

City Code

Chapter 17

Nuisances

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Article 1. General Conditions

Sec. 17-1. Definition.

For purposes of this Chapter, the word "nuisance" is defined as any person doing an unlawful act or omitting to perform a duty or suffering or permitting any condition or thing to be or exist, which act, omission, condition, or thing shall cause any of the following to occur:

- (1) Injure, endanger, or unnecessarily annoy the health, safety, or repose of the public.
- (2) Offend public decency.
- (3) Unlawfully interfere with the use of or obstruct or tend to obstruct or render dangerous for passage, a public water, park, square, sidewalk, street, alley, or highway.
- (4) Depreciate the value or use of the property of the inhabitants of the City or a considerable number thereof.
- (5) In any way render the inhabitants of the City, or a considerable number thereof, insecure in safety, life, or in lawful use of property.
- (6) Be a nuisance as the same is defined in Minnesota Statutes, Sections 561.01 or 609.74. (Code 1966; Ord. No. 257, 9-23-69; Code of 1988; Code of 2001)

Sec. 17-2. Health Nuisances.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the listed items, conditions, or actions are hereby declared to be and constitute a public nuisance affecting the health, safety, comfort, or repose. This enumeration shall not be deemed or construed to be conclusive, limiting, or restrictive.

- (1) ***Garbage and Trash.*** Accumulations of rubbish, junk, garbage, tree branches, cut trees, grass clippings, tin cans, bottles or trash or debris of any nature or description except in fly-tight containers, and the throwing, dumping, or depositing of any dead animals, manure, garbage, waste, decaying matter, ground sand, stones, ashes, rubbish or tin cans on private property.

- (2) **Dumping.** Dumping the contents of any cesspool, privy vault, or garbage can except at places authorized by law.
- (3) **Animal Carcass.** Carcasses of animals not destroyed within 24 hours after death.
- (4) **Weeds.** All noxious weeds and other rank growths.
- (5) **Smoke and Fumes.** Dense smoke, noxious fumes, gas, soot, or flying cinders in unreasonable quantities.
- (6) **Land Fill.** The dumping of or use as land fill of any materials except clean sand, gravel, soil and dirt without a special permit from the City.
- (7) **Firewood Storage** Any outside storage of cut firewood that is not stored in the side or rear yard or that is not so stacked as to be stable. (Ord 773, March 10, 2009)
- (8) **PODS, Inter Modal Cargo Containers.** Any storage container placed on a property outside of an enclosed building for longer than 14 consecutive days. Storage containers, include but are not limited to intermodal cargo containers, Portable On Demand Storage (PODS) or similar types of equipment intended for temporary or long-term storage, but do not include lawful accessory buildings. (Ord 783 7-28-2009)
- (9) **Other Acts.** All other acts, omissions of acts, occupations, and uses of property which are deemed by the Health Officer to be a menace to the health of the inhabitants of the City or a considerable number thereof. (Code 1966; Ord. No. 257, 9-23-69; Code of 1988; Code of 2001, Ord. No.773, 3-10-2009, Ord. 783 7-28-2009)

Sec. 17-3. Peace and Safety Nuisances.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the listed items, conditions, or actions are hereby declared to be and constitute a public nuisance affecting the peace and safety. This enumeration shall not be deemed or construed to be conclusive, limiting, or restrictive.

- (1) **Snow and Ice.** All snow and ice not removed from public sidewalks within 24 hours after the snow and ice has ceased to be deposited thereon.
- (2) **Trees Obstructing Traffic.** All trees, hedges, billboards or other obstructions within fifteen feet of a public street or right of way which prevent persons from having a clear view of traffic approaching an intersection from cross streets.
- (3) **Limbs Overhanging a Sidewalk.** All limbs of trees which overhang and are less than eight feet above the surface of any public sidewalk, street, or alley.
- (4) **Wires Overhanging a Sidewalk.** All wires which overhang and are less than fifteen feet above the surface of any public street, sidewalk, or alley.
- (5) **Damaged Buildings.** All buildings, and structures which have been damaged by fire, decay, or otherwise to such an extent as to endanger the safety of the public.

(6) ***Dangerous Substances.*** All explosives, inflammable liquids, and other dangerous substances or materials stored or accumulated in any manner so as to be readily accessible to persons other than the owner or in any amount other than that provided by law or ordinance.

(7) ***Unreasonable Noise.*** All unreasonable, unnecessary, and annoying noises and vibrations.

(8) ***Sidewalk Obstructions.*** Obstructions and excavations interfering with the ordinary use of the public of streets, alleys, sidewalks, or public grounds except under such conditions as are provided by ordinance and any other excavation left unprotected or uncovered or allowed to exist in such manner as to endanger people.

(9) ***Radio Aerials.*** Radio aerials strung or erected in any manner except that provided by law or ordinance.

