

CHAPTER 9

PUBLIC PROTECTION, CRIMES AND OFFENSES

SECTION 9.01. STORAGE, DEPOSIT AND COLLECTION OF REFUSE, YARD WASTE, RECYCLABLE WASTE AND SOLID WASTE

Subd. 1. Purpose and Findings. The Council of the City of Eden Prairie finds that the practice of disposing of Recyclable Waste in land disposal facilities commonly referred to as landfills is unacceptable because such disposal is detrimental to the long-term capacity of public and private landfills and is detrimental to the environment in that it causes pollution and contamination of underground and surface waters, air and natural flora and fauna; is harmful to the health and safety of persons and property because it generates noxious and dangerous odors and gases, including methane gas and; blowing of airborne particles and contaminants causes social and/or economic harm to persons who reside, and property which is, in proximity to landfills and should be done only in the absence of reasonably-available alternatives. In an effort to extend the life of landfill capacity as well as to ameliorate the social, economic and physical harm caused by the disposal of Recyclable Waste in landfills, the Council of the City hereby adopts the following provisions relating to Recyclable Waste.

Subd. 2. Definitions. For purposes of this subsection, the following terms have the meanings indicated:

- A. Association – Association means all cooperative organizations of residential dwelling owners formed for the purpose of joint management of property or services.
- B. Collection – Collection means the aggregation of Solid Waste or Recyclable Wastes from the place at which it is generated and includes all activities up to the time when the material is delivered to the facility designated by the owner of the Single Family Dwelling, Multiple Family Dwelling, Commercial Establishment or Licensee.
- C. Compost - The product of a managed process through which microorganisms naturally break down organic materials, including Yard Waste, fruit or vegetable matter, eggshells or coffee grounds, by bacteria, fungi and other organisms into more available forms suitable for application to the soil and is used to improve soil structure and provide nutrients to the soil.
- D. Compost Area – A defined area used for composting.
- E. Composting - Any above ground microbial process that converts decaying organic materials to compost, humus or mulch by decomposition of material through an aerobic process providing adequate oxygen and moisture.
- F. Garden – A well-defined ground area used for cultivation of flowers, vegetables and shrubs.
- G. Yard Waste - Yard waste means solid waste generated from landscaping and lawn care activities such as mowing, trimming, gardening or raking consisting of grass clippings, twigs, tree and brush clippings, straw, pine needles, tree branches, soft vegetative garden waste and leaves..

The definitions applicable to Section 5.36 shall govern any terms used but not defined herein.

Subd. 3. Storage.

- A. Storage containers for Single Family Dwellings, Multiple Family Dwellings or Commercial Establishments must be stored at least twenty (20) feet from the property line. Storage containers stored within a front yard must be screened from the public street with an opaque fence or coniferous landscape material. For the purposes of this ordinance, a corner lot shall be defined as having two front yards.

- B. Storage containers for Solid Waste, Recyclable Materials or Yard Waste may be set curbside 24 hours prior to the scheduled pickup. The storage containers must be removed from curbside within 24 hours after the scheduled pickup.
- C. It is unlawful for the owner or occupant of a Single Family Dwelling to store Solid Waste at the dwelling for more than one week unless it is being composted in accordance with the provisions of Subd. 6 herein. All such storage shall be in five to one hundred gallon metal or plastic containers with tight-fitting covers, which shall be maintained in a clean and sanitary condition.
- D. It is unlawful for the owner or occupant of a Single Family, Multiple Family Dwelling or Commercial Establishment to store Yard Waste at the dwelling or establishment for more than one week unless it is being composted in accordance with the provisions of Subd. 6 herein.
- E. It is unlawful for the owner or occupant of a Multiple Family Dwelling to store Solid Waste at the dwelling for more than one (1) week unless it is being composted in accordance with the provisions of Subd. 6 herein. All such storage shall be in containers as for Single-Family Dwellings, except that so-called "dumpsters" or Roll Off Containers with tight-fitting covers may be substituted.
- F. It is unlawful for the owner or occupant of a Commercial Establishment to store Solid Waste at the establishment for more than one week unless it is being composted in accordance with the provisions of Subd. 6 herein. All such storage shall be in containers as for Single Family Dwellings, except that so-called "dumpsters" or Roll Off Containers with tight-fitting covers may be substituted.
- G. It is unlawful to store Solid Waste, except fruit or vegetable waste, eggshells or coffee grounds, in a Compost Area pursuant to Subd. 6 hereof, unless it is drained and wrapped and in enclosed containers with tight-fitting covers.
- H. No Yard Waste or Solid Waste may be buried without prior written permission from the City of Eden Prairie.
- I. Only one (1) Roll Off Container for collection of Solid Waste or construction debris is allowed for Single Family Dwelling at a single time and for no more than 90 days unless previously approved in writing by the City Manager or his/her designee.
- J. Roll Off Containers shall be placed on a hard surfaced driveway when feasible. If the Roll-Off Container must be placed on a grassed or landscaped surface in accordance with the Permit conditions approved under City Code Section 6.03 Subdivision 1, the surface shall be stabilized by seeding (if prior to September 15), sodding, mulching, or other equivalent measure pre-approved in writing by the City within 60 days of removal of the Roll Off Container unless approved otherwise in writing by the City Manager or his/her designee.

