

## CHAPTER 93: NUISANCES

### Section

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### ***Cross-reference:***

*Nuisance animals, see § 90.11*

*Dutch Elm Disease; nuisances declared, see § 94.03*

*Motor vehicles as nuisances, see § 95.04*

### **§ 93.01 PUBLIC NUISANCES DEFINED.**

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

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

(B) Interferes with, obstructs, or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or

(C) Is guilty of any other act or omission declared by law or this chapter to be a public nuisance and for which no sentence is specifically provided.

Penalty, see § 10.99

**Statutory reference:**

*Similar provisions, see M.S. § 609.74*

## **§ 93.02 REFUSE, JUNK, AND NUISANCE REGULATIONS, PROHIBITIONS AND REMEDIES.**

(A) *Purpose.*

(1) The Council finds that the unregulated deposit, accumulation and storage of refuse represent a threat to the health, safety, welfare and comfort of city residents. It is the policy of the city to abate such conditions as they currently exist, as well as to take those steps necessary to prevent the creation of these conditions in the future. The city recognizes that, while the regulations, prohibitions and remedies provided for herein are comprehensive, such measures are absolutely essential to promote the protection of the residents and the ecology of the city.

(2) *Private property.* The Council finds that accumulation on private property of unlicensed, unregistered inoperable motor vehicles, household furniture, furnishings or appliance, or parts or components thereof, or metal, wood, glass, paper, rubber, concrete, or other material, whether organic or inorganic, can facilitate the growth or spread of noxious weeds, the nesting and breeding of rodents, insects and harmful bacteria, and be a threat of fire. The Council also finds that unless such accumulation is stored in a lawfully operated junk yard, housed within a lawfully erected building, or in a container permitted, and the contents disposed of, under provisions of the city code, it is a source of filth, cause of sickness, and an immediate danger to the health, safety and welfare of persons and property in the city. The Council finds that if such unauthorized unwholesome and dangerous accumulation is permitted to continue to pose such a threat it is a hazardous condition and a nuisance, must be abated, and that this section is adopted to protect the residents of the city and their property and, in addition, to protect the rights of persons who may be found in violation of its provisions. **ACCUMULATION** that term is used in this division (2), means prohibited items in any number or amount.

(3) *Business premises.* The Council finds that accumulation upon premises to which the public has access or may be exposed of food particles or other material causing discomfort to patrons, or disrepair of seating, floor covering, plumbing, heating, or electrical facilities, or failure to maintain a reasonable standard of cleanliness and absence of noxious odors, can facilitate the nesting and breeding of rodents, insects, and harmful bacterial and is a source of filth, cause of sickness, and an immediate danger to the health, safety and welfare of persons and property in the city. The Council finds that if such unauthorized, unwholesome and dangerous accumulation is permitted to continue to pose such a

threat it is a hazardous condition and a nuisance, must be abated, and that this section is adopted to protect the residents of the city and their property and, in addition, to protect the rights of persons who may be harmed in violation of its provisions. **ACCUMULATION** as that term is used in this division (3), means prohibited items or conditions in any number or amount.

(B) *Unlawful acts and enforcement.*

(1) It is unlawful to park or store any unlicensed, unregistered or inoperable motor vehicle, household furniture, furnishings or appliances, or parts or components thereof, or scrap metal, wood, glass, paper, rubber, concrete, or other material, whether organic or inorganic, on private property, unless such accumulation is stored within a lawfully operated junkyard, housed within a lawfully erected building, or a container permitted, and the contents disposed of, under other provisions of the city code.

(2) It is unlawful to permit, on premises to which the public has access or may be exposed, any accumulation of food particles or other material causing discomfort to patrons, or disrepair of seating, floor covering, plumbing heating or electrical facilities, or failure to maintain a reasonable standard of cleanliness and absence of noxious odors.

(3) As to any provision of this section which constitutes an unlawful act, and in addition to all of the civil proceedings described in this section, each day that a violation continues, or is permitted to continue, shall constitute a separate offense in prosecution of such unlawful act.