(10) ***Old Machinery.*** The piling, storing, or keeping of old machinery, equipment, building materials, wrecked or junked vehicles, and other junk or debris except as specifically permitted by ordinance.

(11) ***Crowds of People.*** Any use of property, public street, or sidewalk which causes crowds of people to gather so as to obstruct traffic and the free use of public streets or sidewalks.

(12) ***Overhanging Signs.*** All hanging signs, awnings, and other similar structures over public streets or sidewalks or so situated as to endanger public safety or not constructed and maintained as provided by law or ordinance or constructed without a proper permit.

(13) ***Ice from a Building.*** Allowing rain, water, ice, or snow to fall from a building on any public street or sidewalk.

(14) ***Unguarded Machinery.*** All dangerous, unguarded machinery or equipment in any public place or so situated or operated on private property as to endanger the public.

(15) ***Handbills.*** The distribution of handbills except as provided by law or ordinance.

(16) ***Release of Printed Matter.*** Throwing, dropping, or releasing printed matter, paper, or any other material or objects over the City from an airplane, balloon, or other aircraft or in such a manner as to cause the material to fall or land in the City.

(17) ***Drainage Obstructions.*** Placing culverts or doing any act which may alter or affect the drainage of public streets, alleys, or sidewalks or the surface or grade of public streets, alleys, or sidewalks without a proper permit.

(18) ***Repair of Motor Vehicles.*** Making repairs to motor vehicles or tires in public streets or alleys except for emergency repairs when it will not unduly impede or interfere with traffic.

(19) ***Debris in the Streets.*** Throwing, placing, depositing, or burning of leaves, trash, lawn clippings, weeds, grass, or other material in the streets, alleys, or gutters.

(20) ***Unauthorized Traffic Signs.*** Erecting, painting, or placing of unauthorized traffic signs or advertising signs in streets, alleys, or on sidewalks.

(21) ***Defective Electrical Appliances.*** All unnecessary interference or disturbance of radios or TV sets caused by defective electrical appliances and equipment or improper operation thereof.

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

(23) ***Dead Trees.*** Dead, diseased, or fallen trees and tree branches not removed within a reasonable period of time.

(24) ***Off-Street Use of Vehicles.*** The use of all motorized off-street recreational vehicles except in areas specifically designated by the City Council or as otherwise provided in this Code.

(25) ***Dust from Private Property.*** Nondustless surfaces or ground on private property that is maintained in such a manner or allowed to exist in such a state that surface waters carry dust, dirt, sand, gravel, or other debris from the property into the public roads or sewers or other public property where normal and ordinary maintenance procedures require the removal thereof. (Code 1966; Ord. No. 257, 9-23-69; Ord. No. 440, 11-28-78; Ord. No. 557, 12-8-87; Code of 1988; Code of 2001)

Sec. 17-4. Prohibition.

A person shall be guilty of a misdemeanor who shall cause or create a nuisance or permit any nuisance to be created, placed upon, or to remain upon owned or occupied premises and who shall fail to comply with any order made under the provisions of this Chapter. (Code 1966; Ord. No. 257, 9-28-69; Code of 1988; Code of 2001)

Sec. 17-5. Enforcement.

Enforcement of this Chapter shall be in accordance with the provisions of this Section.

(1) It shall be the duty of the Public Safety Department to enforce the provisions of this Chapter.

(2) The City Council may by resolution delegate to other officers or agencies power to enforce particular provisions of this Chapter including the power to inspect private premises.

(3) The officers charged with enforcement of this Chapter shall take all reasonable precautions to prevent the commission or maintenance of public nuisances.

(4) The Code Enforcement Officer, licensed Public Safety Officers, Community Service Officers, and Public Safety Reserve Officers are authorized to enforce the provisions of this Chapter by issuing citations in lieu of arrest or continued detention. (Code 1966; Ord. No. 257, 9-23-69; Ord. No. 552, 2, 8-1-87; Code of 1988; Code of 2001, Ord No 772 3-10-2009)

Sec. 17-6. Notice to Abate.

(1) **Nuisance Exists.** When the Officer charged with enforcement determines that a public nuisance is being maintained or exists, the person committing or maintaining the public nuisance shall be notified in writing to terminate and abate the nuisance and to remove such conditions or remedy the defects.

(2) **Notice Served.** The written notice shall be served on the person committing or maintaining the nuisance in person or by registered mail. Service on the owner may be made by posting a copy of the notice on the premises if the premises are not occupied and the address of the owner is unknown. The notice shall order the owner of the premises, the occupant, or both to take reasonable steps within a reasonable time to abate and remove the nuisance.

(3) **Removed Within Thirty Days.** The steps and time for abatement of the nuisance shall be designated in the notice. The maximum time for the removal of the nuisance after service of the notice shall not in any event exceed thirty days. Service of the notice may be proved by filing an affidavit with the proper City Official. (Code 1966; Ord. No. 257, 9-23-69; Code of 1988; Code of 2001)

Sec. 17-7. Abatement by City.

