

CHAPTER 10

PUBLIC PROTECTION, CRIMES AND OFFENSES

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CHAPTER 10

PUBLIC PROTECTION, CRIMES AND OFFENSES

SECTION 10.01. STORAGE, DEPOSIT AND DISPOSAL OF REFUSE.

Subd. 1. Definitions. The following terms, as used in this Section, shall have the meanings stated:

- A. **“Refuse”** - Includes all organic material resulting from the manufacture, preparation or serving of food or food products, and spoiled, decayed or waste foods from any source, bottles, cans, glassware, paper or paper products, crockery, ashes, rags and discarded clothing, tree or lawn clippings, leaves, weeds and other waste products, or human waste, except waste resulting from building construction or demolition.
- B. **“Residential Dwelling”** - Any single building consisting of one or two dwelling units with individual kitchen facilities for each.
- C. **“Multiple Dwelling”** - Any building used for residential purposes consisting of more than two dwelling units with individual kitchen facilities for each.
- D. **“Commercial Establishment”** - Any premises where a commercial or industrial enterprise of any kind is carried on, and shall include restaurants, clubs, churches, and schools where food is prepared or served.

Subd. 2. Storage.

- A. It is unlawful for any person to store refuse on residential dwelling premises for more than one week. All such storage shall be in five to thirty-two gallon metal or plastic containers with tight-fitting covers, which shall be maintained in a clean and sanitary condition; provided, that tree leaves, weeds and grass clippings may be stored in plastic bags and tree limbs must be stored in bundles weighing no more than seventy-five pounds or no longer than three feet. All metal containers or equivalent shall at all times except on collection days be located behind the rear line of the dwelling, or in the garage, or screened from view from the street and at least ten feet from the abutting property.
- B. It is unlawful for any person to store refuse on multiple dwelling premises for more than one week. Such storage shall be in containers as for residential dwelling premises, except that so-called “dumpsters” with close-fitting covers may be substituted.
- C. It is unlawful for any person to store refuse on commercial establishment premises for more than forty-eight hours. Such storage shall be in containers as

for residential dwelling premises, except that so-called “dumpsters” with close-fitting covers may be substituted.

D. It is unlawful to store organic refuse unless it is drained and wrapped.

Subd. 3. Deposit. It is unlawful for any person to deposit refuse from any source, rubbish, offal, or the body of a dead animal, in any place other than a sanitary landfill.

Subd. 4. Fire Danger. It is unlawful for any person to store, deposit or dispose of any refuse which is in flames or heated to the point where it could cause danger of fire in other refuse.

SECTION 10.02. 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 abutting a street in which there are City water and sewer mains, to install a toilet in such dwelling or business building and make connection thereof with such water and sewer mains. The City shall serve written notice upon said owner or occupant requiring the installation of toilet facilities upon premises described in said notice, and connection thereof with the sewer and water mains, all of which shall be done within thirty days after service of such written notice. Whenever any owner or occupant shall default in compliance with such 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 such installation be paid in the first instance out of the General Revenue Fund, and assessed against the property so benefited. After such 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 such assessment is not paid within ten 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 five years upon written request by the owner of the property.

SECTION 10.03. UNLAWFUL USE AND FURNISHING OF TOBACCO.

Subd. 1. Age of Legal Use. It is unlawful for any person, under the age of eighteen years, to use tobacco in any form.

Subd. 2. Unlawful To Furnish. It is unlawful for any person to furnish tobacco, by any manner or means and in any form, to any person under the age of eighteen years.

SECTION 10.04. DANGEROUS WEAPONS AND ARTICLES.

Subd. 1. Acts Prohibited. It is unlawful for any person to:

- A. Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another; or,
- B. Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another; or,
- C. Manufacture or sell for any unlawful purpose any weapon known as a sling-shot or sand club; or,
- D. Manufacture, transfer or possess metal knuckles or a switch blade knife opening automatically; or,
- E. Possess any weapons commonly used in martial arts including, but not limited to, “throwing stars”, “nunchakas” and similar devices. Provided, however, that a person engaged in martial arts may transport such devices between his/her residence and place of instruction or demonstration; or,
- F. Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or,
- G. Sell or have in his possession any device designed to silence or muffle the discharge of a firearm; or,
- H. Permit, as a parent or guardian, any child under fourteen years of age to handle or use, outside of the parent’s or guardian’s presence, a firearm or air gun of any kind, or any ammunition or explosive; or,
- I. Furnish a minor under eighteen years of age with a firearm, air gun, ammunition, or explosive without the written consent of his/her parent or guardian or of the Police Department.

Subd. 2. Exception. Nothing in Subdivision 1 of this Section shall prohibit the possession of the articles therein mentioned if the purpose of such possession is for public exhibition by museums or collectors of art.

Subd. 3. Discharge of Firearms and Explosives. It is unlawful for any person to fire or discharge any cannon, gun, pistol or other firearm, air gun, air rifle, or other similar device commonly referred to as a B-B gun.

Subd. 4. Exception. Nothing in Subdivision 3 of this Section shall apply to a display of fireworks by an organization or group of organizations authorized in writing by the Council, or to a peace officer in the discharge of his/her duty, or to a person in the lawful defense of his/her person or family. This Section shall not apply to the discharge of firearms in a range authorized in writing by the Council.

Subd. 5. Exposure of Unused Container. It is unlawful for any person, being the owner or in possession or control thereof, to permit an unused refrigerator, ice box, or other container, sufficiently large to retain any child and with the doors which fasten automatically when closed, to expose the same accessible to children, without removing the doors, lids, hinges or latches.

Subd. 6. Use of Bow and Arrow. It is unlawful for any person to shoot a bow and arrow except in the Physical Education Program in a school supervised by a member of its faculty, a community-wide supervised class or event specifically authorized by the Chief of Police, or a bow and arrow range authorized by the Council.

Subd. 7 State Statute 624.20 Adopted. Minnesota State Statute 624.20 as amended thereafter from time to time is hereby adopted by reference as though set forth verbatim herein.

SECTION 10.05. PROHIBITING THE REMOVAL OF MATERIALS SET OUT FOR RECYCLING COLLECTION AND PROVIDING PENALTIES.

Subd. 1. Purpose. This section is designed to prevent the unauthorized collections of recyclable materials which are set out as part of a designated recycling program. Unauthorized collection or “Scavenging” may reduce the volume of material collected as part of a designated program and thereby threaten the economic liability of the authorized program. Scavenging may also cause confusion among participating residents and thereby disrupt the publicity and educational processes of an authorized program. This section is also designed to insure that a designated recycling program will be implemented in an orderly fashion to avoid adverse effects on the public health, welfare, safety and environment.

Subd. 2. Definitions.

- A. **“Authorized Recycling Program”** - shall mean a program for the collection and recycling of recyclable materials which is instituted, sponsored, authorized or controlled by the City of Lexington.
- B. **“Recyclable Materials”** - shall mean all items of refuse designated by the Recycling Coordinator to be a part of an authorized recycling program and which are intended for transportation, processing and remanufacturing or reuse.
- C. **“Scavenging”** - shall mean the unauthorized collection of recyclable materials that have been set out by residents of the City specifically for participating in curbside recycling programs.

Subd. 3. Designation of Items. Items designated for recycling shall be listed by the City’s Recycling Coordinator to be part of an authorized recycling program.

Subd. 4. Ownership of Recyclable Materials. Ownership of recyclable materials set out for the purpose of participating curbside recycling programs shall remain with the person who set out the materials until removed by the authorized collector. Until the recyclable materials are removed by the authorized collector, the person who set out the materials is totally responsible for their proper preparation, handling and storage. Ownership and responsibility for the proper handling of the recyclable materials shall vest in the authorized collector upon removal thereof by the collector.

Subd. 5. Unauthorized Collection. It shall be unlawful for any person who is not authorized by the City to take or collect or scavenge recyclable material set out for authorized collection programs within the City. The first violation of this section shall constitute a petty misdemeanor. The second and subsequent violation shall be misdemeanors.

SECTION 10.06. COMMUNITY SERVICE OFFICERS.

Subd. 1. Powers. Notwithstanding anything to the contrary contained in this Code, individuals employed as community service officers by the Police Department or other entity which provides law enforcement services to the City are hereby authorized to issue citations in lieu of arrest or continued detention to persons who violate any provision of the following sections of this Code of state statute:

- A. Chapter 3 Municipal Utilities, Section 3.20 Rules and Regulations Relating to Water Service Subd. 6
- B. City Code Chapter 4 Construction Licensing
- C. City Code Chapter 8 Traffic Violations
- D. City Code Chapter 9 Parking Violations
- E. City Code Chapter 10 Public Protection and Penalties

SECTION 10.08. CLANDESTINE DRUG LAB AND CHEMICAL DUMP SITE CLEAN-UP.

Subd. 1. General Provisions.

- A. Purpose and Intent. The purpose of this ordinance is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals or residue from a suspected clandestine drug lab site or associated dump site may exist. Professional reports, based on assessments, testing and investigations, show that chemicals used in the production of illicit drugs can condense, penetrate, and contaminate surfaces, furnishings, and equipment of surrounding structures. The City Council finds that such sites, and the personal

property within such sites, may contain suspected chemicals and residues that place people, particularly children or adults of child bearing age, at risk when exposed through inhabiting or visiting the site or using or being exposed to contaminated personal property.

- B. Interpretation and Application. In the interpretation and application of this article, the provisions herein shall be construed to protect the public health, safety and welfare. Where the conditions imposed by any provision of this ordinance are either more or less restrictive to the public than comparable provisions imposed by any other law, ordinance, statute, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements on the public shall prevail. Should any court of competent jurisdiction declare any section or subpart of this article to be invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the provision declared invalid.
- C. Fees. Fees for the administration of this ordinance may be established and amended periodically by resolution of the City Council.

Subd. 2. Definitions. For the purposes of this ordinance, the following terms or words shall be interpreted as follows:

- A. **“Child”** – Shall mean any person less than 18 years of age.
- B. **“Chemical Dump Site”** – Shall mean any place or area where chemicals or other waste materials used in a clandestine drug lab operation have been located.
- C. **“City”** – Shall mean the City of Lexington.
- D. **“Clandestine Drug Lab Sites/Wastes/Substances”** – Shall mean 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 may include dwellings, accessory buildings, accessory structures, a chemical dumpsite, any land or personal property which may include vehicle(s), boat(s), trailer(s), etc. Wastes generated from a clandestine drug lab shall be treated, stored, transported or disposed of in a manner consistent with Minnesota Department of Health, Minnesota Pollution Control, and Anoka County Health Department rules and regulations.
- E. **“Clandestine Drug Lab Operation”** – Shall mean the unlawful manufacture or attempt to manufacture a controlled substance.
- F. **“Controlled Substance”** – Shall mean any drug, substance or immediate precursor in Minnesota Statute § 152.02 Schedules I through V together with any

amendments or modifications thereto. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

- G. **“Manufacture, (in places other than a pharmacy)”** – Shall mean and include the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, and the packing, repacking, tableting, encapsulating, labeling, relabeling, or filling or by other process of drugs.
- H. **“Owner”** – Shall mean any person(s), firm(s), corporation(s) or other entity who or which 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.
- I. **“Public Health Nuisance”** – All dwellings, accessory structures and buildings or adjacent property associated with a clandestine drug lab site are potentially unsafe due to health hazards and are considered a public health nuisance pursuant to Minn. Stat. § 463.15, et seq.; § 463.15, et seq.; § 412.221, et seq.; and 145A.01, et seq.