(C) *Definitions.* The following terms, as used in this section, shall have the meanings stated:

(1) **JUNK.** Means and includes all:

(a) Unregistered, unlicensed or inoperable (including but not limited to, the lack of component parts) motor vehicles, motorized vehicles or equipment, bicycles, boats, outboard motors, or trailers, or parts or components thereof;

(b) Inoperable (including, but not limited to, the lack of component parts) agricultural implements or parts or components thereof, machines and mechanical equipment of all kinds or parts or components thereof, and by-products or waste from manufacturing operations of all kinds;

(c) Used lumber or waste resulting from building construction, renovation, remodeling, or demolition; or

(d) Felled trees and tree branches that are not immediately processed into lumber, wood for fuel, fence components, or other such ultimate use.

(2) **REFUSE.** All organic and inorganic:

(a) Material resulting from the manufacture, preparation or serving of food or food products;

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- (b) Spoiled, decayed or waste feed from any source;
- (c) Bottles, cans, glassware, paper or paper products, crockery, ashes, rags and discarded clothing;
- (d) Tree, lawn or bush clippings and weeds;
- (e) Furniture, household furnishings or appliances, or parts or components thereof;
- (f) Scrap metal, wood, glass, paper, rubber, concrete; or
- (g) Human or household waste of all kinds not included in any other portion of this definition.

**(D) *Junk storage.***

(1) It is unlawful to park or store junk on any premises unless it is housed within a completely enclosed building or on duly licensed junk yard premises and a permitted use pursuant to Chapter 154, Zoning.

(2) If any person fails or refuses to comply with division (D)(1) of this section, the city may, proceed with § 93.03 below as an additional and not alternate to any other remedy provided herein.

**(E) *Refuse storage.***

(1) It is unlawful for any person to store refuse on residential premises or commercial premises for a continuous period in excess of seven days.

(2) It is unlawful to store organic refuse unless it is drained, wrapped (in paper or plastic) and placed in an impervious and leak-proof container with a tight-fitting cover.

**(F) *Mandatory collection of refuse.***

(1) It is unlawful for each occupant of residential premises or commercial premises to fail or refuse to subscribe for, receive and pay for the refuse connection services of a garbage and refuse hauler contracted for by the city. For purposes of this paragraph **OCCUPANT** shall include any occupant having attained the age majority, and shall also include a minor occupant if such minor is the owner or lessee of, or otherwise has legal control over, such premises.

(2) It is unlawful for any person to impede, hinder or interfere with a garbage and refuse hauler in the performance of its duties.

(3) If any person fails or refuses to comply with divisions (F)(1) or (2) of this section, the city may proceed with § 93.03 below as an additional and not alternate to any other remedy provided herein.

(G) *Additional unlawful acts.*

(1) It is unlawful for any person to deposit offal or the body of a dead animal in any place other than facilities approved by statute or the city code.

(2) It is unlawful for any person to store, deposit or dispose of any refuse which is in flames or heated to the point of danger of fire.

(Ord. 1124.07, passed 7-9-07) Penalty, see § 10.99

**§ 93.03 ABATEMENT OF NUISANCE WITHOUT SPECIAL ASSESSMENTS.**

(A) *Investigation and notice of hearing.* Upon receipt of a written signed complaint of violation of this section, or at its own initiative, the Council shall investigate the premises and if it is alleged that there is a public nuisance condition on any premises in violation of this section, the same shall be reported to the City Administrator or City Clerk who shall prepare a notice addressed to owners of the property and to the residents of the property, if different than the owners, and bearing the legal description of the premises on which the alleged violation appears. The notice shall state the date, time and place of hearing and describe the violation in general terms.