The nuisances specified in this Section so affect the public health, safety, and general welfare of the community as to permit abatement by order of the City Council.

(1) Any building or structure, which by reason of age, dilapidated condition, defective chimneys, stove pipes, flues, electric wiring, gas connections, heating or cooling apparatus, or other defects creates a high risk of fire, explosion, or risk of life or limb to its occupants or persons nearby including attractive nuisances to children.

(2) Any nuisance described in Sections 17-2 or 17-3 where there is good reason to believe that:

- A. The usual notice and prosecution procedure will be ineffective in removing the nuisance;
- B. Where for other practical reasons the person responsible for maintaining the nuisance will not or cannot remove the nuisance; or,
- C. Where immediate abatement is necessary to safeguard the public from a clear and present danger. (Code 1966; Ord. No. 257, 9-23-69; Ord. No. 360, 9-9-75; Code of 1988; Code of 2001)

Sec. 17-8. Abatement by the City.

By majority vote, the City Council may order the abatement of any nuisance described in Section 17-7 including the destruction, repair, or alteration of buildings and structures or any other appropriate action. (Code 1966; Ord. No. 257, 9-23-69; Ord. No. 360, 9-9-75; Code of 1988; Code of 2001)

Sec. 17-9. Abatement Ordered.

Written notice of the order of the City Council to abate a nuisance shall be forthwith served upon the owner of record of the property and upon all known adult occupants or caretakers of the property. The notice shall be made by certified mail or personal service. The notice shall specify the nature of the nuisance, what shall be done to abate the nuisance, and a reasonable time limit within which to accomplish the abatement. If the premises are not occupied, a copy of the notice shall be posted in a conspicuous place upon the premises. (Code 1966; Ord. No. 257, 9-23-69; Ord. No. 360, 9-9-75; Code of 1988; Code of 2001)

Sec. 17-10. Abatement and Assessment.

(1) If the nuisance has not been abated after service of the notice and the passage of the allotted time, the City Council may cause the abatement. The expenditure for the abatement plus ten percent for an administrative overhead and eight percent per annum for interest shall be collected by the City by civil action against the owner or by certifying such sums as a special assessment against the property. The assessment shall be certified to the County for collection in the same manner as taxes and other special assessments.

(2) Notice that an assessment may be levied shall be filed with the County within three days of the City's order of abatement. (Code 1966; Ord. No. 257, 9-23-69; Ord. No. 360, 9-9-75; Code of 1988; Code of 2001)

Sec. 17-11. Provisions Supplementary.

The provisions of this Chapter are supplementary and shall not deprive the City of any of its powers in regard to nuisances and the abatement thereof whether derived from common law, statute, or ordinance. At its option, the City may proceed under this Chapter or under any other law or ordinance for the punishment of maintaining and for the abatement of nuisances. (Code 1966; Ord. No. 257, 9-23-69; Code of 1988)

Sec. 17-12. Noises Prohibited.

(1) **General Provisions.** 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 the subsections of this Section.

(2) **Horns.** No person shall use any audible signaling device on any vehicle except as a warning of danger, as required by Minnesota Statutes, Section 169.68.

(3) **Motor Vehicles.** No person shall operate a motor vehicle in violation of the motor vehicle noise limits of the Minnesota Pollution Control Agency as required by Minnesota Statutes, Section 169.693.

(4) **Defective Vehicles or Loads.** No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.

(5) **Exhaust.** No person shall discharge the exhaust or permit the discharge of the exhaust of any steam engine, stationary internal combustion engine, motor boat, recreational vehicle, water craft, or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable State laws and regulations.

(6) **Loading, Unloading, Unpacking.** No person shall create loud and excessive noise in loading, unloading, or unpacking a vehicle.

(7) **Noisy Parties or Gatherings.** This Subsection shall apply to noisy parties or gatherings.

A. No person shall congregate at or participate in a party or gathering of people from which noise emanates of a sufficient volume or of such nature to unreasonably disturb the peace, quiet, or repose of other persons.

B. A Public Safety Officer may order all persons present at such a party or gathering other than the owners, residents, or tenants to immediately disperse. Any person who refuses to leave after being ordered to do so shall be guilty of a violation of this Section.

C. Any owner, tenant, or resident of the building or place who has legal authority to control the activities at the building or place, knows or has reason to know of the disturbance and fails to immediately take reasonable steps to abate the disturbance is guilty of violation of this Section.

D. The owner of a building or place who knows or has been notified of a pattern of disturbances and fails to immediately take reasonable steps to abate the disturbances is guilty of a violation of this Section. For purposes of this Section, a “disturbance” is defined as an incident which results in oral or written communication with the Police Department; and, “pattern” is defined as more than one disturbance in a thirty day period or six or more disturbances in a twelve month period.

(8) **Loudspeakers and Amplifiers.** No person shall operate or permit the use or operation of any loudspeaker, sound amplifier, or other device for the production or reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle.