Subd. 3. Declaration of Site and Contents as a Public Health Nuisance. All dwellings, accessory structures, buildings, vehicles, boats, trailers, personal property, adjacent property or other locations, associated with a clandestine drug lab site or chemical dump site are potentially unsafe due to health hazards and are hereby declared to be a public health nuisance pursuant to Minn. Stat. § 463.15, et seq.; § 463.15, et seq.; § 412.221, et seq.; and 145A.01, et seq.

Subd. 4. Law Enforcement Action. If law enforcement authorities determine the existence of a clandestine drug lab site or chemical dump site, the site, and all personal property therein, shall be declared a public health nuisance. Law enforcement authorities who identify conditions associated with a clandestine drug lab site or chemical dumpsite which may place neighbors, the visiting public, or present and future occupants of the site at risk for exposure to harmful contaminants and other associated conditions are authorized to take the following action:

- A. Promptly notify the State Duty Officer, Chemical Assessment Team (CAT), Crime Lab, City Building Official or designee, child protection, public health authorities and the appropriate enforcement division of the drug enforcement administration of the U.S. Justice Department of the location of the site, local law enforcement officials, and the owner if known, of the conditions found; and
- B. Treat, store, transport or dispose of all wastes/substances generated from a clandestine drug lab operation found at the site in a manner consistent with Minnesota Department of Health, Minnesota Pollution Control and Anoka County Health Department rules and regulations; and

- C. Public Health Officials may issue a temporary declaration of public health nuisance for the affected site and post a copy of the declaration on all doorway entrances to the site or, in the case of bare land, post the declaration in several conspicuous places on the property. This temporary declaration of public health nuisance shall expire subsequent to the same authority and the City Building Official or designee inspecting the site and determining the appropriateness of issuing a after the City Building Official or designee inspects the site and determines the appropriateness of issuing a permanent declaration of public health nuisance; and
- D. The Chemical Assessment Team (CAT) and Crime Lab will notify all persons occupying the site that a temporary declaration of public health nuisance has been issued; and
- E. Require all persons occupying the site to immediately vacate the site, remove all pets from the site, and not return without written authorization from the City Building Official or designee; and
- F. Notify all occupants vacating the site that all personal property at the site may be contaminated with dangerous chemical residue; and
- G. Public Health Official or City Building Official or designee may put locks on each doorway entrance to the site to prohibit people from entering the site without authorization after all occupants of the site have vacated.
- H. The obligation to promptly notify the persons and organizations mentioned above may be delayed to accomplish appropriate law enforcement objectives, but only to the extent that public health and child protection responsibilities are not unnecessarily compromised.

Subd. 5. Seizure of Property. When the clandestine drug lab site or chemical dump site is inside a vehicle, boat, trailer or other form of moveable personal property, law enforcement authorities, upon the direction of the Duty Officer, Chemical Assessment Team (CAT) and Crime Lab, shall immediately seize it and not allow it to be transported except to a more secure location. In such circumstances, all other requirements of this ordinance shall be followed as closely as possible given the specific type of property in which the site is discovered.

Subd. 6. Action by City Building Official or Designee.

- A. Inspection and Declaration of Nuisance. Within 48 hours of notification that law enforcement authorities have determined the existence of a clandestine drug lab site or chemical dump site, the City Building Official or designee shall inspect the site to determine the appropriate scope of a permanent declaration of public health nuisance. Based on the results of the inspection, the City Building Official or designee may then promptly issue a permanent declaration of public health

nuisance and a Do Not Enter-Unsafe to Occupy Order for the affected site to replace the temporary declaration issued and posted by law enforcement. A copy of the permanent declaration and order shall be posted on all doorway entrances to the site or, in the case of bare land, shall be posted in several conspicuous places on the property.

B. Abatement Order. After a permanent declaration of public health nuisance has been issued and posted, the City Building Official or designee shall send written notice to the site owner ordering abatement of the public health nuisance. The abatement order shall include the following information:

- 1) A copy of the declaration of public health nuisance and Do Not Enter- Unsafe to Occupy Order; and
- 2) Information about the potentially hazardous condition of the site; and
- 3) Notification of suspension of the site's rental license if applicable; and
- 4) A summary of the site owner's and occupant's responsibilities under this ordinance; and
- 5) Information that may help the owner locate appropriate services necessary to abate the public health nuisance.

C. Notice to Concerned Parties. The Building Official or designee shall also mail a copy of the permanent declaration of public health nuisance, a copy of this ordinance, and a notification of the suspension of the site's rental licensees, if applicable, to the following concerned parties at their last known address:

- 1) Occupants or residents of the site if the identities of such persons are known; and
- 2) Neighbors in proximity to the site who may be reasonably affected by the conditions found; and
- 3) The City Administrator; and
- 4) The City Police Department; and
- 5) The City Fire Department; and
- 6) The appropriate enforcement division of the Drug Enforcement Administration of the U.S. Justice Department; and
- 7) Other City, State and Local authorities, such as the City Water Department, the Minnesota Pollution Control Agency, the Department of Natural

Resources and any other agency or authority which is known to have public and protection responsibilities that are applicable to the situation.

- D. Modification or removal of declaration. The City Building Official or designee is authorized to modify or remove the declaration of public health nuisance after the Building Official or designee receives documentation from a City approved environmental hazard testing and cleaning firm stating that the suspected health and safety risks, including those of neighbors and potential dwelling occupants, either do not exist or have been sufficiently abated or corrected to justify amendment or removal of the declaration.

Subd. 7. Site Owner's Responsibility to Act. Within ten (10) business days of the date the abatement order is mailed to the owner of the site, the owner shall accomplish the following:

- A. Provide the City Building Official or designee, City Administrator and City Attorney with written notification:
- 1) That the owner has confirmed that all persons and their pets have vacated the site; and
 - 2) Of the name(s) of all children who the owner believes were residing at the site during the time period the clandestine drug lab or chemical dump site is suspected to have been at the site; and
 - 3) That the site will remain vacated and secured until the public health nuisance is completely abated as required by this ordinance.
- B. Contract with one (1) or more City approved environmental hazard testing and cleaning firms to conduct the following work in accordance with the most current Minnesota Department of Health guidelines:
- 1) A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;
 - 2) Soil testing of the site and testing of all property and soil in proximity to the site which the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site; and
 - 3) A complete clean-up of the site (including, but not limited to, the clean up or removal of plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the site and complete clean-up of the demolished site; and
 - 4) A complete clean up, or disposal at an approved dump site, of all personal property in the site; and

- 5) A complete clean-up of all property and soil in proximity to the site which is found to have been affected by the conditions found at the site; and
 - 6) Remediation testing and follow-up testing, including, but not limited to, testing of the ventilation system and plumbing, to determine that all health risks are sufficiently reduced, according to Minnesota Department of Health guidelines, to allow safe human occupancy and use of the site and use of the personal property therein and of all property and soil in proximity to the site.
- C. Provide the City Building Official or designee with the identity of the testing and cleaning firm with which the owner has contracted for abatement of the public health nuisance as required above; and
 - D. Sign an agreement with the City Building Official or designee establishing a clean-up schedule. The schedule shall establish reasonable deadlines for completing all actions required by this ordinance for abatement of the public health nuisance. In determining appropriate deadlines, the City Building Official or designee shall consider practical limitations and the availability of contractors in approving the schedule for clean-up.
 - E. The site owner must meet all deadlines established on the clean-up schedule. Also, pursuant to the deadlines established by the clean-up schedule, the site owner is required to provide the City Building Official or designee with written documentation of the clean-up process, including a signed statement from a City approved environmental hazard testing and cleaning firm that the site, all personal property therein and all property and soil in proximity to the site, is safe for human occupancy and use and that the clean-up was conducted in accordance with the most current Minnesota Department of Health guidelines.

Subd. 8. Site Owner's Responsibility for Costs. The site owner shall be responsible for all costs, including those of the City, of addressing and abating the public health nuisance, including contractor's fees and the City's costs for services performed in association with the clandestine drug lab site or chemical dump site clean-up. The City's cost may also include, but shall not be limited to:

- A. Posting of the site; and
- B. Notification of affected parties; and
- C. Securing the site, providing limited access to the site, and prosecution of unauthorized persons found at the site; and
- D. Expense related to the recovery of costs, including the assessment process; and
- E. Laboratory fees; and

- F. Clean up services; and
- G. Administrative fees; and
- H. Legal fees; and
- I. Other associated costs.

Subd. 9. City Action and Recovery of Costs.

- A. If the building owner fails to comply with any of the requirements of this ordinance, the City Building Official or designee is authorized to take all reasonable actions necessary to abate the public health nuisance including, but not limited to, contracting with a City approved environmental hazard testing and cleaning firm to conduct the work outlined in Section 7 of this ordinance.
 - 1) The Building Official or designee is also authorized to provide a certified copy of the declaration of public health nuisance to the lien and/or mortgage holder(s), insurance company(ies) and with the Office of the Anoka County Recorder or Registrar of Titles of the affected site to help assure that persons with interest in the site have access to information about the declaration of public health nuisance. Upon abatement of the nuisance as required herein, the Building Official or designee, shall cause a notice of successful abatement and removal of the Declaration of Public Health Nuisance.
- B. If the costs to clean the site or to clean the personal property at the site are prohibitively high in relation to the value of the site or the personal property, the City is authorized to remove or demolish the site, structure or building and/or dispose of the personal property therein. These actions shall be taken in accordance with the provisions of Minnesota Statute Chapter 463 together with any amendments or modifications thereto.
- C. If the City abates or assists in abating the public health nuisance, in addition to any other legal remedy, the City shall be entitled to recover all of its out of pocket costs as set forth in Section 8 above and an additional 25 percent of such costs for administrative and legal expense. The City may recover costs by civil action against the owner of the site or by assessing such costs as a special charge against the site as taxes and special assessments are certified and collected pursuant to Minnesota Statute § 429.101 or according to the provisions of Minnesota Statute Chapter 463 together with any amendments or modifications thereto.
- D. Nothing herein shall limit the authority of the City to enforce this ordinance or seek any other legal remedy to abate the nuisance through declaratory action, injunction, and nuisance declaration of otherwise.

Subd. 10. Recovery of Costs from Persons Causing Damage. No provisions of this ordinance are intended to limit the site owner's, residents' or the City's right to recover costs incurred under this article from either the persons contributing to the public health nuisance, such as the operators of the clandestine drug lab, and/or from other lawful sources.

Subd. 11. Site Owner and Address. When the site is real property and the owner or the address of the owner of the site is unknown, the owner and the owner's address is deemed to be that of the property's taxpayer's name and address as that information is maintained by the County Auditor's Office. When the site is a vehicle, boat or trailer and the owner or the address of the owner of the site is unknown, the owner and the owner's address is deemed to be that of the person on file as the owner on the current or most recent title to the vehicle, boat or trailer.

Subd. 12. Suspension of Residential Rental Certification. Upon issuance of a permanent declaration of public health nuisance, any residential rental certificate issued by the City for the site, or any part thereof, is hereby declared to be immediately suspended pending full compliance with this ordinance.

Subd. 13. Unauthorized Removal of Postings. It is unlawful for any person, except authorized City personnel or Public Health Officials, to remove postings designating a temporary or permanent declaration of public health nuisance and/or Do Not Enter – Unsafe to Occupy Order from a chemical dump site or a clandestine drug lab site.

Subd. 14. Entry Into or Onto Site. While a declaration of public health nuisance for an affected site is in effect and has been posted at the site, no persons are permitted to be inside the site, or on the site property without prior written consent of the City Building Official or designee or as otherwise authorized by this ordinance. To confirm compliance with this ordinance and to execute their duties under this ordinance, law enforcement officers, the City Building Official or designee, and any persons designated by the Building Official or designee, may enter onto the site property or enter into the site at any time while a declaration of public health nuisance is in effect for the site.