Subd. 4. Recyclable Waste Collection. Owners, Associations or other management entities for Multiple Family Dwellings must, by, or not later than July 1, 2008, make available to the occupants of all dwelling units on the premises services for the Collection of Recyclable Waste which accumulates on the premises in accordance with the following provisions.

- A. **Schedule.** The Collection services must be available on the premises and must be provided on a regularly-scheduled basis. The owner and owner's employees may provide the Collection services personally, or the owner may utilize a Licensee as in Section 5.36.
- B. **Recycling Information Required.** The owner of a Multiple Family Dwelling must provide information to the occupants of each dwelling unit which notifies the occupants of the availability of Collection services, clearly describes and lists the procedures required to prepare the Recyclable Waste for Collection, and identifies the dates and times of Collection.

- C. **Container Requirements.** The owner of a Multiple Family Dwelling must provide containers for the Collection of Recyclable Waste and must maintain the containers in a clean and sanitary condition. The containers must be sufficient in number and size to meet the demands for recycling services created by the occupants. The owner must replace stolen or broken containers and purchase additional containers as needed. Containers must be placed in a location on the premises which permits access for Collection purposes but which does not obstruct pedestrian or vehicular traffic and must comply with the City's zoning ordinance.
- D. **Transportation and Disposal.** Upon Collection by the owner, owner's employees, or Licensee, Recyclable Wastes must be delivered to a recyclable material processing center, an end market for sale or reuse, or to an intermediate Collection center for later delivery to a processing center or end market. It is unlawful for any person to transport for disposal or to dispose of Recyclable Waste in a solid waste disposal facility. Recyclable Wastes must be transported in a covered vehicle so that the recyclables do not drop or blow onto any public or private property during transport.

Subd. 5. Anti-scavenging. It is unlawful for any person other than the owner or owner's authorized employees or contractors to scavenge, collect, remove, or dispose of Solid Waste and/or Recyclable Waste after the materials have been placed or deposited for Collection at the curb or in areas designated for the separation of Recyclable Waste.

Subd. 6. Compost Requirements. It is prohibited for any person to engage in Composting on public, commercial, office or industrial property without prior written permission from the City. It is prohibited for the owner or occupant of a Single Family or Multiple Family Dwelling to engage in Composting except as hereinafter provided.

- A. A Compost Area shall be established in such a manner so as not to create an odor or other condition that is a nuisance;
- B. A Compost Area may consist only of Yard Waste, fruit or vegetable waste, eggshells or coffee grounds generated from the site on which the compost is located.
- C. A Compost Area may not occupy any front yard setback and must be ten (10) feet from any side or rear yard lot line.
- D. Fruit or vegetable waste, eggshells or coffee grounds must be enclosed in a container or other manner which will prevent animals from disturbing or removing the contents.
- E. A Compost Area shall not be larger than .025 to the total lot area and in no case exceed five hundred (500) square feet or four (4) feet in height. Every Compost Area must be contained within a fenced area or enclosed container, except a Compost Area consisting of yard waste not exceeding eighteen (18) inches in height may be placed upon a Garden without a fence or closed container.

Subd. 7. Deposit of Solid Waste. It is unlawful for any person to deposit Solid Waste from any source, rubbish, offal, or the body of a dead animal in any place other than a sanitary landfill or licensed disposal facility.