A. Peddlers shall not call attention to their business or merchandise by crying out, by blowing a horn, by ringing a bell, or by any loud or unusual noise.

B. Notwithstanding any other provision to the contrary, food/beverage vehicles may sound a manually operated bell.

(9) **Animals.** No person shall keep an animal that unreasonably disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise; provided that these provisions shall not apply to duly authorized hospitals or clinics conducted for the treatment of small animals.

(10) **Schools and Churches.** No person shall create any excessive noise on a street, alley, or public grounds adjacent to any school, institution of learning, church, or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents. (Ord. No. 578, 12-11-90; Ord. No. 644, 6-23-98; Code of 2001)

Sec. 17-13. Permitted Times.

(1) ***Recreational Vehicles.*** No person shall drive or operate any minibike, snowmobile, or other recreational vehicle not licensed for travel on public highways between the hours of 10:00 p.m. and 7:00 a.m..

(2) ***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 a.m. and 9 p.m. on any weekend or holiday. Snow removal equipment shall be exempt from this provision.

(3) ***Refuse Hauling.*** No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:30 a.m. and 8:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(4) ***Construction Activities.*** No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, 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 except in emergencies involving injury or threat of injury to persons or substantial damage or threat of substantial damage to property. (Ord. No. 644, 6-23-98; Code of 2001)

Sec. 17-14. Enforcement.

(1) ***Civil Remedies.*** Sections 17-12 through Section 17-14 may be enforced by injunction, action for abatement, or other appropriate civil remedy in addition to enforcement by prosecution.

(2) ***Noise Impact Statements.*** The City Council may require a noise impact statement to be supplied when application is being made 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. The application shall be made on a form as prescribed by the City. The City Council shall evaluate each statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

(3) ***Criminal Penalties.*** Any violation of Sections 17-12 through Section 17-14 involving the operation of a motor vehicle is a petty misdemeanor. Every person who violates any other provision of Section 17-14 is guilty of a misdemeanor.

(4) ***Costs of Prosecution.*** In all cases, the City shall be entitled to collect the costs of prosecution to the extent outlined by law, rules of criminal procedure, and the rules of the court. Each act of violation and each day a violation occurs or continues shall constitute a separate offense. (Ord. No. 644, 6-23-98; Code of 2001)

Secs. 17-15—17-22. Reserved. (Code of 2001)

Article 2. Dutch Elm and Oak Wilt Disease

Sec. 17-23. Policy.

The City of New Brighton has determined that the health of trees within the municipal limits is threatened by certain fatal insects and diseases.

This Article is enacted to control and prevent the spread of oak wilt disease, Dutch elm disease and the emerald Ash borer insect. This action is necessary because:

- (1) The disease threatens the health of the oak and elm trees within the City.
- (2) The insect threatens the health of ash trees of the *Fraxinus* genus within the City.
- (3) Loss of oak, elm and ash trees growing upon public and private property would substantially depreciate the value of property and impair the safety, good order, general welfare and convenience of the public. (Code 1966; Ord. No. 285, 7-20-71; Code of 1988; Code of 2001; Ord. No. 827, 12-9-2014)

Sec. 17-24. Forester Duties.

The duties of Forester are hereby created for the City. (Code 1966; Ord. No. 285, 7-20-71; Code of 1988; Code of 2001)

Sec. 17-25. Duties of the Forester.

The duties of the Forester shall be to coordinate all activities of the City relating to the control and prevention of oak wilt, Dutch elm disease and emerald ash borer. The Forester may recommend to the City Manager and City Council the details of a program for the control of oak wilt, Dutch elm disease and emerald ash borer. The Forester shall perform the duties of such a program as adopted by the City Council. (Code 1966; Ord. No. 285, 7-20-71; Code of 1988; Code of 2001; Ord. No. 827, 12-9-2014)

Sec. 17-26. Interference Prohibited.

No person shall prevent, delay, or interfere with the Forester while engaged in the performance of duties imposed by this Article. (Code 1966; Code of 1988; Code of 2001)

Sec. 17-27. Programs of Pest Control.

Any program of plant pest control shall be pursuant to the authority granted by Minnesota Statutes, Section 18G.13, and in conformity with any applicable directives of the State. This program is to be directed specifically at the control and elimination of oak wilt disease fungus, Dutch elm disease fungus, elm bark beetles and emerald ash borer beetles. The Forester shall act as coordinator in the conduct of this program. (Code 1966; Ord. No. 285, 7-20-71; Code of 1988; Code of 2001; Ord. No. 827, 12-9-2014)

Sec. 17-28. Nuisances Declared.

A public nuisance shall include:

- (1) Any living or standing elm tree or part thereof infected to any degree with the Dutch elm disease fungus *Ophiostoma novo-ulmi* (Brasier) or that harbors any of the elm bark beetles *Scolytus multistriatus* (Marsham) or *Hylurgopinus rufipes* (Eichoff).

