

## **Chapter 22 ENVIRONMENT\***

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**\*Cross reference(s)**--Animals, ch. 8; buildings and building regulations, ch. 10; community development, ch. 16; planning, ch. 30; solid waste, ch. 32; streets, sidewalks and other public places, ch. 36; subdivisions, ch. 38; abandoned vehicles, § 40-166 et seq.; utilities, ch. 42; vegetation, ch. 44; zoning, ch. 46.

**State law reference(s)**--Environmental protection, M.S.A. § 114C.01 et seq.

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### **Article I. In General**

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### **ARTICLE I. IN GENERAL**

**Secs. 22-1--22-30. Reserved.**

### **ARTICLE II. NUISANCES\***

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**\*State law reference(s)**--Authority to define and abate nuisances, M.S.A. § 412.221, subd. 23.

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#### **Sec. 22-31. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Animals* means cattle, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, guinea hens, and feathered fowl.

*Deteriorated structure* means any structure or part of any structure which because of fire, wind or other natural disaster, or physical deterioration is no longer habitable nor useful.

*High grass* means any grass or weeds allowed to attain a height in excess of six inches.

*Junk cars* means any unlicensed, unregistered or inoperable vehicle stored in the open in a residential area.

*Junk/rubbish* means any material or substance stored in the open or not enclosed in a building which does not serve nor is it intended to serve any useful purpose or the purpose for which it was originally intended, including but not limited to refuse, empty cans, bottles, debris, used furniture, unused appliances, machinery parts, motor vehicle parts, remnants of wood, decayed, weathered or broken construction material no longer usable, metal, or any cast-off materials.

*Noxious/poisonous vegetation* means any poison ivy, ragweed or other poisonous plants, or any weeds, grass, brush or plants which are a fire hazard or otherwise detrimental to the health or appearance of a neighborhood.

*Unsafe buildings* means any building or structure which is structurally unsafe; does not provide adequate egress; is dangerous to human life; or constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage or abandonment.

(Code 1987, § 801.01)

**Cross reference(s)**--Definitions generally, § 1-2.

### **Sec. 22-32. General policy.**

It is determined that the uses, structures, activities and causes of blight factors described within this article, if allowed to exist, will tend to result in blighted and undesirable neighborhoods so as to be harmful to the public welfare, health and safety. No person shall maintain or permit to be maintained any public nuisance identified within this article on property in the city which is either owned, leased, rented or occupied by such person.

(Code 1987, § 801.02)

### **Sec. 22-33. Public nuisance generally.**

Whoever by act or failure to act does any of the following is guilty of maintaining a public nuisance:

- (1) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public.

- (2) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way or waters used by the public.
- (3) Is guilty of any other act or omission declared by law or this section to be a public nuisance and for which no sentence is specifically provided.

(Code 1987, § 801.03)

**Sec. 22-34. Public nuisances affecting health.**

The following are nuisances affecting health:

- (1) Exposed accumulation of decayed or unwholesome food or vegetable matter.
- (2) All diseased animals running at large.
- (3) All ponds or pools of stagnant water.
- (4) Carcasses of animals not buried or destroyed within 24 hours after death.
- (5) Accumulations of manure, refuse or other debris.
- (6) Privy vaults and garbage cans which are not rodentfree or flytight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors.
- (7) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.
- (8) All noxious weeds and other rank growths or vegetation upon public or private property.
- (9) Dense smoke, noxious fumes, gas and soot, or cinders in unreasonable quantities.
- (10) All public exposure of persons having a contagious disease.
- (11) Any offensive trade or business as defined by statute not licensed by the city board of health as defined by law.

(Code 1987, § 801.04)

**Sec. 22-35. Public nuisances affecting morals and decency.**

The following are nuisances affecting public morals and decency:

- (1) All gambling devices, slot machines, and punchboards, except as authorized in this Code.

- (2) Betting, bookmaking and all apparatus used in such occupations.
- (3) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses.
- (4) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining such a place.
- (5) Any vehicle used for the transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other illegal purposes.

(Code 1987, § 801.05)

**Sec. 22-36. Public nuisances affecting peace and safety.**

The following are nuisances affecting public peace and safety:

- (1) All snow and ice not removed from public sidewalks 12 hours after the snow or other precipitation causing the condition has ceased to fall.
- (2) All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection.
- (3) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles.
- (4) All unnecessary noises and annoying vibrations.
- (5) Obstructions and excavation affecting the ordinary use of the public streets, alleys, sidewalks or public grounds except under such conditions as are permitted by this Code or other applicable law.
- (6) Radio aerials or television antennas erected or maintained in a dangerous manner.
- (7) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free uses of the streets or sidewalks.
- (8) All hanging signs, awnings and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance.
- (9) The allowing of rainwater, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.