Subd. 15. Removal of Personal Property from the Site. While a declaration of public health nuisance for an affected site is in effect and has been posted at the site, no personal property may be removed from the site without prior written consent from the City Building Official or designee. Consent to remove personal property shall only be granted at the reasonable discretion of the Building Official or designee, and only in cases of hardship after:

- A. A City approved environmental hazard testing and cleaning firm has advised the City, in writing, that the item(s) of personal property can be sufficiently cleaned to remove all harmful contamination; and

B. The owner of the personal property agrees in writing:

- 1) That the owner is aware of the danger of using the contaminated property;
and
- 2) That the owner will thoroughly clean the property to remove all contamination prior to the use of the property; and
- 3) That the owner releases and agrees to indemnify the city, its Staff, and the City Council from all liability to the owner and/or third persons for injuries or damages caused, or alleged to have been caused, by the contaminated property.

Subd. 16. City Council Review/Right to Appeal. The owner of the property or any party with a legal interest in the property who has been issued a Declaration of Public Health Nuisance, an Order for Abatement, or a Statement of Public Costs may appeal to the City Council. The appeal shall be in writing, filed with the City Clerk and Anoka County Community Health and Environmental Services, specifying the grounds for the appeal and the relief requested. The appeal must be filed within ten (10) days of the issuance of the item from which appeal is taken. The City Council shall hear the appeal at the next available City Council meeting. Upon review, the City Council may affirm, modify or reverse the action taken. The filing of an appeal shall suspend the terms of the Declaration of Public Health Nuisance, Order for Abatement, or Statement of Public Costs, whichever is applicable. However, in the instance of an appeal from an Order for Abatement, the appeal shall not suspend that part of the order prohibiting occupancy of the property.

Subd. 17. Violations and Penalties. Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minnesota Statute § 609.02, Subd. 3.

SECTION 10.09, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 10.10. ANIMAL LICENSING AND REGULATION.

Subd. 1. Dogs And Other Animals.

A. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subdivision, except where the context clearly indicates a different meaning:

- 1) **“Animal”** - means all animals, whether wild or domestic, including but not limited to dogs and cats.

- 2) **“Animal Control Authority”** - means the city, acting through its employees or officials, the police department, or any person or organization appointed by city council for the purpose of enforcing this chapter.
 - 3) **“Animal Control Officer”** - means all employees of the police and public works departments, or any other person or employee of an organization appointed by the city council for purposes of enforcing this chapter.
 - 4) **“Animal Shelter”** - means any premises designated by the city council for the purpose of impounding or caring for animals held under the authority of this chapter.
 - 5) **“At Large”** - means an animal off the owner's premises and not under the control of the owner, a member of the owner's immediate family, or person in control of the animal either by leash, cord or chain, or similar physical restraint.
 - 6) **“Farm Animals”** - shall mean those animals commonly associated with a farm, ranch or stable or performing work in an agricultural setting. These animals shall include but are not limited to chickens, ducks, geese, horses, cows, sheep, goats, pigs (including Vietnamese pot-bellied pigs), and llamas.
 - 7) **“Kennel”** - means any place where four or more dogs over the age of six months are kept, owned, boarded, bred or offered for sale.
 - 8) **“Owner”** - means a person who harbors, feeds, boards, possesses, keeps or has custody of an animal.
 - 9) **“Pet Shop”** - means any establishment, whether non-profit or for profit, engaged in the business of breeding, buying, selling or boarding animals of any species.
 - 10) **“Veterinary Hospital”** - means any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseases and injuries of animals.
- B. Animal licensing/Identification. Animals that are permitted in the city are not required to obtain a license, however all dogs over the age of six months shall have an identification tag affixed to a collar which indicates the owner name, address and a contact phone number.
- C. Licensing Pet Shops & Kennels. Pet shops and kennels shall require a license from the City. It is unlawful to operate a kennel in any residentially zoned district. Pet Shops and kennels are permitted in certain zoning district but require a conditional use permit.

D. License validity; fees. Licenses shall be issued as follows:

- 1) All fees will be established from time to time by ordinance or resolution of the city council. Licenses may be issued at any time during a license period, provided that the fees set forth in this section shall be prorated on the basis of the number of months remaining in any such period. However the minimum fee shall be no less than the licensing fee for a six month period. For this purpose fifteen days or more shall be construed a full month. Application for license shall be filed on the appropriate forms provided by the city.
- 2) Kennel licenses. No kennel license may be issued or renewed unless the applicant has a valid conditional use permit for the facility.
- 3) The commencement and ending period of licenses shall be set out in the ordinance or resolution that establishes fees for such license. Licenses shall be valid for a period of two years.

E. Unlawful acts.

- 1) It is unlawful for any animal to defecate on public property or the private property of another, without the owner or person in control of the animal immediately removing the excrement and disposing of it in a sanitary manner.
- 2) It is unlawful for any animal to be in or upon any city park, street, sidewalk or trail property unless owner or person in control of the animal restrains it by a leash or the animal is housed in a portable crate or kennel, and unless the owner or person in control of the animal has a bag or other receptacle for the collection and proper disposal of the animal's excrement in their possession.
- 3) It is unlawful for any animal to be at large. An owner or person in control of the animal is responsible under this chapter for any animal that is at large.
- 4) It is unlawful to possess more than three dogs, three cats, or three of any other type of animal or in combination a maximum of four animals over the age of six months to be kept on any property in the city, except in a location where a licensed pet shop or kennel is allowed or other exceptions as specifically set forth in this chapter.
- 5) It shall be unlawful for any animal to habitually or frequently bark or cry; to frequent school grounds; to chase vehicles; to molest or disturb any person if such person is not on the property of the owner or custodian of such animal; or to molest, defile or destroy any property, public or private. It shall be the obligation and responsibility of the owner or custodian of any animal in the city to prevent such animal from committing any act which constitutes a nuisance.

- 6) It is unlawful for the owner or person in control of the animal to permit such unsanitary conditions on a premise that the maintenance or keeping of the animal creates danger or odors to the annoyance of the public in the vicinity. Failure on the part of the owner or custodian to prevent their animal from committing an act of nuisance shall be a violation of this section.
- 7) Exceptions. The provisions of 1 and 2 do not apply to a guide dog accompanying a blind person, a service dog accompanying a disabled person, or a dog engaged in police or rescue activity.

F. Seizure of animals.

- 1) The Animal Control Officer may seize animals for reasons specified in this chapter. The animal Control Officer shall immediately seize any potentially dangerous animal or dangerous animal if:
 - (a) The animals is not validly registered, the owner does not secure proper liability coverage, or the animal is not sterilized within 14 days after the owner is provided notice of the animal's designation; or
 - (b) An animal is not otherwise maintained in a manner consistent with an order of the Animal Control Officer.
- 2) If an owner of a dog is convicted of a crime for which the dog was originally seized, the court may order that the dog be confiscated and destroyed in a proper and humane manner, and that the owner pay the costs incurred in confiscating, confining, and destroying the dog.

G. Impoundment; notice to owner; disposition of unclaimed animals. Unrestrained animals may be taken by any officer and impounded in an animal shelter. Impounded animals shall be kept for not less than five days unless reclaimed by their owners. If the owner can be identified by registration, identification tag, or by other means, the Animal Control Officer shall immediately, upon impoundment, notify the owner by telephone, mail or personal contact of such impoundment. Animals not claimed by their owners within five days may be humanely disposed of by any person or agency delegated by the city council to exercise such authority. Any animal which is in the city that has been critically injured may be immediately and humanely euthanized by an Animal Control Officer or by a veterinarian.

H. Reclamation; pound fees. Impounded animals may be reclaimed by their owners after payment is made to the city of a pound fee, in addition to boarding and other costs. All fees in the city will be established from time to time by ordinance or resolution of the city council, or such expenses as otherwise set by market rates where establishing fees are not practical.

- I. Alternative to impoundment; proceedings against owner. Notwithstanding other provisions of this section, if an animal is found at large and its owner can be identified and located, such animal need not be impounded but may, instead, be taken to the owner. In such case, however, proceedings may be taken against the owner for violation of this chapter.
- J. Female animals in heat. Every female animal in heat shall be confined in a building or other secure enclosure, in such a manner that the female animal cannot come into contact with another animal, except for planned breeding.
- K. Care of and cruelty to animals. No person shall fail to provide any animal with sufficient food and water, proper shelter and veterinary care when needed. No person shall beat, cruelly treat, torment or otherwise abuse any animal or cause or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans. No person shall abandon an animal.
- L. Quarantine of biting animals. Any animal which bites a person shall be quarantined for such time as may be directed by the city. During quarantine the animal shall be securely confined. At the discretion of the police chief the quarantine may be on the premises of the owner. However, if the police chief requires other confinement, the owner shall surrender the animal for the quarantine period to an animal shelter or shall, at his own expense, place it in a veterinary hospital.
- M. Destruction of animals suspected of being rabid. No person shall kill any animal suspected of being rabid except after the animal has been placed in quarantine and the diagnosis of rabies made by a licensed veterinarian. If a veterinarian diagnoses rabies in an animal in quarantine, then the animal shall be humanely euthanized.
- N. Enforcement of section. The city council may from time to time appoint such persons as may be necessary to assist in the enforcement of this section. Such persons shall have limited police powers only necessary for enforcement of this section, and no person shall interfere or obstruct in the exercise of such powers. [Such person may be appointed as a Reserve Officer to the police department for the purpose carrying out the duties set forth in this section.]
- O. Interference with Animal Control Officer or police officer. No person shall interfere with, hinder or molest any Animal Control Officer or police officer in the performance of any duty, or seek to release any animal in the custody of the Animal Control Officer or police officer except as provided in this chapter.

Subd 2. Wild or Dangerous Animals.

A. Prohibited species. No person shall harbor, maintain or control any wild, dangerous, or non-domesticated animal within the city. These shall include, but are not limited to, the following animals:

- 1) Any animal which possession is prohibited by state or federal law.
- 2) Any non-domesticated animal or species, including but not limited to the following animals:
 - (a) Any non-human member of the family Primate (i.e., monkey).
 - (b) Any cat of the family Felidae (i.e., tiger, bobcat), except domesticated cats known as *Felis catus*.
 - (c) Any canine of the family Canidae (i.e., wolf, coyote), except domesticated dogs known as *Canis lupus familiaris*.
 - (d) Any canine resulting from crossbreeding with a coyote or wolf.
 - (e) Any snake of the family Viperidae (i.e., rattlesnake, cobra), or any snake of the family Boidae (i.e., boa constrictor, python).
 - (f) Any carnivorous reptile (i.e., alligator, crocodile, gila monster).
 - (g) Any poisonous or stinging insect (i.e., scorpion).
 - (h) Any skunk, whether captured in the wild, domestically raised, descended or not descended, vaccinated against rabies or not vaccinated against rabies.
 - (i) Any raccoon, opossum, porcupine or badger.
 - (j) Any bear.
- 3) Other animals. Any other animal which by its size, vicious nature or other characteristics which are inherently dangerous to human beings; any other animal which is commonly considered wild and not domesticated; or that because of its odors, cries or similar characteristics is not compatible with urban living.
- 4) Any animal, including dogs known as *Canis lupus familiaris*, that meets the definition of a dangerous animal contained in this chapter and is not otherwise permitted by this chapter.