(2) Any living or standing oak tree or part thereof infected to any degree with the oak wilt disease fungus *Ceratocystis fagacearum*. However, nothing in this Article shall apply to oaks of the white oak family including white oak, burr oaks or swamp white oaks, which are specifically excluded.

(3) Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and properly disposed. (Code 1966; Ord. No. 285, 7-20-71; Code of 1988; Code of 2001; Ord. No. 827, 12-9-2014)

(4) Any dead oak tree of the red oak family including northern red oak, black oak, eastern pin oak or northern pin oak or part thereof, including logs, branches, stumps, firewood or other oak material confirmed to have been infected with *Ceratocystis fagacearum* from which the bark has not been removed and properly disposed. (Ord. No. 827, 12-9-2014)

(5) Any living or standing ash tree of the *Fraxinus* genus or part thereof infested to any degree with the emerald ash borer insect *Agrilus planipennis*. (Ord. No. 827, 12-9-2014)

(6) Any dead ash tree of the *Fraxinus* genus or part thereof, including logs, branches, stumps, firewood or other ash material confirmed to be infested with emerald ash borer and from which the bark and outer 1” of wood underneath the bark has not been removed and properly disposed. (Ord. No. 827, 12-9-2014)

Sec. 17-29. Nuisance Prohibited.

No person shall permit a public nuisance as defined in this Article to remain on any premises they own or control. The nuisance may be abated in the manner prescribed by this Article. (Code 1966; Ord. No. 285, 7-20-71; Code of 1988; Code of 2001)

Sec. 17-30. Premises Inspected.

The Forester shall inspect all premises and places within the City as often as practical to determine whether any condition described in Section 17-28 exists. (Code 1966; Ord. No. 285, 7-20-71; Code of 1988; Code of 2001; Ord. No. 827, 12-9-2014)

Sec. 17-31. Entry on Private Premises.

The Forester may enter upon private premises at any reasonable time for the purpose of carrying out the duties assigned by this Article. (Code 1966; Ord. No. 285, 7-20-71; Code of 1988; Code of 2001)

Sec. 17-32. Diagnosis.

Upon finding conditions that indicate a condition described in Section 17-28 exists, the Forester shall notify the property owner of the diagnosis of the diseases or infested tree(s). In special circumstances where field diagnosis is not conclusive the Forester shall have the authority to submit appropriate specimens or samples to be analyzed by qualified plant pathologists or take such other steps for diagnosis as may be appropriate or practical. (Code 1966; Ord. No. 285, 7-20-71; Code of 1988; Code of 2001; Ord. No. 827, 12-9-2014)

Sec. 17-33. Nuisance Abated.

In abating a nuisance under this Article, the Forester shall cause the infected tree or wood to be sprayed, removed, or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of

the infestation. The abatement procedures shall be carried out in accordance with current expert technical opinions, plans and research. (Code 1966; Ord. No. 285, 7-20-71; Code of 1988; Code of 2001; Ord. No. 827, 12-9-2014)

Sec. 17-34. Abatement Procedure

A. When the Forester finds with reasonable certainty that the infestation defined in Section 17-28 exists in any tree or wood in the City, the steps to be taken are:

(1) The Forester will determine whether the risk of infestation of other trees is imminent. Based on that determination, the Forester will notify the owner of the property by regular U.S. Mail, and will attempt to notify the owner of the property by certified mail of the existence of the nuisance, the date by which the nuisance must be abated by the owner, and instructions for action that must be taken to abate the nuisance. In the case of trees on a public right-of-way easement or right-of-way dedicated to the public, the owner of the adjoining property will be so notified. (Ord. No. 827, 12-9-2014)

(2) If the owner fails to take steps specified in the notice by the date specified in the notice, the City Manager, or the Manager's Designee, shall abate the nuisance by contract or with city personnel. (Ord. No. 827, 12-9-2014)

(3) Upon completion of the abatement by the City, all direct and indirect costs incurred by the City in effecting such abatement shall be billed to the owner. (Ord. No. 827, 12-9-2014)

(4) If the bill to the owner for such expenses is not paid when due, the City Council may levy the City's costs, plus interest as determined by the City Council, as a special assessment against the property on which the nuisance was abated to be collected with, and in the same manner as, ad valorem real estate taxes on the property, all pursuant to and in accordance with Minnesota Statutes, Sections 18G.13 and 429.101. (Ord. No. 827, 12-9-2014)

Sec. 17-35. Repealed. (Ord. No. 827, 12-9-2014)

Sec. 17-36. Repealed. (Ord. No. 827, 12-9-2014)

Sec. 17-37. Transporting Elm Wood.

No person shall transport any bark bearing elm wood within the City without first obtaining a permit from the Forester. The Forester shall grant a permit only when the purposes of this Article will be served thereby. (Code 1966; Ord. No. 285, 7-20-71; Code of 1988; Code of 2001)

Sec. 17-38. Potentially Dangerous Trees.