Subd. 8. Solid Waste Collection Contract. Every occupant of Single Family Dwellings, Multiple Family Dwellings, and Commercial Establishments shall be a party to, or the beneficiary of, a contract for the collection of the Solid Waste generated on or within such Single Family Dwelling, Multiple Family Dwelling, or Commercial Establishment.

Subd. 9. Penalties for Violation. Violation of this subsection is a Petty Misdemeanor. A fourth or subsequent violation of this subsection is a Misdemeanor.

Source: Ordinance No. 6-2008
Effective Date: 3-13-2008

SECTION 9.02. ANIMAL WASTE.

It is unlawful for any person who owns, harbors or has custody of a dog, cat or other animal to cause or permit such animal to defecate on any public property or, without the consent of the owner, to defecate on any private property unless such person immediately removes the excrement and properly disposes of it. It shall also be unlawful for such person to cause or permit such animal to urinate on private property without the consent of the owner.

Source: Ordinance No. 23-94
Effective Date: 7-22-94

SECTION 9.03. TOILET INSTALLATION REQUIRED.

It is the duty of every owner or occupant of any property within the City on which is situated a dwelling house or business building and which property abuts a street in which there are City sewer mains to install a toilet in such dwelling or business building and make connection thereof with such 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 mains, all of which shall be done within thirty (30) 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 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 benefitted. 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 therefor. If such assessment is not paid within ten (10) 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 (5) years upon written request by the owner of the property. However, if sewage disposal facilities are presently in operation on such premises, no connection shall be required until such time as such facilities fail to be operable; and at the time of such installation an adequate water supply shall be provided from either City water mains or a private well.

SECTION 9.04. RULES AND REGULATIONS GOVERNING PUBLIC PARKS.

Subd. 1. Purpose. The purpose of this Section is to secure the quiet and orderly use and enjoyment of the public parks of the City.

Subd. 2. Definitions. For the purposes of this Section, the following terms shall have the following meanings:

- A. "Director" means the person holding the position of Director of Parks and Recreation of the City.
- B. "Motor vehicle" means every vehicle which is self-propelled. Motor vehicle does not include a vehicle moved solely by human power.
- C. "Park" means any open or enclosed land and improvements or facility wherever located which is owned, leased, operated, or controlled by the City and which is reserved, designated or used for a playground, picnic area, beach, or other recreational facility. "Park" also means waters surrounded by parks and/or adjacent to beaches which are delineated as swimming areas by placement of marker buoys.
- D. "Pet" means any domesticated small animal including but not limited to dogs, cats and birds kept by a person for pleasure or utility.
- E. "Recreational motor vehicle" means a snowmobile, mini-bike, motor home, go-cart, and all-terrain vehicles.
- F. "Roadway or street" means that portion of a way or path improved for vehicular traffic exclusive of the sidewalk or shoulder.
- G. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway except devices used exclusively upon stationary rail or tracks.

H. "Watercraft" means any contrivance used or designed for navigation on water.

Source: City Code
Effective Date: 9-17-82

I. "Roller skates" means roller skates, in-line skates, or roller skis.

Source: Ordinance No. 2-94
Effective Date: 1-28-94

J. "Paint ball gun" means every device by which a person may expel a thin-skinned, paint-filled, gelatin capsule known as a paint ball.

Source: Ordinance No. 2-2003
Effective Date: 2-27-03

K. "Non-resident sponsored group" means two or more persons who engage in a cooperative or coordinated activity in or on a park and who are sponsored, or organized by, or under the direction or control of, one (or more) person(s), business(es) or non-profit organization(s) or other entity ("Sponsor"), for the purpose of engaging in a cooperative or coordinated activity in or on a park. A Sponsor as used in this definition does not include a (a) natural person who is a resident of the City or (b) business or non-profit organization which, (i) conducts a business, service or activity and (ii) occupies and maintains a physical property having an address, within the City.

Source: Ordinance No. 3-2007
Effective Date: 2-15-2007

L. "Resident sponsored large group" means more than 20 persons who engage in a cooperative or coordinated activity in or on a park and who are sponsored, organized by, or under the direction or control (for the purpose of engaging in a cooperative or coordinated activity) of, a (or more) natural person(s), who is a resident of the City or a business(es), non-profit organization(s) or other entity, which (a) conducts or provides a business, service or activity and (b) occupies and maintains a physical property having an address within the City.

