

210 Nuisance

210.010 Nuisance.

(A) Public Nuisance Prohibition. A person must not act, or fail to act, in a manner that is or causes a public nuisance. For purpose of this ordinance, a person that does any of the following is guilty of maintaining a public nuisance:

Rev. Date
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Ord. #849
Entire
Section

(1) Annoys, offends, injures, or endangers the health, comfort, repose, morals, decency, peace, or safety of any considerable number of members of the public; or

(2) Unlawfully interferes with, obstructs, or renders dangerous for passage a public waterway, park, square, street, alley, highway, or any other public property or right of way; or

Rev. Date
4/16/14
Ord. 920

(3) Maintains property conditions that constitute a fire hazard or a physical risk to the property or persons or otherwise dangerous to human life, public safety personnel or the public welfare.

(4) Depreciates the value of the property of a considerable number of members of the public; or

(5) Is declared to be a nuisance by any provision of this code, any statute, or regulation.

(B) The following are hereby declared to be public nuisances affecting health and safety:

(1) Certain ponds, pools and accumulation of stagnant water.

(2) Accumulation of refuse or debris.

(3) The pollution or contamination of any well or cistern, stream, lake, canal, or body of water by sewage, or industrial waste or other substance.

Rev. Date
2/2/15
Ord. 926

(4) Of noxious weeds as defined in Minnesota Rules and other rank growth of vegetation upon private or public property including grass and weeds over nine inches in height and non-woody vegetation over 18 inches in height on vacant properties.

(5) Accumulation in the open of discarded or disused machinery, household appliances, and furnishings, 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 such accumulations.

- (6) All dangerous unguarded machinery, in any public place, or so situated or operated on private property as to attract the public.
- (7) Ice, snow, or rainwater to fall from any building or structure upon any public street or sidewalk, or to direct any rainwater or water from ice melt or snow melt so as to flow across any public sidewalk.
- (8) Any well, hole or excavation left uncovered or in such other condition as to constitute a hazard to a child or other person, being or coming upon the premises where the same is located.
- (9) Hazardous buildings, subject to the provision of State Statute 463.16.
- (10) 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.
- (11) Dense smoke, noxious fumes, gas, soot or cinders in unreasonable quantities.
- (12) Any offensive trade or business as defined by statute not operating under local license.
- (13) All trees, hedges, billboards, or other obstructions, which prevent people from having a clear view of all traffic approaching an intersection.
- (14) All wires and limbs of trees, or other objects that are so close to the surface of a sidewalk, trail or street as to constitute a danger to pedestrians or vehicles.
- (15) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, trails or public grounds, except under conditions permitted by this ordinance or other applicable law.
- (16) Any barbed wire fence located less than six (6) feet above the ground and within three (3) feet of a public sidewalk or way.
- (17) Wastewater cast upon or permitted to flow upon streets or other public property.

- (18) Obstruction to the free flow of water in a natural waterway or public stormwater system, gutter or ditch with trash or other materials.
- (19) The depositing of garbage or refuse on a public right-of-way or on adjacent private property.
- (20) Shade Tree Nuisances.

<p>Rev. Date 3/19/12 Ord. #890</p>
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- a. Any living or standing tree(s) to any degree with a shade tree disease or Plant Pest.
- b. Any logs, branches, stumps, or other parts of any dead or dying tree so infected unless such parts have been fully burned or treated under the direction of the City Manager.
- c. Any standing dead trees or limbs on public or private property which may threaten human health or property.

(21) Illicit discharges or connections to the MS4 or storm drainage system.

(22) The overcrowding of a room or portion of a dwelling with long-term storage of items, goods, or any combustible materials so as to prevent upkeep, maintenance, or regular housekeeping. A room may be considered overcrowded when: interior storage covers an excessive amount of the floor area of a room, constitutes a potential excessive fire load, prevents access to windows or doors, prevents access to or obstructs mechanical systems or air movement, effectively eliminates use and access to required electrical devices, impedes access and movement of emergency personnel, blocks hallways, limits the operation of doors or provides pest harborage.

<p>Rev. Date 4/16/14 Ord. 920</p>

(23) Any other health or safety nuisance as declared by the City Council.

- (C) Enforcement. The provisions of this regulation shall be enforced by the City's law enforcement agency or by such other officers, employees, or agents as designated by the City Council. Such officers, employees, or agents shall have the power to inspect private premises in accordance with law, and take all reasonable precautions to prevent the commission or maintenance of public nuisances. The provisions of this regulation for the abatement of nuisances shall be in addition to any other penalty or remedy provided by this code, by county ordinance, or by state statute or regulation.

210.020

Abatement Procedure.

- (A) Procedure. Except as otherwise provided in Section 210.020 (C) or 210.020 (D), whenever the officer charged with enforcement determines a public nuisance is being maintained or exists on a premise in the City, the officer shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated and 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 specified time, the officer shall report that fact 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 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 Council Order and a Notice of Motion for Summary Enforcement or, obtain an administrative search warrant for access to the premises or property has been denied, and abate the nuisance. In those cases where the nuisance pertains to noxious weeds, rank growth and grass and weeds as defined in Section 210.010(B)(4), the City Council after notice and hearing may cause the nuisance to be abated immediately by the City. In those cases where the nuisance has been recurring and can be abated by reasonable maintenance procedures, the City Council's order to abate shall be effective for up to two (2) years.
- (B) Notice. Written notice of the violation, notice of the time, date, place and subject of any hearing before the City Council; notice of the City Council Order; and Notice of Motion for Summary Enforcement hearing shall be served by a peace officer or a designated official on the owner of record or occupant of the premises, either in person or by certified or registered mail. If the premise is not occupied, the owner of record is unknown, or if the owner of record or occupant refuses to accept notice, notice of the violation shall be served by posting it on the premises.
- (C) Emergency Procedure/Summary Enforcement. In cases of an emergency where delay will permit a continuing nuisance to unreasonably endanger public health, safety or welfare, the City may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer or designated official shall determine that a public nuisance exists or is being maintained on the premise in the City and that the delay in abatement will unreasonable endanger public health, safety or welfare. The officer or designated official shall make a reasonable attempt to 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 procedures set forth in subdivision 210.020(A) and may order that the nuisance be immediately terminated or abated. If the

Rev. Date
2/2/15
Ord. 926

nuisance is not immediately terminated or abated, the City 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 that poses an imminent and serious hazard to human life or safety.
- (E) Judicial Remedy. Nothing in this section shall prevent the City from seeking a judicial remedy when no other adequate administrative remedy exists.

210.030 **Recovery of Cost.**

- (A) Record of Abatement Cost. The City Manager or his/her designee shall keep a record of the costs of abatements, including administrative costs, done under this ordinance and shall report monthly all work done to the appropriate officer for which assessments are to be made, stating and certifying the description of the land, lots, parcels involved and the amount assessable to each.
- (B) 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 property not owned by that person shall be personally liable for the cost of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk or other City 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 City's administrative office.
- (C) Assessment. After notice and hearing as provided in Minnesota Statutes Section 429.061, as it may be amended from time to time, if a nuisance is a public health or safety hazard on private or public the City Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minnesota Statutes, Section 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 the provisions of Minnesota statutes Section 429 and any 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.