It shall be the duty of every person owning or occupying real property bordering on any street upon which there are trees to prune or otherwise maintain these trees in such a manner that they will not:

- (1) Obstruct or shade the streetlights.
- (2) Obstruct the passage of pedestrians on sidewalks.
- (3) Obstruct vision of traffic signs.

(4) Obstruct view of any street or intersection.

(5) Pose an imminent danger to persons or property. (Ord. No. 447, 3-27-79; Code of 1988; Code of 2001)

Sec. 17-39. Pruning or Removal Notice.

When trees along a street, alley, or public way are not pruned or maintained as provided in Section 17-38, the Forester shall notify the affected property owner. The notice shall require that the nuisance be abated within ten days. The notice may be in writing or by posting on the property provided that a three day period will be sufficient when posted on the property. The Forester shall have the authority to order immediate removal of trees or portions of trees that pose an immediate hazard to persons or property. (Ord. No. 447, 3-27-79; Code of 1988; Code of 2001)

Sec. 17-40. Removal by City.

In the event that the property owner fails to correct the conditions cited in this Article, the Forester will order the work completed by a private contractor or with City forces. The total cost of the work will be assessed against the property. (Ord. No. 447, 3-27-79; Code of 1988; Code of 2001)

Sec. 17-41. Repealed. (Ord. No. 827, 12-9-2014)

Secs. 17-42--17-48. Reserved. (Code of 2001)

Article 3. Junked Vehicles

Sec. 17-49. Storage Restricted.

No person shall store or keep an abandoned or junk vehicle (as those terms are defined in Minnesota Statutes, Section 168B.011), a wrecked vehicle or an inoperable vehicle on private property without a special use permit granted by the City Council unless such vehicle is stored in a fully enclosed garage. Vehicles not in conformity with Minnesota motor vehicle statutes regulating equipment, registration and insurance for operation on a street or highway, shall not be stored or kept on private property for more than 30 days without a special use permit unless such vehicle is stored in a fully enclosed garage. (Ord. No. 149, 8-14-62; Code 1966; Code of 1988; Code of 2001, Ord No 728, 5-10-2005)

Sec. 17-50. Permit.

A special use permit may be issued for the storage of a junked motor vehicle only in accordance with the provisions of the Zoning Code. Issuance of the permit shall require conformance with all sections regarding zoning, set-backs, special use permit procedures, and fees. (Ord. No. 149, 8-14-62; Code 1966; Code of 1988; Code of 2001)

Sec. 17-51. Current License Plates.

Any vehicle shall be deemed to be included in Section 17-49 if it does not have attached a valid and current license plate issued by the proper State agency. The presence of a license plate shall not be the sole factor in determining the status of the vehicle. (Ord. No. 149, 8-14-62; Code 1966; Code of 1988; Code of 2001)

Sec. 17-52. Nuisance Declared.

Each violation of the provisions of this Article is declared to be a nuisance affecting the public peace, safety, and general welfare. (Ord. No. 149, 8-14-62; Code 1966; Code of 1988; Code of 2001)

Sec. 17-53. Complaints.

The Public Safety Department shall investigate all complaints. If after investigation there appears to be a violation of this Article, the Investigating Officer shall be authorized to sign a complaint. (Ord. No. 149, 8-14-62; Code 1966; Code of 1988; Code of 2001)

Secs. 17-54--17-59. Reserved. (Code of 2001)

Article 4. Weeds

Sec. 17-60. Inspection of Premises.

The Weed Inspector may inspect all premises and places for the presence of weeds. (Ord. No. 549, 5-12-87; Code of 1988; Code of 2001)

Sec. 17-60.1 Definition.

The term “weeds” shall be defined as:

- (1) Any tall weeds or grass growing upon a lot or parcel of land to a height greater than eight inches.
(Ord. No. 771, 3-24-2009)
- (2) Such other vegetation as the City Council shall designate by resolution from time to time. (Ord. No. 549, 5-12-87; Code of 1988; Code of 2001)
- (3) “Weeds” do not include vegetation determined by the weed inspector to be one of the following.
 - (A) Wetland buffers, including drainage ponds or ditches that store or convey stormwater. Wetland buffers may not exceed fifteen feet from a wetland border.
 - (B) Prairie Restoration or Reconstruction. Native prairies may not contain noxious weeds or non-native plant species and *maintenance* must follow “Going Native: A prairie restoration handbook for Minnesota landowners” copyright 2000, Minnesota Department of Natural Resources.
 - (C) Raingardens. Only raingardens built according to MPCA guidelines will be exempted.
 - (D) Ornamental Grasses cultivated and maintained as part of an organized landscape plan.
(Ord. No. 771, 3-24-2009)

Sec. 17-61. Notification to Property Owner.