B. Licensing Honey Bees. Notwithstanding other provisions of this chapter, a person may keep honey bee colonies on any premises after first obtaining a

license as provided in this subsection. No license shall be issued except in compliance with this section.

- 1) Lot size shall be a minimum of one-half acre,
- 2) No more than two honey bee colonies shall be allowed,
- 3) Hives shall be setback from property lines a minimum of 25 feet,
- 4) Applicant must document at least 16 hours of training in beekeeping, and
- 5) The colony shall be maintained in good order and not be a nuisance to any member of the public.

C. Compliance with section. Anyone keeping or maintaining any animal prohibited by this chapter as of January 1, 2012, has 30 days in which to comply with the provisions of this section. Extensions beyond 30 days may be granted by the city council in its sole discretion for animals that have been previously permitted by the city.

Subd 3. Farm Animals.

- A. Farm animals shall only be kept in an agricultural district of the city or on a residential lot of at least ten acres in size, and provided that no animal shelter shall be within 300 feet of an adjoining piece of property. Animal feedlots as defined in MN Rule 7020.03 are prohibited.
- B. Backyard Chickens. Notwithstanding other provisions of this chapter, a person may keep up to four (4) female chickens on a parcel that they own that is less than ten acres in size, provided that the owner has a lot with a minimum of 10,000 square feet, and obtains a backyard chicken permit from the City. No permit shall be issued except in compliance with this section.

1) Definitions

- (a) **“Coop”** means the structure for the keeping or housing of chickens permitted by the ordinance.
- (b) **“Hen”** means a female chicken.
- (c) **“Rooster”** means a male chicken.
- (d) **“Run”** means a fully-enclosed and covered area attached to a coop where the chickens can roam unsupervised.

- 2) Any person desiring to obtain a backyard chicken permit under this

subdivision must make a written application to the City Clerk on a form provided by the City and pay an application fee. Fees to be charged for the permit to keep chickens shall be set by City Council on the fee schedule. The application must include a scaled diagram or site plan that shows the location of the chicken coop including the distance of the coop from adjoining structures and property lines and the coop's dimensions. If the applicant's lot is less than 15,000 square feet, the applicant must secure permission from at least 70 percent of the owners of property within 150 feet of the applicants parcel.

- 3) All initial permits will expire on June 30th of the following year after their issuance unless sooner revoked. Renewal permits shall expire on June 30th of the second year following their issuance unless sooner revoked.
- 4) The City may revoke a permit for failure to comply with provisions of this section or any of the permit's conditions.
- 5) The city may inspect the premises for which a permit has been granted in order to ensure compliance with this subdivision. If the city is not able to obtain the occupant's consent to enter the property, it may seek an administrative search warrant or revoke the permit.
- 6) All chickens must be kept in an enclosed coop or enclosed run. The chicken's living area must be maintained in a clean and sanitary condition, devoid of all rodents and vermin and free from objectionable odors. Waste must be disposed of on a weekly basis. Grains and feed must be stored in rodent and raccoon-proof containers inside of a structure. The enclosed coop must be built to protect the chickens from extreme heat or cold. The enclosed coop must be maintained in good condition and be sufficient in strength and size to allow the chickens to move about, but also able to prevent escape. The enclosed coop must have a minimum size of four square feet per animal and must not exceed forty (40) square feet in total, with a maximum height of twelve (12) feet. The enclosed coop must be located in the rear yard and set back at least 25-feet from any residential dwelling and at least 15-feet from all property lines and may not be located in a utility or drainage easement.
- 7) Enclosed runs shall be attached to the coop. Fencing shall be adequate to keep chickens in and predators out. The coop and attached run shall be a maximum of 40 square feet each and set back at least 25 feet from all neighboring residential structures and 15 feet from the property line.
- 8) Chickens must not be raised or kept for the purpose of fighting. No permit will be granted by the city to keep any chickens within a dwelling or garage, nor on a property which contains two or more dwelling units. No outdoor butchering of chickens is allowed. No roosters are allowed.

- 9) No person shall allow any chicken under his or her ownership or control to violate Chapter 11, Nuisances.
- 10) Persons that intend to no longer keep chickens on their premises shall notify the City. The coop must be removed upon expiration of the permit.
- 11) Dead chickens must be disposed of according to the Minnesota Board of Animal Health rules which require chicken carcasses to be disposed of as soon as possible after death, usually within forty-eight (48) to seventy-two (72) hours. Legal forms of chicken carcass disposal include offsite burial, offsite incineration or rendering, or offsite composting.

Subd. 4. Diseased Animals – Disease Control.

- A. Keeping of diseased animal. No person shall possess an animal which is diseased such that it is a danger to the health and safety of other persons. Possession of a diseased animal includes but is not limited to personal possession or possession on one's premises. Only a licensed veterinarian may harbor a diseased animal for either medical or treatment purposes.
- B. Confinement. Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public may be apprehended and confined as directed by an Animal Control Officer. The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the animal to be euthanized and shall properly dispose of the remains. Reasonable efforts will be made to notify the owner or keeper of the animal prior to the euthanasia. The owner will be liable to pay the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.
- C. Release. If the animal, upon examination, is not found to be diseased within the meaning of this section, the animal shall be released to the owner upon payment of the costs associated with the examination.
- D. Vaccination of animals. No person shall keep any animal over six months of age within the city limits without having obtained a certificate from a qualified veterinarian showing the animal has a current rabies vaccination. The owner may affix a permanent tag to the collar of a dog or cat, which tag shall show the expiration date of the rabies vaccination. The owner may choose not to put a rabies tag on a dog or cat but must be able to prove the animal has a current rabies vaccination by presenting a rabies certificate.

Subdivisions 5 Through 9, Inclusive, Reserved For Future Expansion.

Subd.10. Dangerous and Potentially Dangerous Animals.

A. Definitions.

- 1) **“Dangerous Animal”** - An animal which has:
 - (a) Without provocation by a victim, inflicted substantial bodily harm on a human being on public or private property;
 - (b) Killed a domestic animal without provocation while off the owner’s property; or
 - (c) Been found to be potentially dangerous, and after the owner has notice that the animal is potentially dangerous, the animal aggressively bites, attacks or endangers the safety of humans or domestic animals.
- 2) **“Potentially Dangerous Animal”** - An animal which has:
 - (a) When unprovoked by a victim, bites human or domestic animal while on public or private property.
 - (b) When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the animal owner’s property, in an apparent attitude of attack; or
 - (c) Has the known propensity, tendency or disposition to attack while unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
- 3) **“Proper Enclosure”** - Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio or any part of a house, garage or other structure that would allow the animal to exit of its own volition or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance.
- 4) **“Provocation or Provoked”** - means an act that an adult could reasonably expect may cause an animal to attack or bite. No act by a child that causes an animal attack or bite is provocation under this ordinance.

B. Designation as Potentially Dangerous Animal. The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence

that the animal has committed an act meeting the definition of a “potentially dangerous animal.”

- 1) When an animal is declared potentially dangerous, the Animal Control Officer shall order the immediate imposition of the following conditions:
 - (a) The owner of an animal designated as potentially dangerous must have a microchip implanted in the animal for identification, and the name of the microchip manufacturer and identification number of the microchip must be provided to the Animal Control Officer. If the microchip is not implanted by the owner, it may be implanted by the Animal Control Officer. In either case, all costs related to purchase and implantation of the microchip must be borne by the animal’s owner.
 - (b) The owner must provide and maintain a proper enclosure for the potentially dangerous animal.
 - (c) If the animal is a dog and is outside the proper enclosure the dog must be muzzled, restrained by a substantial chain or leash (not to exceed six feet in length), and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration.
 - (d) In addition, the owner of an animal declared potentially dangerous shall annually register the animal with the City and be issued a Certificate of Registration stating that the animal is potentially dangerous. The owner shall pay the City the current registration fee as established by ordinance or resolution.
 - (e) The City may order any additional conditions which it finds just and appropriate to protect public safety and welfare from the dangerous nature of the animal.

C. Designation as Dangerous Animal. The Animal Control Officer shall designate any animal as a dangerous animal upon receiving evidence that the animal has committed an act meeting the definition of a “dangerous animal.”

- 1) Authority to Order Destruction. The Animal Control Officer, upon determining that an animal is dangerous hereunder, is authorized to order the destruction of animal. An order for destruction can only occur if one or more of the following acts occurred:
 - (a) The animal is dangerous as demonstrated by vicious attack, an unprovoked attack, an attack without warning, attack with multiple bites, or

multiple attacks, or where more than one animal participated in the attack;
or

- (b) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.
- 2) Dangerous Animal Registration Requirements. If the Animal Control Officer does not order the destruction of an animal that has been declared dangerous, an order for the following conditions shall be immediately imposed:
- (a) That the owner provides and maintains a proper enclosure for the dangerous animal;
 - (b) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children that there is a dangerous animal on the property;
 - (c) Provide and show proof annually of public liability insurance in the minimum amount of \$300,000.00;
 - (d) If the animal is a dog and is outside the proper enclosure, the dog must be muzzled, restrained by a substantial chain or leash (not to exceed six feet in length), and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;
 - (e) The animal must have an easily identifiable, standardized tag, identifying the animal as dangerous, affixed to its collar at all times;
 - (f) The owner of an animal designated as dangerous must have a microchip implanted in the animal for identification, and the name of the microchip manufacturer and identification number of the microchip must be provided to the Animal Control Officer. If the microchip is not implanted by the owner, it may be implanted by the Animal Control Officer. In either case, all costs related to purchase and implantation of the microchip must be borne by the animal's owner;
 - (g) An owner of a dangerous animal must renew the registration of the animal annually until the animal is deceased. If the animal is removed from the jurisdiction, it must be registered as a dangerous animal in its new jurisdiction;
 - (h) An owner of a dangerous animal shall sterilize the animal at the owner's expense. If the owner does not have the animal sterilized within 30 days,

the animal control authority shall seize the animal and have it sterilized at the owner's expense; and

- (i) The City may order any additional conditions which it finds just and appropriate to protect public safety and welfare from the dangerous nature of the animal.

D. Procedure For Animal Designation. The Animal Control Officer, after having made findings, designations, or issued orders under this ordinance shall proceed as follows.

- 1) The Animal Control Officer shall cause one owner of the animal to be notified in writing or in person of any findings, designations or orders relating to the animal. This notice shall contain a statement of reasons describing the facts used to make a designation or order by the Animal Control Officer. The notice shall also describe the owner's right of appeal to the City. Written notice shall be sent by certified mail to the last known address of the owner as determined by animal license records or the location of an attack. If no owner can be ascertained, the animal shall be destroyed.
- 2) An owner shall be given fourteen (14) days to appeal a designation or order by requesting a hearing before the City Council. If no appeal is filed within the requisite time period, the designation or order issued against the animal will stand and shall remain in effect for the life of the animal.
- 3) If an owner timely files an appeal from a designation or order of the Animal Control Officer, the hearing shall be held before the City Council which shall set a date for the hearing not more than three weeks after demand for the hearing. The City Council may delegate this hearing to be heard before a designated hearing officer. The records of the Animal Control Officer or any government agency shall be admissible for consideration during the hearing without further foundation. A copy of these records shall be made available to the owner at least one week before the hearing. The City shall notify any victim of an attack by the animal of the hearing date and time.
- 4) During the hearing, a finding by the Animal Control Officer shall be presumed correct but is subject to review. After considering the evidence and statements of the parties, the City Council or hearing officer shall make findings of fact on issues properly before it on appeal, and may sustain, modify or rescind a designation or order made by the Animal Control Officer.
- 5) Where appropriate to effectuate an order of the Animal Control Officer appealed to the City, the City Council or hearing officer may order the Animal Control Officer to immediately take the animal into custody pending the outcome of the appeal. After appeal, if the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the

Animal Control Officer, and at the owners request and expense, destruction shall be stayed for fourteen days.