Source: Ordinance No. 3-2007
Effective Date: 2-15-2007

M. "Large group use facilities" means the following facilities within the City's parks: All park shelters larger than 200 square feet, trails, and all athletic fields, and courts.

Source: Ordinance No. 3-2007
Effective Date: 2-15-2007

Subd. 3. Hours of Operation. Parks shall be operated from 6:00 o'clock A.M. to 10:00 o'clock P.M. each day and shall be closed from 10:00 o'clock P.M. to 6:00 o'clock A.M. each day or as posted with the exception of Miller Park and Round Lake Park which are allowed to remain open until 10:30 P.M. from April 1 through October 31.

Source: Ordinance 3-2009
Effective Date: 4-30-2009

Subd. 4. It is a petty misdemeanor for any person in a park to:

A. Camp in or erect or maintain a tent or other shelter when a park is closed except fish or dark houses on park waters or as authorized by permit.

B. Swim in waters or use a beach or other play areas of any park at any time such park is closed or during such time as such beach or play area is closed pursuant to notice posted by the Director.

- C. Practice or engage in golf or golfing except in areas designated by the Director.
- D. Start or permit a fire to burn except in areas designed for such purposes and then only in fire rings, fire scars, portable stoves, or grills. Any person who starts or permits a fire to burn as authorized in this Subdivision shall extinguish it completely before leaving the park and shall dispose of the residue or refuse therefrom in a trash container. Smoking of cigarettes, cigars or pipes shall not constitute a fire as that term is used herein.
- E. Kill, trap, pursue, catch or remove any wildlife except as may be authorized by permit.
- F. Introduce any plant into a park except as authorized by permit.
- G. Permit a pet to enter or go upon beaches, buildings, structures, skating rinks or cross country ski trails; permit a pet to disturb, harass or interfere with any park visitor or park employee or his property; or to tether any animal to any tree, plant, building or park equipment within the park.
- H. Have custody or control of any dog or domestic pet without possessing an appropriate device for cleaning up pet feces and disposing of the feces as required by City Code Section 9.02.
- I. Operate any motor vehicle at a speed in excess of twenty (20) miles per hour or the posted speed limit; operate any motor vehicle in an area other than a street, roadway or parking area; or operate any recreational motor vehicle in an area other than an area designed by the Director.
- J. Perform non-emergency motor vehicle maintenance or dump motor oil within the park.

Source: Ordinance No. 42-85
Effective Date: 1-16-86

- K. Park or leave a motor vehicle with or without a boat trailer in other than an established or designated parking area; park an unattended boat trailer in any parking space; park or leave a motor vehicle in a parking area when the park is closed; or violate posted directions or instructions of any park attendant at a designated parking area.

Source: Ordinance No. 22-89
Effective Date: 8-17-89

- L. Launch any watercraft upon any waters except at posted launch areas; dock or store any boat other than a City-owned boat within any park while the park is closed.
- M. Fish on or from a beach, or in waters delineated as swimming areas or boat marinas by placement of buoys, or in waters within one hundred (100) feet thereof.
- N. Cut a hole in the ice of any park waters larger than twelve (12) inches in diameter except a hole covered by a fish or dark house provided that upon removal of the fish or dark house such hole is secured in such a manner as to prevent a person from falling into it and except as authorized by permit.
- O. Use a sled, toboggan, hockey stick or puck in or on free skating rinks provided nothing herein shall prohibit the use of hockey sticks and pucks in hockey rinks.

Source: Ordinance 42-85
Effective Date: 1-16-86

- P. Ride or permit an equine under such person's control on or in any park except on or in any street, shoulder or ditch thereof, trail, or other area designated by the Director provided, however, whenever a trail through a park for riding equines has been designated by the Director, the riding of an equine in such park or the bringing into such park of an equine shall be limited to such trail.

Source: Ordinance No. 22-91
Effective Date: 9-6-91

- Q. Serve, possess, or consume liquor except beer or wine (included in this exception is beer which contains in excess of 3.2 percent of alcohol by weight); to possess a beer keg or serve or consume beer from a beer keg unless a permit has been obtained therefor from the City; to serve, possess or consume beer or wine (including beer which contains in excess of 3.2 percent of alcohol by weight) in that part of Round Lake Park situated north of Valley View Road and in the Flying Cloud Athletic Field unless a permit has been obtained therefor from the City; or to serve, possess, or consume any alcoholic beverage in any public beach area.