The Weed Inspector shall serve notice on the affected property owner that weeds on the property must be eradicated or controlled in the manner prescribed by the Inspector.

- (1) The notification shall require abatement of the weeds or other prescribed action by a specified time which shall be ten days or less from the date of service or mailing of the notice.
- (2) The notification shall state that the City will take appropriate remedial action to eradicate or control the weeds upon expiration of the specified time and that the property owner shall be charged for the costs. (Ord. No. 549, 5-12-87; Code of 1988; Ord. No. 668, 3-28-00; Code of 2001)

Sec. 17-62. Notice to Eradicate.

- (1) The notice for eradication of noxious weeds as described by Section 17-61 shall be made in accordance with the provisions of Minnesota Statutes, Section 18.83.

(2) Notice for eradication or control of all other weeds shall be made by first class mail to the property owner or posted on the property. A copy of the notice shall be sent to the lessee, occupant, or agent of the owner of the premises if the owner is not in possession of the property. (Ord. No. 549, 5-12-87; Code of 1988; Ord. No. 668, 3-28-00; Code of 2001)

Sec. 17-63. Abatement by City.

(1) The Weed Inspector shall cause removal or other prescribed action of any weeds located on public property.

(2) For weeds located on private property, the Weed Inspector shall cause removal or other prescribed action upon expiration of the time proscribed in the notice to the property owner. (Ord. No. 549, 5-12-87; Code of 1988; Ord. No. 668, 3-28-00; Code of 2001)

Sec. 17 64. Assessment of Costs.

(1) Costs incurred by the City in destroying noxious weeds shall be charged to the property owner and assessed as provided in Minnesota Statutes, Section 18.83.

(2) Costs incurred by the City in destroying all other weeds shall be charged to the property owner in the manner specified in this Subsection.

A. Notice in writing of the work done and the costs and expenses involved shall be mailed to the property owner.

B. The notice shall indicate that if the total amount is not paid to the City within thirty days, the costs and expenses may be assessed against the property as provided by Minnesota Statutes, Section 429.101.

C. In the event payment is not received by the City as required by the notice, the costs and expenses together with a penalty of eight percent may be assessed against the benefitted property in accordance with Minnesota Statutes, Section 429.101. (Ord. No. 549, 5-12-87; Code of 1988; Ord. No. 668, 3-28-00; Code of 2001)

Secs. 17-64--17-69. Reserved (Ord. No. 717 3/23/04)

Article 5. Cleanup of Clandestine Drug Lab Sites and Chemical Dump Sites

Sec. 17-70. Definitions.

The definitions in this Section shall apply when these words and phrases are used in this Article.

- (1) ***Child.*** Any person less than 18 years of age.
- (2) ***Chemical Dumpsite.*** Any place or area where chemicals or other waste materials have been located.
- (3) ***Clandestine drug lab.*** The unlawful manufacture or attempt to manufacture controlled substances.
- (4) ***Clandestine drug lab site.*** Any place or area where law enforcement has determined that conditions associated with the operation of an unlawful clandestine drug lab exist. A clandestine drug lab site includes any dwellings, accessory structures, a chemical dump site, a vehicle, boat, trailer or other similar appliance or any other area or location.
- (5) ***Controlled substance.*** Any drug, substance or immediate precursor in Schedules I through V of Minnesota Statutes § 152.02. The term does not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.
- (6) ***Owner.*** Any person, firm, corporation, or other entity who owns, in whole or in part, the land, building, structure, vehicle, boat, trailer or other location associated with a clandestine drug lab site or chemical dump site.
- (7) ***Public Health Nuisance.*** A nuisance as defined under Section 17-2 of the New Brighton City Code or under Minn. Stat. § 145A.02, subd. 17.

Sec. 17-71. Purpose and Intent.

The purpose of this Article is to protect the public health, safety and welfare and to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals from a suspected clandestine drug lab or chemical dumpsite may exist. The City Council finds that such sites may contain hazardous chemicals, substances, or residues that place people, particularly children or adults of child-bearing age, at risk of exposure through inhabiting or visiting the site or using or being exposed to contaminated personal property.

Sec. 17-72. Declaration of Property As a Public Health Nuisance.

- (1) Any property containing a clandestine drug lab or chemical dumpsite will be declared a public health nuisance.
- (2) No person may occupy, enter or allow occupancy or entrance to property declared a public health nuisance under this Section until such declaration is vacated or modified to allow occupancy.

Sec. 17-73. Law Enforcement Notice to Other Authorities.

Upon identification of a clandestine drug lab site or chemical dumpsite deemed to place neighbors, visiting public, or present and future occupants of the affected property at risk for exposure to harmful contaminants and other associated conditions, law enforcement officials will notify the City Code Enforcement Officer and other appropriate municipal, child protection, and public health authorities of the property location, property owner if known, and conditions found. (Ordinance No 772, 3-10-2009)

Sec. 17-74. Seizure of Property.