(B) *Service of notice.* The notice shall be served at least 14 days before the date of hearing in the following manner:

(1) It shall be served personally on the addressee or left at his or her residence with a person of suitable age and discretion. Addressees not served personally shall be served by regular and certified mail at their addresses appearing in records selected by the City Clerk; and

(2) Inadvertent failure to serve any addressee via regular and certified mail shall not invalidate the proceedings, but publication 14 days prior the hearing shall then suffice.

(C) *Content of notice.* The notice shall contain the following information:

(1) The date, time, and location of public hearing;

(2) The general nature of proposed abatement of nuisance condition;

(3) Legal description of real property of proposed abatement of nuisance and special assessment;

(4) A statement that written and oral objections regarding the proposed abatement of public nuisance on real property will be considered at the public hearing; and

(5) Statement that the Council may move to abate the public nuisance at the hearing.

(D) *Hearing, findings and decision.*

(1) The hearing shall be held before the Council at a regular or special meeting. All persons desiring to be heard shall be afforded an opportunity to present evidence.

(2) The Council shall decide whether or not the item or items constitute a public nuisance in violation of this section and direct the drawing and serving of a resolution with the findings of fact and decision by certified mail on all addressees.

(3) Estimated value, if any, of all offensive items described in division (D)(2) above, shall be included in the evidence and in the findings. **VALUE**, for the purpose of this section, means the amount of money, in cash, which can be obtained in a negotiated sale on a known and ready market in the city. (Ord. 1124.07, passed 7-9-07; Ord. 1140.12, passed 8-6-12)

**§ 93.04 ABATEMENT OF NUISANCES WITH SPECIAL ASSESSMENTS.**

(A) *Investigation and notice of hearing.* Upon receipt of a written signed complaint of violation of this section, or at its own initiative, the Council shall investigate the premises and if it is found that there is a public nuisance condition on any premises in violation of this section, the same shall be reported to the City Administrator or City Clerk who shall prepare a notice addressed to owners of the property and to the residents of the property, if different than the owners, and bearing the legal description of the premises on which the alleged violation appears. The notice shall state the date, time and place of hearing and describe the violation in general terms.

(B) *Service of notice.* The notice shall be served at least 14 days before the date of hearing in the following manner:

(1) It shall be served personally on the addressee or left at his or her residence with a person of suitable age and discretion. Addressees not served personally shall be served by regular and certified mail at their addresses appearing in records selected by the City Clerk;

(2) By publication of the notice twice in the official newspaper for two consecutive weeks at least 14 days prior to the date of hearing; and

(3) Inadvertent failure to serve any addressee via regular and certified mail shall not invalidate the proceedings, but publication shall then suffice.

(C) *Content of notice.* The notice shall contain the following information:

(1) The date, time, and location of public hearing;

(2) A general nature of proposed abatement of nuisance condition;

(3) Legal description of real property of proposed abatement of nuisance and special assessment;

(4) A reasonable estimate of the amount of the special assessment;

(5) A statement that a reasonable estimate of the impact of the assessment will be available at the hearing;

(6) A statement that written and oral objections regarding the proposed special assessment against the real property will be considered at the public hearing;

(7) A statement that no appeal may be taken as the amount of the assessment unless a written objection is filed prior to the hearing or presented to the presiding officer at the hearing;

(8) A statement that an owner may appeal an assessment to district court pursuant to M.S. § 429.081 by serving notice of the appeal on the Mayor or Clerk of the city within 30 days after the adoption of the assessment and filing such notice with the district court within ten days after service upon the Mayor or Clerk.

(9) Notice should also inform property owners of the provision of M.S. §§ 435.193 to 435.195, and the existence of any deferment procedure established pursuant thereto in the municipality.

(10) Statement that adoption by the Council of the proposed assessments may be taken at the hearing, and the property owners have the right to prepay the entire special assessments to the city and whether partial prepayment has been authorized by ordinance;

(11) Statement of the time which prepayment may be made without the assessment of interest; and

(12) Statement of the rate of interest to be accrued if the assessment is not prepaid within the required time.