Source: Ordinance No. 43-87
Effective Date: 1-14-88

- R. Sell or offer for sale any article or service in any park without a permit provided, however, this prohibition shall not apply to any such sale or offer for sale by the City, its agents, employees, and its concessionaires and their agents and employees.
- S. Construct or place any type of structure including but not limited to deer tree stands, playhouses, treehouses, temporary storage buildings, motorcycle or bicycle launches, temporary shelters, tents, tarps, canopies, or other such devices upon park land without a permit.
- T. Set up or use a trampoline.
- U. Tamper with or move park equipment, property or facilities including but not limited to picnic tables, boats, lifeguard chairs, garbage containers and portable bathrooms.

Source: Ordinance No. 42-85
Effective Date: 1-16-86

- V. Use air mattresses, inner tubes, or other inflated articles or flotation equipment in any park lakes except that air mattresses may be used in areas specifically marked and designated by the City for air mattresses. This Subdivision shall not apply to inflatable boats used on park lakes pursuant to a Minnesota State Water Craft License or Permit.

Source: Ordinance No. 43-87
Effective Date: 1-14-88

- W. Swim outside of the marked designated boundaries of park swimming beaches.
- X. Operate any fuel-powered model aircraft, boat, rockets or similar toy within a park without a permit.
- Y. Use park facilities, such as picnic areas, ballfields, tennis courts, or volleyball courts which have been reserved by another party; or to conduct picnic activity at reservation picnic sites in violation of a permit.

Source: Ordinance No. 42-85
Effective Date: 1-16-86

- Z. Possess glass containers; or deposit, scatter, drop, or abandon bottles, cans, glass, coals, ashes, sewage, water, or other material on park property except in receptacles provided for such purpose.

Source: Ordinance No. 20-2002
Effective Date: 7-11-2002

- AA. Moor or dock any boat to public docks, rafts, buoys or ropes which are part of a designated swimming area.
- Source: Ordinance No. 43-87
Effective Date: 1-14-88
- AB. Deposit in public trash receptacles any household refuse, including all organic material resulting from the manufacture, preparation, or serving of food or food products; spoiled, decayed or waste products from any source; bottles, cans or glassware; paper or paper products; crockery; ashes; rags; discarded clothing; tree or lawn clippings; leaves; weeds; waste resulting from building construction, remodeling or demolition; and other waste products, unless such refuse is the result of activities in the park in which such public receptacles are located.
- Source: Ordinance No. 11-91
Effective Date: 5-3-91
- AC. Use a tennis court or basketball court while not wearing tennis shoes.
- AD. Play continuously upon a tennis court or basketball court for more than one (1) hour while others are waiting to use the court.
- AE. Fail to vacate any court which is scheduled for use by a City or physical education class.
- AF. Use a bicycle, roller skates, skateboard or scooter, or allow a dog to be, on a tennis or basketball court.
- AG. Give or take a private lesson on a tennis or basketball court without prior authorization.
- AH. Play hockey on a tennis or basketball court.
- Source: Ordinance No. 2-94
Effective Date: 2-18-94
- AI. Go in, into, on or upon any part or area of a park, including but not limited to, ball and play fields, sliding hills, playgrounds, or swimming beaches on or with respect to which a sign is placed containing information that such a part or area of a park is closed.
- Source: Ordinance No. 5-96
Effective Date: 3-8-96
- AJ. Smoke, chew, or otherwise ingest a tobacco-related product as defined in Section 5.35, Subd. 2.C., in an area which has been declared to be a non-smoking area by the Director, and which has been sign-posted accordingly.
- Source: Ordinance No. 22-96
Effective Date: 5-31-96
- AK. Dig or excavate soil.
- Source: Ordinance No. 25-99
Effective Date: 9-30-99
- AL. Disregard or disobey any park regulations that are legally posted by the Director of Parks and Recreation.
- Source: Ordinance No. 20-2002
Effective Date: 7-11-2002
- AM. On public property, have possession, fire or discharge, or cause to be fired or discharged across, in, or into any portion of park any gun or firearm, spear, bow and arrow, cross bow, sling shot, air, spring, or gas weapon, paint ball gun or variation thereof, or any other dangerous weapon or projectile, except for purposes designated by the Director.