- 6) No person shall harbor an animal after it has been found to be dangerous and ordered into custody for destruction.
 - 7) The animal owner shall bear all of the costs of these proceedings, board and care for an animal taken into custody, and other related expenses incurred by the City.
- E. Exemptions to Animal Designation. Animals may not be declared potentially dangerous or dangerous if the threat, injury, or damage was sustained by a person:
- 1) Who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the animal;
 - 2) Who was provoking, tormenting, abusing, or assaulting the animal or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the animal; or
 - 3) Who was committing or attempting to commit a crime.
- F. Rental Property - Disclosure Required. A person who owns a potentially dangerous animal or a dangerous animal, and will reside in rental property must disclose whether such an animal will be kept on the premises for any period of time. The animal owner must notify the rental property owner that a designated animal will be kept on the premises and shall also disclose all conditions imposed by the City related to that designation. This disclosure must occur immediately upon an animal designation imposed by the City, or before the animal owner enters into a lease or begins residing at such a premises. Proof of this disclosure must occur before the owner's animal registration with the City will be granted or renewed.
- G. Stopping an Attack. If any police officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to a victim.
- H. Notification of New Address. The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Animal Control Officer in writing if the animal dies or is to be relocated from its current address or given or sold to another person. The notification shall be given in writing within 30 days of the death or at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address and the name of the new owner, if any.

- I. **Animals Transported Into The City.** No person shall bring into the City an animal which has previously been declared by another jurisdiction to be dangerous. No person shall bring into the City an animal which has previously been declared by another jurisdiction to be potentially dangerous, without first securing a permit from the City to register the animal. The City may seize and destroy, at the owner's expense, any animal brought into the City in violation of this provision.
- J. **Attack By An Animal.** It shall be deemed an unlawful act by any animal owner in the event their animal inflicts or attempts to inflict bodily injury upon any person or other animal. The owner is held strictly liable for the actions of its animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home.
- K. **Dangerous Animal or Potentially Dangerous Animal, Designation Review.** In accordance with State law, beginning six (6) months after an animal is declared a potentially dangerous animal or dangerous animal; an owner may annually request that the animal control authority review the designation. The owner must provide evidence that the animal's behavior has changed due to the animal's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the animal control authority finds sufficient evidence that the animal's behavior has changed, the authority may rescind designation or modify the conditions of an order imposing conditions related to a designation. The request shall be considered in the same manner as an appeal from designation of the Animal Control Officer.

Subd. 11. Summary Destruction. Whenever an Animal Control Officer or police officer determines that any animal presents an immediate threat to the safety of any person, after making reasonable attempt to impound the animal, the officer is hereby authorized to destroy the animal in the interests of public safety.

Subdivisions 12 Through 89, Inclusive, Reserved For Future Expansion.

Subd. 90. Civil Actions. In addition to the other remedies and penalties provided in this chapter, city officials, after approval of the city council, are authorized to file appropriate civil actions for a temporary restraining order, temporary injunction or permanent injunction against any person violating this section. These civil remedies and penalties do not bar criminal prosecution.

Subdivisions 91 Through 96, Inclusive, Reserved for Future Expansion.

Subd. 97. Applicability. Nothing in this chapter is intended to supersede state law, or the specific requirements found in Minnesota Chapter 347.50 to 347.56. It is the intention of the city to more precisely regulate dangerous animals.

Subd. 98. Penalty for Violation. Any person who shall violate the provisions of this chapter shall be guilty of a misdemeanor, with two exceptions:

- A. License violations shall be charged as a petty misdemeanor if the violator has no similar offenses in the preceding three months.
- B. Provisions of this chapter governing potential dangerous animals and dangerous animals shall be guilty of a misdemeanor unless otherwise specified as a gross misdemeanor under State law.

Subd. 99. Continuing Violations. Each day on which the violation continues shall constitute a separate violation.

SECTION 10.11. THROUGH 10.19, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 10.20. JUVENILE CURFEW.

Subd. 1. Purposes and Findings.

- A. The Anoka County Board of Commissioners finds and determines that there has been an increase in juvenile violence and crime by juveniles in the County of Anoka.
- B. Juveniles are particularly susceptible by their lack of maturity and experience to participate in unlawful activities and to be victims of older perpetrators of crime.
- C. Because of the foregoing, special and extenuating circumstances presently exist within this county that require special regulation of juveniles within the county in order to protect them and other persons during the nighttime hours, to aid in crime prevention, to promote parental supervision and authority over minors, and to decrease juvenile crime rates.
- D. In accordance with prevailing community standards, this ordinance serves to regulate the conduct of minors in public places during nighttime hours, to be effectively and consistently enforced for the protection of juveniles from each other and from other persons, in public places during nighttime hours, for the enforcement of parental control of, authority over, and responsibility for their children, for the protection of the general public from nighttime mischief by juveniles, for the reduction in the incidents of juvenile criminal activities, for the furtherance of family responsibility and for the public good, safety and welfare.
- E. It is the intent of the County Board to review and evaluate the need and effect of nighttime curfew for juveniles set forth in this ordinance on the incidents of juvenile criminal activity and protection of juveniles against criminal activity.

Subd. 2. Authority. This Ordinance is enacted pursuant to the authority granted under Minn. Stat. 145A005, Subd. 7a (1994).

Subd. 3. Definitions.

- A. **“Authorized Adult”** - shall mean any person who is at least eighteen (18) years of age and authorized by a parent or guardian to have custody and control of juvenile.
- B. **“County Board”** - shall mean the Anoka County Board of Commissioners.
- C. **“Emergency”** - means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- D. **“Juvenile”** - means a person under the age of eighteen (18) years. The term does not include persons under 18 who are married or have been legally emancipated.
- E. **“Parent”** - shall mean any person having legal custody of a juvenile (1) as natural, adoptive parent, or stepparent; (2) as a legal guardian; or (3) as a person to whom legal custody has been given by order of the court.
- F. **“Public Place”** - means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, roadways, parks, public recreation, entertainment or civic facilities, schools, and the common areas of hospitals, apartment house, office buildings, transport facilities, and shops.
- G. **“Serious Bodily Injury”** - means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Subd. 4. Prohibited Acts.

- A. It is unlawful for a juvenile under the age of twelve (12) years to be present in any public place within Anoka County:
 - (a) Any time between 9:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, and 5:00 a.m. of the following day.
 - (b) Any time between 10:00 p.m. on any Friday or Saturday and 5:00 a.m. the following day.

- B. It shall be unlawful for any juvenile age twelve (12) to fourteen (14) years to be present in any public place within Anoka County:
 - (a) Any time between 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, and 5:00 a.m. of the following day.
 - (b) Any time between 11:00 p.m. on any Friday or Saturday and 5:00 a.m. on the following day.
- C. It shall be unlawful for any juvenile age fifteen (15) to seventeen (17) years to be in any public place within Anoka County:
 - (a) Any time between 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, and 5:00 a.m. of the following day.
 - (b) Any time between 12:01 a.m. and 5:00 a.m. on any Saturday or Sunday.
- D. It shall be unlawful for a parent or authorized adult of a juvenile to knowingly, or through negligent supervision, habitually permit such juvenile to be in any public place within the county during the hours prohibited herein, under circumstances not constituting an exception to this ordinance as set forth herein. The term “knowingly” includes knowledge which a parent or authorized adult shall reasonably be expected to have concerning the whereabouts of a juvenile under such person’s care.
- E. It shall be unlawful for any person operating or in charge of any place of amusement or refreshment which is open to the public to knowingly and habitually permit any juvenile to be in such place during the hours prohibited herein, under circumstances not constituting an exception to this Ordinance as set forth herein. The term “person operating” shall mean any individual, firm, association, partnership or corporation operating, managing or conducting any such establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Subd. 5. Exceptions.

- A. The following shall constitute valid exceptions to the operation of the curfew:
 - 1) At any time, if a juvenile is accompanied by his or her parent or an authorized adult;
 - 2) At any time, if a juvenile is involved in, or attempting to remedy, alleviate, or respond to an emergency;
 - 3) If the juvenile is engaged in a lawful employment activity, or is going to or returning home from his or her place of employment;

- 4) If the juvenile is attending an official school, religious, or other social or recreational activity supervised by adults and sponsored by a city or the county, a civic organization, or another similar entity that takes responsibility for the juvenile;
- 5) If the juvenile is going to or returning home from, without any detour or stop, and official school, religious, or other recreational activity supervised by adults and sponsored by a city or the county, a civic organization, or another similar entity that takes responsibility for the juvenile;
- 6) If the juvenile is on an errand as directed by his or her parent, without any detour or stop;
- 7) If the juvenile is engaged in interstate travel;
- 8) If the juvenile is on the public right-of-way boulevard or sidewalk abutting the juvenile's residence or abutting the neighboring property, structure, or residence;
- 9) If the juvenile is exercising First Amendment rights protected by the United States Constitution (or those similar rights protected by Article 1 of the Constitution of the State of Minnesota), such as free exercise of religion, freedom of speech, and the rights of assembly; or,
- 10) If the juvenile is homeless or uses a public or semi-public place as his or her usual place of abode.

B. It is an affirmative defense to prosecution that:

- 1) The owner, operator or employee of an establishment promptly notified the police department that a juvenile was present on the premises of the establishment during curfew hours and refused to leave.
- 2) The owner, operator or employee reasonably and in good faith relied upon a juvenile's representations of proof of age. Proof of age may be established pursuant to Minn. Stat. 340A.503, Subd. 6 or other verifiable means, including, but not limited to, school identification cards and birth certificates.

Subd. 6. Enforcement. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in a public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has accrued and that no exception set forth is applicable.

Subd. 7. Penalties. Violation of Subdivision will be prosecuted pursuant to Minn. Stat. 260.195 and will be subject to the penalties therein.

Subd. 8. Continuing Review and Evaluation. The County Attorney shall prepare and submit a report annually to the County Board evaluating violations of this section and the criminal activity by and against juveniles within the county during the preceding year. The first report shall be submitted one year after the effective date.

Subd. 9. Severability. If any court of competent jurisdiction shall adjudge any provisions of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in said judgment.

SECTION 10.21. INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 10.22. PUBLIC INDECENCY.

Subd. 1. Purpose. The purpose of this ordinance is to prohibit public indecency in order to deter criminal activity, to promote societal order and public health, and to protect children.

Subd. 2. Findings. The City of Lexington City Council makes the following findings regarding the need to prohibit public indecency:

- A. Public indecency can increase the incidence of criminal activity, including but not limited to prostitution, disorderly conduct and sexual assault.
- B. Public indecency can expose children to an unhealthy and nurtureless environment.
- C. Public indecency can present health concerns in places of public accommodation and other public settings.
- D. Public indecency can have a potentially negative impact on the value and marketability of property.

Subd. 3. Definitions. The following words and terms when used in this ordinance shall have the following meanings, unless the context clearly indicates otherwise:

- A. **"Nudity"** - means:
 - 1) The appearance of a human bare buttock, anus, male genitals, female genitals, female breast; or,
 - 2) A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.

- B. **"Person"** - means a natural person twelve (12) years of age or older, including employees or agents of a public accommodation.

