, see § 10.99

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

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

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

No recreational fire or open burn will be permitted when the city or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert. Penalty, see § 10.99

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

The provisions of M.S. §§ 88.16 through 88.22, as they may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.