Source: Ordinance No. 2-2003
Effective Date: 2-27-2003

Subd. 5. Permits.

- A. Wherever in this Section provision is made for authorization of an activity by permit, the granting and issuance of such permit shall be by the Director. Issuance of a permit shall be subject to and governed by the policies and guidelines for community use of parks and recreation rental facilities as adopted by the Council from time to time.

Source: Ordinance No. 3-2007
Effective Date: 2-15-2007

- B. A person seeking issuance of a permit shall file an application with the Director. The application shall state:
1. Name and address of the applicant and the person sponsoring the activity if any.
 2. The activity, time and area for which a permit is requested.
 3. An estimate of the anticipated attendance, if applicable.
 4. Any other information which the Director shall find reasonably necessary for a determination as to whether a permit should be issued.

- C. The Director shall issue a permit when he determines that:

1. The proposed activity or use will not interfere with or detract from the promotion of public health, welfare, safety, recreation or public enjoyment.
2. The proposed activity will not entail unusual, extraordinary, or burdensome expense for police protection by the City.
3. Any facilities desired have not been reserved for some other use at the time sought by applicant.
4. Payment of such fees as shall be prescribed by the Council from time to time by resolution has been made.

Source: City Code
Effective Date: 5-17-82

5. The proposed activity or use will not be contrary to the policies and guidelines for community use of parks and recreation rental facilities as adopted by the Council from time to time.

Source: Ordinance No. 3-2007
Effective Date: 2-15-2007

- D. Use of a Park by the holder of, and pursuant to, a permit shall have priority over use by any other person.

Source: Ordinance No. 3-2007
Effective Date: 2-15-2007

Subd. 6. Recreational Motor Vehicles. It is a misdemeanor for any person, to operate a recreational motor vehicle, which includes, but is not limited to, snowmobiles, trail bikes, or other all-terrain vehicles, hovercrafts, or motor vehicles licensed for highway operation being used for off-road recreational purposes, in parks within the limits of the City. This subdivision shall not apply to recreational motor vehicles operated by enforcement, emergency and resource management

personnel acting in the performance of their duties. The definition and regulatory provisions of Minnesota Statutes § 84.90 through 84.929 are hereby incorporated and adopted by reference, including the penalty provisions thereof.

Source: Ordinance No. 20-2002
Effective Date: 7-11-2002

Subd. 7. Non-Resident Sponsored Group Use Prohibited. Use of a park by a Non-resident sponsored group is prohibited.

Source: Ordinance No. 3-2007
Effective Date: 2-15-2007

Subd. 8. Permits Required for Resident Sponsored Large Group. Use of a Large group use facility by a Resident sponsored large group is prohibited without first obtaining a permit for the use of a park.

Source: Ordinance No. 3-2007
Effective Date: 2-15-2007

SECTION 9.05. UNIFORM FIRE CODE AND OTHER FIRE REGULATIONS.

Subd. 1. Adoption. There is hereby adopted by the City for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion that certain code known as the International Fire Code 2000 as promulgated by the International Code Council, Inc. in the form and content as adopted and amended in parts 7510.3510 to 7510.3710, Minnesota Rules, 2003, and amendments thereto adopted through March 31, 2003, known as the 2003 Minnesota State Fire Code together with appendices A, B, C, D, E, F, G, H and I of the International Fire Code, hereinafter referred to as "MSFC" and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended by Subd. 6 of this Section of which one (1) copy is on file in the office of the City Clerk; and the same is hereby adopted and incorporated as fully as is set out at length herein, and from the date on which this Section shall take effect, the provisions thereof shall be controlling.

Source: Ordinance No. 30-2003
Effective Date: 10-30-03

Subd. 2. Establishment and Duties of Fire Prevention Bureau.

- A. The MSFC and any State statutes pertaining to fire and life safety shall be enforced by the Fire Prevention Bureau in the Fire Department, which is hereby established and which shall be operated under the supervision of the Fire Chief and the Fire Marshal.
- B. The Fire Chief may, but is not limited to, appoint such members of the Fire Department as inspectors as shall from time to time be necessary.

Subd. 3. Definitions. Wherever the word "jurisdiction" is used in the MSFC, it shall mean the City of Eden Prairie.