- C. **"Public Place"** - means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), bottle clubs, hotels, motels, restaurants, night clubs, country clubs, cabarets and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises used solely as a private residence, whether permanent or temporary in nature, shall not be deemed a public place. A public place shall not include enclosed an enclosed tanning booth, single sex public restrooms, enclosed single sex motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospital and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein; nor shall it include a person appearing in a state of nudity in a modeling class operated by (1) a proprietary school licensed by the state; a college or university supported entirely or partly by taxation; or (2) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation or an accredited private college.

Subd. 4. Public Indecency Prohibited. A person who knowingly or intentionally in a public setting or place:

- A. appears in a state of nudity;
- B. fondles the genitals of himself or herself, or
- C. fondles the genitals of another person;
- D. commits public indecency and is guilty of a misdemeanor under Minnesota law and upon conviction thereof, shall be punished by a fine of up to \$1,000 or by imprisonment for up to 90 days; or both.

Subd. 5. Exclusion. The provisions of Section 4.A of this ordinance shall not apply to:

- A. any theatrical production performed in a theater, by a professional or amateur theatrical or musical company, which has serious artistic merit; or,
- B. a woman breast feeding a child.

Subd. 6. Severability. If any section, sentence, or clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted the section, sentence, clause, or phrase of this ordinance irrespective of the fact that any one or more sections, sentences, clauses or phrases be declared invalid.

Subd 7. Application. Section 4 of the ordinance shall apply to areas within the City of Lexington.

SECTION 10.23. NOISE AND SPOTLIGHT.

Subd. 1. It is unlawful to cause the making or production of an unnecessary noise by shouting or by any other means or mechanism including the blowing of any automobile or other vehicle horn; or use a sound amplifier upon streets and public property without prior written permission from the City. Under any circumstances, amplified sound is deemed a public nuisance under the following conditions:

- a. Sound measured at fifty (50) feet from the source shall not exceed ninety (90) dB(A).
- b. Sound measured off of the property where amplification the equipment is allowed under the license shall never be more than fifteen (15) dB(A) above the ambient noise level.

Subd. 2. It is unlawful to use a flash or spotlight in a manner so as to annoy or endanger others.

SECTION 10.24. PROPERTY DESTRUCTION. It is unlawful to cause defacement, destruction, or otherwise damage to any premises or any property located thereon.

SECTION 10.25. LITTERING. It is unlawful to strew, scatter, litter, throw, dispose of or deposit any refuse, garbage, or rubbish unto any public or private property except into receptacles provided for such purpose, and no person shall dispose of or deposit such items on private property without the consent of the owner.

SECTION 10.26. MOTOR VEHICLE, IMPROPER ENTRY. It is unlawful to enter any motor vehicle of another without the consent of the owner or operator.

SECTION 10.27. TRESPASS. It is unlawful to fail or refuse to vacate or leave any premises after being requested or ordered, whether orally or in writing, to do so, by the owner, or person in charge thereof, or by any law enforcement agent or official; provided, however, that this provision shall not apply to any person who is owner or tenant of the premises involved nor to any law enforcement or other government official

who may be present thereon at that time as part of his/her official duty, nor shall it include the spouse, children, employee or tenant of such owner or occupier.

SECTIONS 10.28 THROUGH 10.29, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 10.30. SHADE TREE DISEASE CONTROL AND PREVENTION.

Subd. 1. Policy and Purpose. The City has determined that the health of oak and elm trees is threatened by fatal diseases known as oak wilt and Dutch elm disease. It has further determined that the loss of oak and elm trees located on public and private property would substantially depreciate the value of property and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the Council to control and prevent the spread of these diseases, and provide for the removal of dead or diseased trees, as nuisances.

Subd. 2. Definitions. The following terms, as used in this Section, shall have the meanings stated:

- A. **“Shade Tree Disease”** - Dutch elm disease or oak wilt disease.
- B. **“Tree Inspector”** - The Clerk, or such other employee of the City as the Council may designate and who shall thereafter qualify, together with his/her duly designated assistants.
- C. **“Nuisance”** - (1) any living or standing tree infected to any degree with a shade tree disease; or (2) 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 Tree Inspector.

Subd. 3. Scope and Adoption by Reference. Minnesota Statutes, Section 18.023, is hereby adopted by reference, together with the Rules and Regulations of the Minnesota Commissioner of Agriculture relating to shade tree diseases; provided that this Section shall supersede such Statutes, Rules and Regulations, only to the extent of inconsistencies.

Subd. 4. Unlawful Act. It is unlawful for any person to keep, maintain or permit upon premises owned by him/her or upon public property where he/she has the duty of tree maintenance, any nuisance as herein defined.

Subd. 5. Inspection and Diagnosis. It is the power and duty of the Tree Inspector to enter upon public or private property, at any reasonable time, for the purpose of inspecting for, and diagnosing, shade tree disease. In cases of suspected shade tree disease, and in performance of his/her duties, the Tree Inspector may remove such specimens, samples and biopsies as may be necessary or desirable for diagnosis.

Subd. 6. Abatement of Nuisance. Abatement of a nuisance, defined herein, shall be by spraying, removing, burning, or otherwise effectively treating the infected tree or wood to prevent spread of shade tree disease. Such abatement procedures shall be carried out in accordance with current technical and expert methods and plans as may be designed by the Commissioner of Agriculture of the State of Minnesota. The City shall establish specifications for tree removal and disposal methods consistent therewith.

Subd. 7. Procedure for Removal of Infected Trees and Wood.

- A. Whenever the Tree Inspector finds with reasonable certainty that the infection, or danger of infection, exists in any tree or wood on any public or private property, he/she shall proceed as follows:
- 1) If the Tree Inspector finds that the danger of infection of other trees is not imminent because of dormancy of shade tree disease, he/she shall make a written report of his/her finding to the Council which shall proceed by (a) abating the nuisance as a public improvement under Minnesota Statutes, Chapter 429, or (b) abating the nuisance as provided in Subparagraph B of this Subdivision.
 - 2) If the Tree Inspector finds that the danger of infection of other trees is imminent, he/she shall notify the owner of the property, or the abutting property, as the case may be, by certified mail that the nuisance will be abated within a specific time, not less than five (5) days from the date of mailing of such notice. The Tree Inspector shall immediately report such action to the Council, and after the expiration of the time limited by the notice he/she may abate the nuisance.
 - 3) If the Tree Inspector finds with reasonable certainty that immediate action is required to prevent the spread of shade tree disease, he/she may proceed to abate the nuisance forthwith. He/she shall report such action immediately to the Council and to the abutting property owner, or to the owner of the property where the nuisance is located.
- B. Upon receipt of the Tree Inspector's report required by Subparagraph A, Item 1, the Council shall by resolution order the nuisance abated. Before action is taken on such resolution, the Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one week prior to such meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At such hearing or adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed project. The Council shall thereafter adopt a

resolution confirming the original resolution with such modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

- C. The Tree Inspector shall keep a record of the costs of abatements done under this Subdivision and shall report monthly to the Council 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. On or before September 1 of each year the 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 Council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.
- E. No damage shall be awarded the owner for destruction of any tree, wood or part thereof pursuant to this Section.

Subd. 8. Spraying Trees.

- A. Whenever the Tree Inspector determines that any tree or wood is infected or threatened with infection, he/she may spray or treat all nearby high value trees with an effective concentrate or fungicide or both. Activities authorized by this Subdivision shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the Commissioner and his/her agents whenever possible.
- B. The notice and assessment provisions of Subdivision 7 apply to spraying and treatment operations conducted under this Subdivision.

Subd. 9. Transporting Wood Prohibited. It is unlawful for any person to transport elm wood, including elm firewood, with bark intact into or through the City, or into or through any designated “disease control area” as defined by Minnesota Statutes, Section 18.023. This prohibition shall not apply to movement of such wood pursuant to an approved wood disposal or utilization program authorized by Minnesota Statutes, Section 18.023, or to transportation of elm wood intended for industrial use not to include firewood, provided such transportation of elm logs for industrial use continues without interruption through the City of “disease control area” to their intended destination lying outside the City and “disease control area”.

Subd. 10. Interference Prohibited. It is unlawful for any person to prevent, delay or interfere with the Tree Inspector while he/she is engaged in the performance of duties imposed by this Section.

Subd. 11. Additional Duties of Tree Inspector. It is the additional duty of the Tree Inspector to coordinate, under the direction and control of the Council, all activities of the City relating to the control and prevention of shade tree disease. He/she shall recommend to the Council the details of a program for the control of the diseases, and perform the duties incident to such a program adopted by the Council.

Subd. 12. Diseased Trees in Streets. The rights, duties and responsibilities of property owners set forth in this Section shall be equally applicable to, and binding upon, abutting property owners with tree maintenance responsibilities under the Section of the City Code entitled "Regulation of Grass, Weeds and Trees".

Subd. 13. Subsidies. The duty of any property owner to bear the cost of removing or maintaining trees, whether by private contract or assessment, shall be subject to a subsidy policy, if any, established by the City for the treatment or removal of trees infected with shade tree disease.

SECTION 10.31. AIR POLLUTION CONTROL.

Subd. 1. Burning. It is unlawful for any person to burn or permit burning of any grass, weeds, leaves, rubbish or other substance upon premises owned or occupied by him/her, except as otherwise provided by this Code.

Subd. 2. State Code. Chapter Eight of the Air Pollution Control Rules, as amended in 1976, promulgated by the Minnesota Pollution Control Agency, are hereby adopted by reference as though set forth verbatim herein. One copy of said Rules shall be marked CITY OF LEXINGTON - OFFICIAL COPY and kept on file in the office of the Clerk and open to inspection and use by the public. It is unlawful to violate a provision of this Section or of the Air Pollution Control Rules hereby adopted by reference.

Subd. 3. Permit Required. Burning pursuant to the Rules adopted herein shall be permitted upon the issuance of a permit by the City Fire Marshal who may establish reasonable permit conditions consistent with such Rules. It shall be the duty of the City Fire Marshal to enforce the restrictions imposed by such Rules.

SECTION 10.32. GARAGE OR RUMMAGE SALES REGULATIONS.

Subd. 1. Definitions.

- A. **"Garage or Rummage Sales"** - Any display and sale of personal property conducted on residential premises by the occupant. Estate sales conducted at a decedent's residence are not included in the definition of garage or rummage sales.

Subd. 2. Restrictions.

- A. None of the items offered for sale have been obtained for resale or received on consignment for sale.
- B. Any garage or rummage sale shall be conducted solely within the boundaries of the property owned by the occupant who is conducting the sale.
- C. There shall be no more than four garage or rummage sales conducted at any one residence during any period of twelve calendar months.
- D. No garage or rummage sale shall be conducted during any part of more than three consecutive days.
- E. No garage or rummage sale may be conducted before 8:00 a.m. or after 10:00 p.m.

Subd. 3. Penalty. Any person violating any provision of this section shall be guilty of a misdemeanor.

SECTION 10.33. MAINTENANCE OF PRIVATE PROPERTY.

Subd. 1. Owner Responsibilities. It is the primary responsibility of any owner or occupant of any lot or parcel of land to maintain any weeds or grass growing thereon at a height of not more than six (6) inches; to remove all public health or safety hazards there from; to install or repair water service lines thereon; and to treat or remove insect-infested or diseased trees thereon.

Subd. 2. Penalty. If any such owner or occupant fails to assume the primary responsibility described in Subdivision 1 of this Section, and after notice given by the Clerk has not within ten (10) days of such notice complied, the City may cause such work to be done and the expenses thus incurred shall be a lien upon such real estate. The Clerk shall certify to the County Auditor of Anoka County a statement of the amount of the cost incurred by the City. Such amount together with interest shall be entered as a special assessment against such lot or parcel of land and be collected in the same manner as real estate taxes.