- (10) Any barbed wire fences less than six feet above the ground and within three feet of a public sidewalk or way.
- (11) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.
- (12) Wastewater cast upon or permitted to flow upon streets or other public property.
- (13) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material, in a manner conducive to the harboring of rats, mice, snakes or vermin, or to fire, health or safety hazards from such accumulation or from the rank growth of vegetation among the items so accumulated.
- (14) Any well, hole or similar excavation which is left uncovered or in such other conditions as to constitute a hazard to any child coming on the premises where it is located.
- (15) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials.
- (16) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substances which may injure any person or animal or damage any pneumatic tire when passing over such substance.
- (17) The depositing of garbage or refuse on a public right-of-way or on adjacent private property.
- (18) Any junk or junk cars.
- (19) Any high grass.
- (20) Any deteriorated or unsafe building or structure.
- (21) The keeping of any animals not in transit.
- (22) All other conditions or things which are likely to cause injury to the person or property of anyone.

(Code 1987, § 801.06)

**Sec. 22-37. Enforcement.**

- (a) *Liability.* No officer, agent or employee of the city shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this section. No person who institutes or assists in the prosecution of a criminal proceeding under this section shall be liable in damages unless he acted with actual malice and without reasonable grounds for

believing that the person accused or prosecuted was guilty of an unlawful act or omission.

- (b) *Enforcing officer.* It shall be the duty of the administrative clerk-treasurer or his designee to enforce the provisions of this section. Authorized officers may make or cause to be made inspections to determine the condition of exterior premises of property and may, during the course of their inspection, take pictures of the premises. The owner, operator or occupant of the outdoor premises being inspected shall give the enforcement officers free access to the premises at all reasonable times for the purpose of inspecting and taking pictures. It shall be unlawful for any persons to deny an officer access to the premises for the purpose of inspecting them or taking pictures.
- (c) *Notice required prior to prosecuting for creating, maintaining nuisance; method of service.*
- (1) Before any person is prosecuted for creating, harboring or maintaining a nuisance in the city, the authorized officer shall give such person a ten days' written notice ordering such person to abate such nuisance and to comply with applicable city regulations.
  - (2) Such notice described in subsection (c)(1) of this section shall be served personally or by registered U.S. mail to the person's last known address.
  - (3) Such notice shall describe the property involved sufficiently to identify it and shall describe the violation which exists and the remedial actions required.
  - (4) Upon receiving such notice, if an individual is unable to abate a nuisance within the allotted ten-day period, he may establish the fact to the satisfaction of the administrative clerk-treasurer or his designee. The individual may receive a reasonable extension to accomplish compliance by abating the nuisance.
  - (5) Where a nuisance has occurred and has either been abated by the violator or by the city, and where such nuisance reoccurs at any time within three years of the last violation, a notice to abate shall provide no period of compliance and require immediate abatement. Otherwise, the responsible party is in violation of this article and subject to all penalties under this article and abatement of the nuisance by the city.
- (d) *Penalty.* If the notice described in subsection (a) is not complied with by the responsible person within the time prescribed, the city may refer the case to the prosecuting attorney; and such person, if convicted, is guilty of a misdemeanor and may be punished in accordance with section 1-13.
- (e) *Abatement.* If the notice described is not complied with within the time specified, the enforcing officer shall report that fact forthwith to the administrative clerk-treasurer. Thereafter the city may, after notice to the owner or occupant and an opportunity to be heard, choose to abate the nuisance; except nuisances involving the failure to remove snow and ice from public sidewalks within 12 hours and the nuisance provisions prohibiting high grass and noxious weeds may be abated by the administrative clerk-

treasurer without further notice or opportunity to be heard; and the city council may, from time to time, provide the administrative clerk-treasurer with a list of additional violations which may be abated without further notice or opportunity to be heard. The notice required by this subsection shall be served in the same manner as a summons and complaint in a civil action and shall be given at least ten days before the date stated in the notice when the council will consider the matter. If notice is given by posting, at least 30 days shall elapse between the day of posting and the hearing.

(f) *Recovery of cost.*

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

(2) *Assessment.*

- a. If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the city clerk or his designee shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under M.S.A. § 429.101 against each separate lot or parcel to which the charges are attributable.
- b. The council may then spread the charges against such property under the statute and other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the council may determine in each case.

(Code 1987, § 801.07)

**Cross reference(s)**--Special assessments, ch. 34.