Subd. 4. Storage of Flammable or Combustible Liquids in Outside Above Ground Tanks.

- A. The limits referred to in Section 3404.2.9.5.1 of the MSFC in which storage of flammable or combustible liquids in outside above ground tanks is prohibited are hereby established as applicable to all residential zoning districts of the City. Above ground tanks in all other districts shall meet the standards of UL 2085 and MSFC Section 3404.2.9.6 for an insulated and protected tank.
- B. Temporary installations of flammable or combustible liquid tanks used for construction purposes will be allowed with a permit obtained from the Fire Prevention Bureau.

Subd. 5. Repealed.

Source: Ordinance No. 30-2003
Effective Date: 10-30-03

Subd. 6. Amendments to the MSFC. The MSFC is amended as follows:

A. Amendment to Chapter 5, Section 503 - FIRE APPARATUS ACCESS ROADS.

1. **503.3 Marking** shall read as follows:

503.3 Marking Fire Lanes. The marking of fire lanes on private and public property shall be designated by the Fire Prevention Bureau and the City Code, Chapter 8, section 8.07, Subd. 3.

B. Amendments to Chapter 9 - FIRE PROTECTION SYSTEMS.

1. An exception is added to 904.2.1 Hood System Suppression that reads as follows:

EXCEPTION: The requirement for protection does not include steam kettles and steam tables or equipment which as used do not create grease-laden vapors. The requirement shall not apply to Group R3 occupancies and individual units within Group R1 occupancies.

C. Amendment to Chapter 10- MEANS OF EGRESS.

1. **1001.2 Minimum requirements** shall have the following paragraph added:

No exit or part thereof shall be altered in any way unless in conformance with Chapter 10 of the City Code.

D. Amendment to Chapter 24 - TENTS AND OTHER MEMBRANE STRUCTURES.

1. **SECTION 2416 STANDBY PERSONNEL** shall have a paragraph added to read as follows:

Standby personnel shall be firefighters unless otherwise approved by the Fire Chief or Fire Marshal.

E. Appendix H, Section 1.1 is amended in its entirety as follows - FIRES OR BARBEQUES ON BALCONIES OR PATIOS.

1. **SECTION 1- OPEN FLAME AND FUEL STORAGE PROHIBITED** shall read as follows:

- 1.1 **Open Flame Prohibited.** In any structure containing three or more dwelling units, with at least two vertically stacked, no person shall kindle, maintain, or cause any fire or open flame on any balcony above ground level, or on any ground floor patio within 15 feet of the structure.

Source: Ordinance No. 30-2003

Effective Date: 10-30-03

Subd. 7. Modifications. The Fire Marshal shall have the authority to modify any application of the provisions of the MSFC upon request in writing by the owner or licensee or his duly authorized agent, wherein there are particular difficulties in the way of carrying out a strict interpretation of the MSFC, provided that the spirit of the MSFC shall be observed, public safety secured, and substantial compliance achieved. The reasons for each such modification when granted or allowed, and the decision of the Fire Marshal thereon shall be entered upon the records of the Fire Prevention Bureau and a copy thereof furnished to each such applicant.

Subd. 8. Central Fire Alarm System. Every school building, dormitory, hospital, nursing or rest home, hotel, motel, or boarding home, and such other premises similarly used, which are designated in writing by the Fire Marshal upon notice to the owners thereof, shall install and maintain a fire alarm system which is connected directly to a central alarm station.

Any such structure erected or established hereafter shall be connected to the above described system before the commencement of any such use, or uses, therein.

Subd. 9. New Materials, Processes or Occupancies Which May Require Permits. The Building Official, the Fire Chief, and Fire Marshal shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in MSFC. The Fire Marshal shall post such list of required permits in a conspicuous place in his office, and distribute copies thereof to interested persons.

Subd. 10. Liquefied Petroleum Gases.

- A. Where a single container or the aggregate of interconnected containers is 500 or more gallons water capacity, the installer shall obtain a permit and plan approval from the Fire Prevention Bureau.
- B. All single container installations with a total water storage capacity of 2,000 gallons or greater, and interconnected containers in the aggregate greater than 2,000 gallons, shall be protected by one or more of the following methods:
 - 1. Buried in an approved manner.
 - 2. Mounded in an approved manner.
 - 3. Protected by an approved system for application of water.
 - 4. Protected by other approved means.