SECTION 10.34. OBSTRUCTIONS ON PUBLIC PROPERTY.

Subd. 1. Obstructions. It is unlawful for any person to place, deposit, display or offer for sale, any fence, goods or other obstructions upon, over, across or under any public property without first having obtained a written permit from the Council, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.

Subd. 2. Fires. It is unlawful for any person to build or maintain a fire upon public property.

Subd. 3. Dumping on Public Property. It is unlawful for any person to throw or deposit on public property any nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products, or to empty any water containing salt or other injurious chemicals thereon. It is a violation of this Section to place or store any building materials or waste resulting from building construction or demolition on public property without first having obtained a written permit from the Council.

Subd. 4. Signs and Other Structures. It is unlawful for any person to place or maintain a sign, advertisement, or other structure on public property without first having obtained a written permit from the Council.

Subd. 5. Snow or Ice on Public Property. It is unlawful for any person not acting under a contract with the City to dump snow or ice on public property.

Subd. 6. Continuing Violation. Each day that any person continues in violation of this Section shall be a separate offense and punishable as such.

Subd. 7. Condition. Before granting any permit under any of the provisions of this Section, the Council may impose such insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding such persons and property. Such insurance or bond shall also protect the City from any suit, action or cause of action arising by reason of such obstruction.

SECTION 10.35. JUNK CARS, FURNITURE. HOUSEHOLD FURNISHINGS AND APPLIANCES STORED ON PUBLIC OR PRIVATE PROPERTY. It is unlawful to park or store any unlicensed, unregistered or inoperable motor vehicle, household furnishings or appliances, or parts or components thereof, on any property, public or private, unless housed within a lawfully erected building. Any violation of this Section is declared to be a nuisance and upon seven days written notice to the owner, as shown by the records in the office of the County Auditor, of private premises on which such material is found, the City may remove the same and certify the cost of such removal as any other special assessment.

SECTION 10.36. ABANDONING A MOTOR VEHICLE. It is unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of such property. For the purpose of this Section, a “motor vehicle” is as defined in Minnesota Statutes, Chapter 169.

SECTION 10.37. RULES AND REGULATIONS GOVERNING PUBLIC PARKS AND GROUNDS.

Subd. 1. Public Parks and Grounds. “Public parks and grounds” means any area owned or operated by the City of Lexington as a public park, recreational trail, athletic field, skating rink, or other recreational facility.

Subd. 2. Hours. No person, except authorized City employees, police, and fire personnel shall enter or remain in any public park or grounds between 10:00 pm and 5:00 am daily.

Subd. 3. Park Rules.

- A. Removing, Defacing or Destroying Property. No person shall remove, deface, destroy, diminish or impair the value of public property located on or within any public park or public grounds, including buildings, structures, trees, shrubs, grass, vegetation, signs, tables, benches, fireplaces, trash receptacles, notices or placards, boundary markers or fences, or any other public property either real or personal.
- B. Erection of Structures. No person shall construct or erect any tent, building, or structure of any kind, whether permanent or temporary, or run or string any public service utility into, upon or across any public park or public grounds, except by approved permit issued by the City.
- C. Glass Containers. Glass containers are prohibited in public parks and public grounds.
- D. Refuse and Trash. It is unlawful for a person to dump snow, dirt, rubbish, solid waste, garbage, refuse, or trash in a park except in proper receptacles as permitted by this subdivision. No refuse or trash shall be left anywhere on the grounds thereof, but shall be placed in the proper receptacles where provided; where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.
- E. Pollution of Waters. It is unlawful for a person to throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, stream, or other body of water in or adjacent to any park or any stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.
- F. Climbing Buildings. No person shall climb on any building and/or any non-play structure in any public park or public grounds.
- G. Maintenance of Vehicles. No person shall wash or perform maintenance of any vehicle in a public park or on public grounds.

- H. Posting Signs and Placards. No person shall paste, glue, tack, or otherwise post any sign, placard, advertisement, or inscription, on any public park or public grounds, except by official permit issued by the City.

Subd. 4. Alcoholic Beverages.

- A. Prohibition. No person shall possess, display, consume or use intoxicating liquor on any public park or public grounds. No person shall possess, display, consume or use non-intoxicating malt liquor or 3.2% beer in any public park or public grounds except in designated picnic areas and after being issued an official permit by the City.
- B. Intoxication. No person shall enter or be upon any public park or public grounds while under the influence of any intoxicating liquor or 3.2% beer or malt liquor.

Subd. 5. Traffic and Parking.

- A. Vehicle Traffic. Vehicles shall be driven or parked only in designated areas on any public park or public grounds and shall be driven therein at a maximum speed of 5 miles per hour. Parking in designated areas shall be allowed only by vehicles whose owners and/or occupants are currently using City public parks and grounds. City employees and police and fire personnel are authorized to drive vehicles in parks as part of their normal duties.
- B. Overnight Parking or Occupancy. Overnight parking or occupancy within any public park or public grounds is prohibited.

Subd. 6. Open Fires Prohibited. No person shall build a fire in any place in any public park or public grounds, at any time, except in fireplaces or receptacles provided therein by the City.

Subd. 7. Loitering and Boisterousness. No person in any public park or ground shall engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct, or behavior tending to a breach of the public peace.

Subd. 8. Fireworks. No person shall possess or discharge any fireworks in any public park or public grounds except by official permit issued by the City.

Subd. 9. Posting of Areas. The Council may by resolution determine from time to time, the areas of any public park and public grounds, in which other activities and conduct not amenable to efficient operation of such park or public grounds, shall be prohibited and shall post appropriate signs to notify persons thereof.

Subd. 10. City Personnel. Subd. 1 through Subd. 10 shall not be construed to prohibit the normal care, operations, or functions of the City or its authorized agents in any public park or public grounds.

SECTION 10.38. POSSESSION AND DISPOSAL OF UNCLAIMED PROPERTY.

Subd. 1. Definitions. For the purpose of this section, the following words or phrases shall have the meanings herein provided:

- A. **“Property”** - shall mean all forms of tangible personal property excluding abandoned motor vehicles as defined in Section 168B.02 of the Minnesota Statutes.
- B. **“Owner”** - shall mean any person having a legal or equitable interest in any property affected by this ordinance.

Subd. 2. Custody of Property. Whenever the City of Lexington, in the course of its municipal operations shall come into possession of property owned by another; such property shall be delivered to the Chief of Police for appropriate storage and safekeeping.

Subd. 3. Attempt to Find Owner. Upon receipt of any such property, the Chief of Police shall make, or cause to be made, a reasonable and diligent effort to find the rightful owner of such property. If the rightful owner of such property is found, the Chief of Police shall return the property to such owner as soon as it is reasonably possible under the circumstances.

Subd. 4. Disposal of Property. The following procedures shall be adhered to for the disposal of unclaimed property:

- A. Except as provided in parts B and C of this subdivision, if the owner of any property coming into possession of the City of Lexington cannot be found within sixty (60) days after the date such property came into possession of the City, the Chief of Police shall sell or cause to be sold, such property to the highest bidder at public auction or by sealed bids. Notice of the time and place of any public auction shall be published once a week for two consecutive weeks in the official newspaper of the City. At the time and place designated in such notice, the Chief of Police or his duly authorized representative shall conduct the auction in such manner as the Chief of Police shall deem appropriate under the circumstances. Notice of such sale shall also be posted in the City Hall, the Police Department, and such other locations as the Chief of Police shall deem appropriate.
- B. If any item of unclaimed property in possession of the City appears to have a value of five dollars (\$5.00) or less, is hazardous to store, or is perishable, the Chief of Police or his duly authorized representative may sell or otherwise

dispose of such property in whatever manner the Chief of Police determines reasonable and appropriate.

C. Unclaimed Firearms: All firearms including long guns and hand guns of every kind, coming into the possession of the Police Department, in the course of its operations on behalf of the City, and remaining unclaimed by the owner, shall be subject to disposal under the terms of this ordinance.

1) The Police Department shall take reasonable steps to notify the owner of any property subject to disposal that the police department has come into possession of such property. The notice shall further provide that such property is subject to disposal within 65 days following the mailing of such notice.

2) Such notice shall be made by certified mail at the last known address of the owner.

3) In the event the actual identity or last known address of the owner is not reasonably known to the police department, notice may be made by publication. The notice must be published at least once in a legal newspaper published in the city or, if there is none in the city, published in the county.

4) In the event the owner has actual knowledge that the police department has possession of such firearms, no additional notice shall be required.

5) After proper notice, and upon the expiration of the 65 day period described herein, all unclaimed firearms shall be destroyed in a manner and under circumstances to be determined by the Chief of Police.

6) No unclaimed firearm shall be sold or otherwise used for any purpose.

D. Upon expiration of the sixty (60) day waiting period, unclaimed property coming into the possession of the City of Lexington may be appropriated by the City for use by the City at the discretion of the City Clerk.

Subd. 5. Proceeds of Sale to Be Deposited With City Clerk.

A. The proceeds of the sale of any item of property made pursuant to this ordinance shall first be applied to the payment of all costs and charges incurred for the storage, maintenance or otherwise in connection with such property.

B. The balance of the proceeds of the sale shall be deposited by the Chief of Police with the Clerk, along with a statement containing a description of the property sold, the gross amount for which it was sold, the amount for which it was sold, the amount of charges incurred in connection with such property, and the name of any person purchasing such property.

- C. The City clerk shall keep separate accounts for the proceeds of the sale and such proceeds shall be invested in whatever manner is determined appropriate by the City Clerk.

Subd. 6. Owner May Claim Proceeds Within Six (6) Months of Sale, Disposition of Unclaimed Proceeds.

- A. If the owner of any property sold pursuant to this ordinance shall furnish the clerk with evidence substantiating his claim of ownership of such property within six (6) months after the proceeds from the sale of such property were deposited with the City Clerk, then the City Clerk shall pay to such owner the balance of the proceeds of the sale of such property deposited by the Chief of Police with the City Clerk under Subdivision 5 thereof.
- B. If no claim is made for the proceeds of any sale of property made pursuant to this ordinance within six (6) months after the proceeds were deposited with the City Clerk, then such proceeds shall thereupon become the property of the City to the exclusions of the owner of such property and all others.
- C. All such proceeds that become the property of the City, with the exception of proceeds generated from the sale of unclaimed bicycles and pistols, shall be credited to the general fund of the City.
- D. Proceeds deposited with the City Clerk from the sale of unclaimed bicycles held by the Police Department shall be made available to the Police Department upon request of the Chief of Police to be utilized solely for youth safety instruction.
- E. Proceeds from pistols shall be deposited with the Joint Police Commission.

Subd. 7. Persons Ineligible to Participate In Sale of Unclaimed Property. No employee, police officer, or other person having a vested interest with the City shall be eligible to participate in the purchasing of such unclaimed property.

Subd. 8. Violations. Any person who violates any of the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor.

SECTION 10.39. ALARM SYSTEMS.

Subd. 1. Definitions.

- A. **“Public Safety Personnel”** - means the law enforcement officers of the City.
- B. **“Alarm User”** - means the person, firm, partnership, association, cooperative, company or organization of any kind in control of any building, structure, or facility wherein an alarm system is maintained.