(D) *Hearing, findings and decision.*

(1) The hearing shall be held before the Council at a regular or special meeting and conducted in the same manner as an administrative appeal. All persons desiring to be heard shall be afforded an opportunity to present evidence.

(2) The Council shall decide whether or not the item or items constitute a nuisance in violation of this section and state the estimated amount of special assessments and direct the drawing and serving of a resolution with the findings of fact and decision by certified mail on all addressees.

(3) Estimated value, if any, of all offensive items described in division (D)(2) above, shall be included in the evidence and in the findings. *VALUE*, for the purpose of this section, means the amount of money, in cash, which can be obtained in a negotiated sale on a known and ready market in the city. (Ord. 1124.07, passed 7-9-07; Ord. 1140.12, passed 8-6-12)

#### **§ 93.05 ABATEMENT BY CITY.**

If abatement of the items described herein is not completed by the date stated in the resolution of Council, the city may enter upon the premises, remove the offending item or items, and clean up the nuisance.

(Ord. 1124.07, passed 7-9-07; Ord. 1140.12, passed 8-6-12)

#### **§ 93.06 DISPOSAL OF ITEMS BY CITY AND ALLOCATION OF PROCEEDS.**

(A) If the city abates the nuisance it shall dispose of the items as follows:

(1) Any item or items of value shall be sold locally in a negotiated sale.

(2) Items of no value shall be disposed of in a landfill or other site acceptable to governmental regulatory authority.

(B) Allocation of proceeds and assessment. If the city abates the nuisance all costs thereof, including, but not limited to, cost of sale, if any, shall be aggregated, sale proceeds deducted, and the remainder either certified as a special assessment and/or collected through a collection action.

(Ord. 1124.07, passed 7-9-07; Ord. 1140.12, passed 8-6-12)

#### **§ 93.07 FAILURE TO ABATE NUISANCE ON BUSINESS PREMISES.**

If the hazardous condition(s)/nuisance(s) described in this section is not abated within the time limited, all present licenses issued by the city to carry on the business on such premises shall be revoked, and no future license shall be issued therefor until full abatement has been completed.

(Ord. 1124.07, passed 7-9-07; Ord. 1140.12, passed 8-6-12)

#### **§ 93.08 IMMEDIATE ABATEMENT.**

Nothing in this section shall prevent the city, without notice or process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

(Ord. 1124.07, passed 7-9-07; Ord. 1140.12, passed 8-6-12)



**§ 93.09 RECOVERY OF COST.**

*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 City Clerk or other official designated by the City 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 City Clerk.

(Ord. 1124.07, passed 7-9-07; Ord. 1140.12, passed 8-6-12) Penalty, see § 10.99

**§ 93.10 DUTIES OF CITY OFFICERS.**

The City Engineer, Street Superintendent, Police Department, or other designated official shall enforce the provisions of this chapter relating to nuisances affecting public safety. The Police Department shall enforce provisions relating to other nuisances and shall assist the other designated officers in the enforcement of provisions relating to nuisances affecting public safety. Such officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

(Ord. 1124.07, passed 7-9-07)

**§ 93.11 PUBLIC NUISANCES AFFECTING HEALTH.**

The following are hereby declared to be nuisances affecting health:

- (A) Exposed accumulation of decayed or unwholesome food or vegetable matter;
- (B) All diseased animals running at large;
- (C) All ponds or pools of stagnant water;
- (D) Carcasses of animals not buried or destroyed within 24 hours after death;
- (E) Accumulations of manure, refuse, or other debris;
- (F) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- (G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- (H) All noxious weeds and other rank growths of vegetation upon public or private property;

(I) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;

(J) All public exposure of people having a contagious disease; and

(K) Any offensive trade or business as defined by statute not operating under local license.