(1) If a clandestine drug lab or chemical dump site is located inside a vehicle, boat, trailer, or other form of moveable personal property, law enforcement authorities may immediately seize such property and transport it to a more secure location.

(2) Personal property may not be removed from a clandestine drug lab site or a chemical dump site without the prior consent from the City Code Enforcement Officer. (Ord No 772 3-10-5009)

Sec. 17-75. Action by City Code Enforcement Officer.

(1) Upon notification by law enforcement authorities, the City Code Enforcement Officer or other appropriate municipal or public health authority will issue a Declaration of Public Health Nuisance for the affected property and post a copy of the Declaration at all probable entrances to the dwelling or property.

(2) Removal of the posted Declaration of Public Health Nuisance by anyone other than the City Code Enforcement Officer, law enforcement authorities, or their designees, is prohibited.

(3) The City Code Enforcement Officer will also attempt to notify the following parties of the Declaration of Public Health Nuisance:

- A. Owner of the property;
- B. Occupants of the property;
- C. Neighbors at probable risk;
- D. The City of New Brighton Department of Public Safety; and
- E. Other state and local authorities, such as the Minnesota Pollution Control Agency and the Minnesota Department of Public Health, which are known to have public and environmental protection responsibilities applicable to the situation.

(4) Any rental license issued by the City for the property is immediately suspended upon issuance of the Declaration of Public Health Nuisance. Such license will be reinstated only after full compliance with an abatement order.

(5) After issuance of the Declaration of Public Health Nuisance, the City Code Enforcement Officer will issue an order to the property owner to abate the public health nuisance. The abatement order will include the following: (Ord No 772 3-10-2009)

- A. A copy of the Declaration of Public Health Nuisance;
- B. An order to immediately vacate those portions of the property, including building or structure interiors, which may place the occupants or visitors at risk.
- C. Notification of suspension of the rental license, if applicable; and
- D. A summary of the owner's and occupant's responsibilities.

Sec. 17-76. Responsibilities of Owner.

(1) Upon receipt of an abatement order, the property owner must, at the owner's expense:

A. Properly secure and post the perimeter of any contaminated areas on the property in an effort to avoid exposure to unsuspecting parties;

B. Promptly contract with appropriate environmental testing and cleaning firms to conduct on-site assessment, complete cleanup and remediation testing, including periodic follow-up testing to assure that the health risks are sufficiently reduced to allow safe human occupancy of the property and structures located on the property;

C. Regularly notify the City of actions taken and reach agreement with the City on the cleanup schedule; and

D. Provide written documentation to the City of the cleanup process, including a signed, written statement that the property is safe for human occupancy and that the cleanup was conducted in accordance with Minnesota Department of Health guidelines.

(2) The property may not be re-occupied or used in any manner until the City has obtained the written statement in paragraph (1)(D) and has confirmed that the property has been cleaned in accordance with the guidelines established by the Minnesota Department of Health. (Ord No 772, 3-10-2009)

Sec. 17-77. Owner's Responsibility for Costs.

The owner is responsible for all costs associated with nuisance abatement and cleanup of the clandestine drug lab site or chemical dumpsite, including, but not limited to, costs for: (Ord No 772, 3-10-2009)

(1) Emergency Response;

(2) Posting and physical security of the site;

(3) Notification of affected parties;

(4) Expenses related to the recovery of costs, including the assessment process;

(5) Laboratory Fees;

(6) Cleanup services;

(7) Administrative fees; and

(8) Other associated costs.

Sec. 17-78. City Authority to Initiate Cleanup and Recovery of Costs.

(1) If, within 10 days after service of notice of the Declaration of Public Health Nuisance, the City is unable to locate the property owner or the property owner fails to arrange appropriate assessment and cleanup, the City Code Enforcement Officer is authorized to proceed in a prompt manner to initiate the on-site assessment and cleanup.

(2) The City may abate the nuisance by removing any hazardous structure, building, or otherwise, in accordance with Minnesota Statutes Chapter 463, Chapter 17 of the New Brighton City Code or by any other means provided under law.

(3) If the City abates the public health nuisance, it may recover all costs associated with such abatement. In addition to any other legal remedy, the City may recover costs by civil action against the person or persons who own the property or by assessing such costs as a special tax against the property in the manner that taxes and special assessments are certified and collected pursuant to Minnesota Statutes § 429.101 and Section 17-10 of the New Brighton City Code. (Ord. No. 717 3/23/04 - - Ord No 772, 3-10-2009)

Editor's Notes
City Code-Chapter 17
Nuisances

This Chapter has been renumbered to be consistent with the numbering system used throughout the Code:

The first division within a Section is numbered “(1)” followed by “(2)”, etc.

The next division of a Section is numbered with an “A” followed by “B”, etc.

As with all other parts of the codification, the language in this Chapter has been simplified and made general neutral.

Margaret A. Egan
Finance Director/City Clerk
March 22, 2000
June 1, 2000