- C. **“Anoka County Communication Center”** - is the facility operated by the County of Anoka, State of Minnesota to receive emergency requests for service and general information from the public to be dispatched to respective public safety units.
- D. **“Alarm System”** - means and includes any alarm installation designed to be used for the prevention or detection of burglary, robbery, fire or unauthorized entry on the premises which contain an alarm installation. Automobile alarm devices shall not be considered an alarm system under the terms of this ordinance.
- E. **“False Alarm”** - means an alarm signal eliciting a response by public safety personnel when a situation requiring a response does not, in fact, exist, and which is caused by the activation of the alarm system through mechanical failure, alarm malfunction, intentional acts, improper installation or the inadvertence of the owner or lessee of an alarm system or of his/her employees, agents or of a third party. False alarms do not include alarms caused by climatic conditions such as tornadoes, thunderstorms, utility line mishaps, violent conditions of nature or any other conditions which are clearly beyond the control of the alarm manufacturer, installer or owner.

Subd. 2. Alarm User Permits.

- A. Before placing a system into operation, every alarm user shall obtain from the Police Department an alarm user permit for each alarm system he/she operates within the City. Existing and installed alarm systems shall have until two months from the date of the enactment of this ordinance within which to obtain the permit. This paragraph does not require that an alarm business obtain a permit under this subparagraph when it leases or provides service to alarm system users. If an alarm business, however, does use an alarm system to protect its own premises, it shall obtain a permit for such system as required in this section.
- B. Alarm user permit application.
 - 1) The Chief of Police or his designee shall issue an alarm permit only after receiving the completed application. If any business or residence has two (2) or more separate alarm systems only one security alarm permit shall be required per location. In assessing any penalties for repeat false alarms, a business or residence with two or more separate alarm systems, shall be treated as having one system in reference to the amount of false alarms permitted prior to being penalized.
 - 2) The alarm user applying for the permit required in this subparagraph shall state on a permit application form provided by the Chief of Police or his/her designee, his name; the address of the residence or business in or on which

the alarm system has been or will be installed; his/her telephone number of the lessor of the system if leased; whether the system was installed by the alarm user, and if not so installed, the name and/or certification number of the business installing the alarm system; and the name and telephone number of at least one other person (in the case of a nonresidential alarm user applicant, at least two persons) who can be reached at any time, day or night, and is authorized to respond to an alarm signal and who may enter the premises in which the alarm system is installed.

- 3) Alarm permits are valid until revoked or suspended as hereinafter provided in this section.
- 4) Every alarm user licensed under this section shall be required to provide the Chief of Police or his designee with any changes in the information required to be submitted on the permit application.

Subd. 3. False Alarm Fees.

- A. An alarm system user against which there are more than three false alarms in a single year (September 1 through August 31) and who has received oral or written notice of such false alarms will be charged a fee of \$50.00 per false alarm in excess of three false alarms in a calendar year, \$100.00 per false alarm in excess of six (6) false alarms in a calendar year, and \$150.00 per false alarm in excess of nine (9) false alarms in a calendar year.
- B. Any alarm user which is required by the City to pay a penalty fee as the result of a false alarm may make a written appeal of the false alarm charges to the Chief of Police within ten (10) days of notice by the City of the false alarm charge. Following review and determination by the Chief of Police such decision may be appealed to the Joint Powers Governing Board who will have the authority to make a final determination as to whether the appellant is to be charged with a false alarm fee.

Subd. 4. Payment of Fees. Payment of penalty fees provided under Subparagraph 3 must be paid to the City within thirty (30) days from the date of the notice by the City to the alarm user. Failure to pay the fee within thirty (30) days notice will cause the alarm user to be considered delinquent and subject to a penalty of a full ten percent (10%) of the fee.

Subd. 5. Alarm Report. When an alarm user has incurred four false alarms or more within one (1) calendar year, the alarm user shall submit a written report to the Chief of Police or his/her designee within ten (10) days after being notified of the fourth false alarm, describing actions taken or to be taken to discover and eliminate the cause of the false alarms. Failure to submit the written report required by this Subparagraph will be considered a violation of this ordinance.

Subd. 6. Exception for New Installation. All newly installed alarm systems shall be exempt from the regulations of Subparagraph 4 and 5 above, in order to allow alarm installers and users to adjust the system. New installations shall be subject to the regulations of Subparagraph 4 and 5 above, thirty (30) days after installation is completed.

Subd. 7. Removal of Unlawful Systems. The Chief of Police or his/her designee, when there is probable cause to believe that there has been a violation of Subparagraph 4 and 5 of this ordinance may order the owner, user or lessee to disconnect and cease operation of the system within seventy-two (72) hours of receipt of the order. This order shall be in writing and shall be personally served. If personal service cannot be made, notice shall be by certified mail, return receipt requested. Any direct dialing telephone alarm device presenting a prerecorded message, installed prior to the effective date of this ordinance shall be removed within thirty (30) days of such date. It shall be unlawful for any alarm user as defined in this subparagraph to fail to comply with the provisions of this section.

Subd. 8. Deactivation of Audible Alarms within Fifteen (15) Minutes. It shall be unlawful to maintain any alarm system or audible alarm that does not deactivate within fifteen (15) minutes of its activation.

Subd. 9. Administrative Rules. The Chief of Police shall promulgate such rules as may be necessary for the implementation of this ordinance and the administration thereof.

Subd. 10. Confidentiality.

- A. All information submitted in compliance with this ordinance shall be held in confidence and shall be deemed a confidential record exempt from discovery to the extent permitted by law.
- B. Subject to requirements of confidentiality, the Chief of Police may develop and maintain statistics for the purpose of ongoing alarm systems evaluation.

Subd. 11. Communication Center. No automatic dialing devices shall be connected to the Anoka County Communication Center through any telephone line. Use of automatic dialing devices so connected will be considered a violation of this ordinance.

Subd. 12. Enforcement and Penalties. Failure or omission to comply with any subparagraph of this ordinance shall be deemed a misdemeanor and may be prosecuted, subject to the penalties hereinafter provided. Upon conviction a violation of this ordinance shall be punishable by a fine of not more than \$1000.00, imprisonment for a period not to exceed ninety days, or both.

Subd. 13. Supremacy and Severability. Any conflict between this ordinance and any other ordinance shall be in favor of this ordinance. If any part of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment decree shall not affect, impair or invalidate the remainder of this

SECTION 10.40. OPEN BURNING.

Subd. 1. Purpose. The purpose of this Section is to establish permitted categories of open burn events for residences within the City of Lexington and provide for a permitting process for residential open burning, except when such open burning is defined as a “Recreational Fire” as prescribed in this Section.

- A. Bucket, shovels, garden hoses connected to a water supply or other approved fire-extinguishing equipment shall be readily available for use at any burning site within the City of Lexington.
- B. An attendant shall supervise a fire until such fire has been extinguished.

Subd. 2. Definitions. For the purposes of this Section, the terms in this Section have the meaning stated:

- A. **“Open Burning”** - Means 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.
- B. **“Recreational Fire”** – Recreational fires can only burn between 8:00 am and 2:00 am and no more than one recreational fire is allowed on any property at one time.
- C. **“Recreational Fire Site”**- Means an area of no more than a three (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 Recreational Fire Site as defined herein. Recreational Fire Sites shall not be located closer than fifteen (15) feet to any structure or property line.
- D. **“Starter Fuels”** - Means dry, untreated, unpainted kindling, branches, or cardboard, or charcoal fire starter. Paraffin candles and alcohol’s are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution may be used to start an Open Burn.
- E. **“Wood”** - Means dry, clean fuel only such as twigs, branches, limbs, “presto logs”, charcoal, cordwood or untreated dimensional lumber. “Wood” does not

include wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three (3) foot lengths.

Subd. 3. Prohibited Materials.

- A. No person shall conduct, cause or permit open burning of oils, petrol 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, sheetrock, wiring, paint or paint fillers.
- B. No person shall conduct; cause or permit open burning of hazardous waste or salvage operations, or 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. No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.

Subd. 4. Permit Required for Open Burning. No person shall start or allow any open burning on any property in the City of Lexington 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 herein.

Subd. 5. Purposes Allowed for Open Burning. Open Burn permits may be issued only for the following purposes:

- A. Elimination of fire or health hazard that cannot be abated by other practical means.
- B. Ground thawing for utility repair and construction.
- C. Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, land spreading or other alternative methods are not practical.
- D. Disposal of diseased trees generated on site, diseased or infected nursery stock, diseased bee hives.
- E. 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.
- F. Fire Training permits can only be issued by the Minnesota Pollution Control Agency (MPCA).

- G. No fire may be allowed to smolder with no flame present.

Subd. 6. Permit Application for Open Burning and Permit Fees.

- A. Open Burning permits shall be obtained by making application on a form prescribed by the Department of Natural Resources (DNR) and MPCA and adopted by the City. The permit application shall be presented to the City Clerk or his/her designee for reviewing and processing said applications.
- B. An Open Burning permit shall require a non-refundable application fee. In the event the Open Burning permit application is approved, the permit fee shall be volume based. Application and permit fees shall be set annually by City Council resolution. However, the City Council may at other times amend its resolution setting the fees as it deems necessary. The fees established by City Council resolution shall continue to be the required fee until amended by a resolution.

Subd. 7. Permit Process for Open Burning. Upon receipt of the completed Open Burning permit application and permit fee, the City Clerk or his/her designee shall schedule a preliminary site inspection to locate the proposed burn site, draft a fire event safety plan, and note special conditions. The materials to be burned may then be piled for burning at which time a second inspection shall be scheduled to assess volume of material and associated fees, set dates and times of permitted burn and review fire safety considerations. Two days before burning, the permit holder shall notify the City of Lexington Fire Department of the proposed burn.

Subd. 8. 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/her competent representative. The Open Burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan. The Open Burn fire shall be completely extinguished before the permit holder or his/her representative leaves the site. It is the responsibility of the permit holder to have a valid permit, as required by this section, available for inspection on the site by the Fire Department, MPCA representative, and/or DNR Forest Officer.
- B. 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.

Subd. 9. Revocation of Open Burning Permit. The Open Burning Permit is subject to revocation at the discretion of the MPCA commissioner, or DNR forest officer,

or the City Administrator or his/her designee. 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.

Subd. 10. Denial of Open Burning Permit. If established criteria for the issuance of an open burning permit are not met or during review of said 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 City Clerk or his/her designee, the City Clerk or his/her designee may deny the application for the open burning permit.

Subd. 11. Burning Ban or Air Quality Alert. No Recreational Fire or Open Burn will be permitted if 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.

Subd. 12. Rules Adopted by Reference. Minnesota Rules parts 7005.0705 to 7005.0805 "Open Burning", Minnesota Statutes 88.16 to 88.171 and Minnesota Uniform Fire Code, are hereby adopted by reference and made a part of this ordinance as if fully set forth at this point.

SECTION 10.41. ULTIMATE FIGHTING PROHIBITED.

Subd. 1. Definition and Purpose. Ultimate fighting is any activity, regardless of how named or described, or any form of entertainment, where the primary practice involves individuals engaged in physical contact by striking an opponent with hands, feet, or body. This shall include, but not be limited to, any contest where, kicking, punching, martial arts, or submission holds are permitted. The City Council finds that the practice of ultimate fighting is dangerous and puts individuals and the public health, safety and welfare at great risk.

Subd. 2. Prohibited Conduct. It shall be unlawful in any public or private building or place to organize, permit, be present at, or to participate in the practice of ultimate fighting. Officially sanctioned matches regulated by the Minnesota Boxing Commission, martial arts, wrestling and team sports in which physical contact is incidental to the primary purpose of the game such as hockey, basketball, volleyball, soccer, baseball, and softball, are not included among activities prohibited by this section.

SECTIONS 10.42 THROUGH 10.98, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 10.99. VIOLATION A MISDEMEANOR. Every person violates a section, subdivision, paragraph or provision of this Chapter when he/she performs an

act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful by a Code adopted by reference by this Chapter, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.