(Ord. 1124.07, passed 7-9-07) Penalty, see § 10.99

***Cross-reference:***

*Garbage and rubbish in residential and multiple dwelling districts; garbage cans, see § 51.02*

*Use of municipal sewers required; privies, see § 52.15*

*Diseased animals, see § 90.12*

*Burial of dead animals, see § 90.12*

*Weeds and grasses as nuisances, and abatement of such, see §§ 92.43 and 92.44, inter alia*

**§ 93.12 MAINTENANCE OF WOODLAND, TURFGRASSES, NOXIOUS WEEDS, AND VEGETATIONS ON PRIVATE PROPERTY.**

(A) *Purpose.* It is the primary responsibility of any owner or occupant of any lot or parcel of land to maintain the property in such a manner so as not to constitute or create a public nuisance or degrade the value of the neighborhood.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) ***NOXIOUS WEEDS.*** Those plants designated as such by M.S. § 18.77, subd. 8 or as amended.

(2) ***PROPERTY.*** All lots or parcels within the city.

(3) ***REGULARLY CUT.*** Mowing or otherwise cutting vegetation so it does not exceed 12 inches in height.

(4) ***TURFGRASSES.*** An area of land, which is occupied by a minimum of 90% of turfgrasses. ***TURFGRASSES*** are commercially available cultured turfgrass varieties including blue grass, fescue, rye grass blends, commonly used in regularly cut lawn areas.

(5) ***VEGETATION.*** Any non-woody plant.

(6) ***WOODLAND.*** An area of coniferous or deciduous trees interspersed with shrubs, grasses, broad-leaf plants, and other vegetation, excluding noxious weeds, which are native or adaptive to the state of Minnesota.

(C) *Lawn maintenance.* All disturbed or occupied areas, which are not covered by buildings, storage, landscape beds or other physical improvements, shall be covered by maintainable turfgrasses.

(1) Prior to establishment of the turfgrass the lot shall be brought to grade by the installation of no less than three inches of topsoil. Topsoil shall be black dirt with no more than 35% sand. It is the duty of all property owners to establish a lawn within eight months of issuance of the certificate of occupancy or 12 months of issuance of building permit, whichever is earlier. Turfgrasses which are drought resistant, such as fescue varieties, are preferred. The property owner shall be responsible for supplemental watering of all areas established with turfgrass to ensure sufficient establishment and root development. All areas shall have sufficient ground cover as to prevent erosion. At the discretion of the city a shorter time period may be imposed.

(2) Prior to issuance of a building permit for a single and two family residential structure, the builder shall provide an escrow of \$2,000 per lot to the city to be held in escrow until the sod is completed for the entire lot or seeding has taken and substantial growth has occurred to prevent erosion. Once substantial growth or sod has been established \$1,900 shall be returned to the builder.

(D) *Native grasses or gardens.* No more than 50% of all disturbed areas may be restored to native grasses or wildflowers indigenous to the state of Minnesota, which are planted and maintained on any property, as part of a garden, or landscape treatment. A minimum width of three feet of turfgrass shall be established and maintained along the edge of the property and abutting both sidewalk and roadway if native grasses are to be used.

(E) *Woodland preserve or restoration.* No more than 50% of areas within the lot can be devoted to woodlands. Property owners must trim and maintain the woodland areas such that public ways are kept clear for passage.

(F) *Turfgrass maintenance.*

(1) All property within the city shall have turfgrass maintained through regularly cutting to prevent grass vegetation from exceeding 12 inches.

(2) On vacant property where mowing of grass is physically difficult because of topography or other physical constraints the height requirement as in division (F)(1) shall only apply to a six foot strip of land abutting roadways or developed properties.

(3) Division (F)(1) above shall not apply to the following:

- (a) Highway ditches.
- (b) Railroad track ditches.
- (c) Agricultural areas.

(d) Designated wetlands areas (based on DNR standards).

(e) Large tracts of undeveloped land.

(f) Residential subdivisions that are less than 50% developed except where lots about developed and improved property. In this instance division (F)(2) above shall apply.

(g) Designated areas in city parks.

(h) Up to a 50-foot buffer surrounding drainage ponds, water quality ponds, streams, lakes and floodplain areas.

(i) Woodlands.

(G) *Trimming plants at intersections.* The owner or occupant of any property lying and abutting any intersection of two streets, and having shrubs or bushes on such property, shall trim or cause to be trimmed bushes or shrubbery so that they shall not exceed three feet in height. The area included in this restriction is defined by a triangle, created 20 feet back from the intersection of property lines on both sides.

(H) *Public nuisances.* The following shall constitute a public nuisance and shall be immediately abated by the property owner:

(1) Noxious weeds.

(2) Vegetation in violation of division (E) above.

(3) All insect infested or diseased trees.

(4) Accumulation of materials which would harbor rodents.

(5) Accumulations of trash, rubbish, cans or other debris.

(Ord. 1124.07, passed 7-9-07)

### § 93.13 DEMOLITION WASTE AND TIRE DISPOSAL.

(A) *Purpose.* It is the intention of the Council to prohibit the disposal of any demolition waste and tires within the city for the purpose of promoting the public health, safety, welfare, and aesthetics of the city.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) **AUTHORIZED DISPOSAL SITES.** Any disposal site which is licensed by the state of Minnesota to receive demolition waste.

(2) **CLEAN FILL.** Clean sand, gravel, earth, rocks, sod, and boulders.

(3) **DEMOLITION WASTE.** Metal, concrete, glass, wood, asphalt, insulation, brick, mortar, wire, conduit, pipes, plumbing and lighting fixtures, other fixtures, any combustible and noncombustible waste, and any other materials normally handled in construction operations, and shall also include any substance which is defined by state statute law or regulation to be hazardous waste. This definition shall not include clean fill, as defined herein.

(C) *Prohibited acts.* It is unlawful for any person to dispose of demolition waste and discarded tires within the city.

(D) *Enforcement.* The City Administrator or City Clerk and any duly authorized count, or state health officers, any city enforcement officer, and any other duly authorized city, county, or state officer, may enforce the provisions of this section. Such officers shall have the power to inspect public and private premises and take all reasonable precautions to prevent the commission and maintenance of prohibited waste disposal.

(Ord. 1124.07, passed 7-9-07) Penalty, see § 10.99

#### § 93.14 OBSTRUCTIONS ON PUBLIC PROPERTY.

(A) *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.

(B) *Fires.* It is unlawful for any person to build or maintain a fire upon public property, except within public parks where such fire is at all times contained in a fire ring, grate, grill or other receptacle permanently affixed to the ground and designed to contain fire. Fires will be allowed upon areas of public property not within a public park only upon prior written permission of the city.

(C) *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 any 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.

(D) *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.

(E) *Continuing violation.* Each day that any person continues in violation of this section shall be a separate offense and punishable as such.

(F) *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.

(Ord. 1124.07, passed 7-9-07) Penalty, see § 10.99

### § 93.15 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

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

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

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

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

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

(E) Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

(Ord. 1124.07, passed 7-9-07) Penalty, see § 10.99

***Cross-reference:***

*Alcoholic beverages, see Ch. 110*

*Gambling, see Ch. 111*

### § 93.16 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following are declared to be nuisances affecting public peace and safety:

(A) All snow and ice not removed from public sidewalks 12 hours after the snow or other precipitation causing the condition has ceased to fall;

(B) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

(C) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

(D) All unnecessary noises and annoying vibrations;

(E) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this code or other applicable law;

(F) Radio aerials or television antennas erected or maintained in a dangerous manner;

(G) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;

(H) 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;

(I) The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;

(J) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;

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

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

(M) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other material in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or safety hazards from such accumulation;

(N) Any well, hole, or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;

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

(P) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance;

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

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

(Ord. 1124.07, passed 7-9-07) Penalty, see § 10.99

***Cross-reference:***

*Streets and sidewalks; obstructions, see § 92.03*

*Streets and sidewalks; awnings, see § 92.07*

*Streets and sidewalks; excavations; regulations for public safety, see § 92.25*

*Snow and rubbish as nuisances, and abatement of such, see §§ 92.41 and 92.42, inter alia*

*Accumulation of junk, see § 93.08*

*Zoning regulations; height limitations for traffic visibility, see § 154.019*

**§ 93.17 FUEL STORAGE; ACCUMULATION OF JUNK.**

Wood or other fuel stored on any lot or piece of land within the city limits shall be kept at the back part of such lot or piece of land and piled neatly. No person shall store or keep any equipment, materials, or junk on his or her premises or in his or her possession or control in such a manner that it is unsightly or creates a public nuisance.

(‘75 Code, § 20.210) (Am. Ord. 1124.07, passed 7-9-07) Penalty, see § 10.99

**§ 93.18 PUBLIC NUISANCES CAUSED BY SOUND.**

(A) *General prohibition.* No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of a reasonable person or reasonable persons, or precludes their enjoyment of property, or adversely affects their property’s value. This general prohibition is not limited by the specific prohibitions contained in the following section.

(B) *Unlawful acts.* The following acts are hereby declared to be loud, disturbing and unnecessary noises and are public nuisances in violation of this chapter but said enumeration shall not be deemed to be exclusive:

(1) The sounding of any horn, whistle, siren or signaling device except as a danger warning;

(2) The play, use or operation of any radio, stereo, tape player, disc player, musical instrument, phonograph, loud speaker, sound amplifier or any other machine or device used for the production or amplification of sound in such a manner as to be audible at a distance of 50 feet from said machine or device;



(3) The operation of any noise-creating vehicle, machinery or equipment powered by an electric or internal combustion engine unless such engine is equipped with a muffler device sufficient to deaden such noise;

(4) The operation of any other vehicle in such manner as to create through the use of any mechanical component of said vehicle, noise which is audible at a distance of 50 feet from said vehicle. This section shall include the use of “jake brakes” by motor vehicles unless such use is required as a result of an emergency situation;

(5) Excavation activities or erection, demolition, alteration or repair of any structure in such a manner as to create noise which is audible at a distance of 50 feet from the site thereof between the hours of 10:00 p.m. and 6:00 a.m.

(C) *Permitted acts.* This section shall not apply to sound produced by the following:

(1) Amplifying equipment used in connection with an activity sponsored by Benson Public Schools or by the city or for which a permit has been granted by the city provided that such use is consistent with the provisions of such permit;

(2) Anti-theft devices and security alarms;

(3) Machines or devices for the production of sound or in authorized emergency vehicles;

(4) Horns, sirens, whistles or other signaling devices when used as a danger warning;

(5) Excavation, construction, demolition, alteration or repair activities when authorized by the City Building Inspector in an emergency situation or when required to protect health and/or safety;

(6) Snow removal operations on commercial property or public rights-of-way;

(7) Church bells, chimes, carillons or school bells.

(D) *Scope of applicability.* The terms of this section shall apply to any loud, disturbing or unnecessary sound whether produced on public or private property and whether indoors or outdoors or in a motor vehicle.

(E) *Responsible person for violations involving motor vehicles.* When sound violating this section is produced by a machine or device that is located in or on a motor vehicle, the vehicle’s owner shall be guilty of the violation of this section unless the owner is not present, in which case, the person in charge of the vehicle at the time of the violation shall be guilty of the violation of this section.

(F) *Non-exclusivity.* This section is supplemental to and does not supersede any other provision of this city code or state law.

(Ord. 1106.01, passed 6-11-01; Am. Ord. 1124.07, passed 7-9-07; Ord. 1143.14, passed 5-19-14)  
Penalty, see § 10.99

**§ 93.19 VIOLATION A MISDEMEANOR.**

Every person violates a section, division, 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 or fails to act when such failure is 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. (Ord. 1124.07, passed 7-9-07) Penalty, see § 10.99