Subd. 11. Emergency Situation and Fire Control Costs. Every person, firm or corporation that is not a resident of the City or the owner of real property in the City subject to real property taxes, shall be liable for all the costs of fighting, preventing, extinguishing, or cleaning up any fire or explosion or the deposit of any substance or material detrimental to the health or safety of persons or property caused by or resulting from his or its act, negligence or omission.

Subd. 12. Open Burning. Open burning, recreational fires, and ground thawing/construction material heating operations within the City shall be regulated by Minnesota Statutes Sections 88.15 through 88.195 and the following regulations. Permits for open burning shall be issued by the Fire Marshal.

- 1. **Open Burning.** Open burning within the City of Eden Prairie shall be prohibited except for the following.
- 2. **Prairie Burns.** Natural or restored prairie areas may be burned for management purposes if they comply with the following:
 - a. A management plan must be in effect. The plan must be on file with the Fire Prevention Bureau and approved by the City Forester.
 - b. Trained firefighting crews must be present at the burn. The Fire Prevention Bureau must approve the crews.
 - c. A permit must be obtained from the Fire Prevention Bureau.
 - d. All Fire Prevention Bureau rules must be followed.
- 3. **Minnesota River Flood Debris Burns.** Debris left on the Minnesota River bank and flood plain by flood waters may be removed by burning. A permit must be obtained from the Fire Prevention Bureau.
- 4. **Recreational Fires.** Recreational fires are allowed within the city of Eden Prairie. No permit is required. All Fire Prevention Bureau rules must be followed.
- 5. **Ground Thawing/Construction Material Heating.** All ground thawing and

construction material heating (such as sand piles and water for masonry work) shall be done with LP or natural gas. No burning of combustible materials such as wood or construction debris is allowed.

6. **Public Good:** When in the interest of public safety or public good, the Fire Marshal is authorized to issue special burning permits. Such burning operations shall comply with all applicable state and local regulations. These permits would include, but not be limited to, fire department training fires and catastrophic event debris disposal.

Subd. 13. Appeals. Whenever the Fire Marshal shall disapprove any application or refuse to grant a permit applied for or when it is claimed that a provision of the MSFC does not apply, or that it has been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Fire Marshal to the Board of Adjustments and Appeals within thirty (30) days from the date of the Fire Marshal's decisions.

Source: Ordinance No. 42-99
Effective Date: 12-16-99

SECTION 9.06. PROHIBITED DRUGS AND DRUG PARAPHERNALIA.

Subd. 1. Adoption by Reference. The provisions of Minnesota Statutes, 1990, Chapter 152, Uniform Controlled Substances Act, are hereby incorporated herein and adopted by reference except Sections 152.01, Subd. 18; 152.092 through 152.096; and 152.15.

Source: Ordinance No. 70-84
Effective Date: 4-5-84

Subd. 2. Drug Paraphernalia - Possession, Manufacture, Delivery and Advertisement Prohibited.

A. Definitions.

1. Drug Paraphernalia. "Drug Paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of Minnesota Statutes, 1990, Chapter 152. It includes, but is not limited to:
 - (a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
 - (b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
 - (c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
 - (d) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
 - (e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
 - (f) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.

- (g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marihuana.
- (h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.
- (i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
- (j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
- (k) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
- (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:
 - (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
 - (2) Water pipes.
 - (3) Carburetion tubes and devices.
 - (4) Smoking and carburetion masks.
 - (5) Roach clips: meaning objects used to hold burning material such as a marihuana cigarette that has become too small or too short to be held in the hand.
 - (6) Miniature cocaine spoons and cocaine vials.
 - (7) Chamber pipes.
 - (8) Carburetor pipes.
 - (9) Electric pipes.
 - (10) Air-driven pipes.
 - (11) Chillums.
 - (12) Bongs.
 - (13) Ice pipes or chillers

2. Other terms. Other terms are as defined in Minnesota Statutes, 1990, Section 152

3. Evidence. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (a) Statements by an owner or by anyone in control of the object concerning its use.
- (b) Prior convictions, if any, of an owner or of anyone in control of the object under any State or Federal law relating to any controlled substance.
- (c) The proximity of the object in time and space to a direct violation of this Act.
- (d) The proximity of the object to controlled substances.
- (e) The existence of any residue of controlled substances on the object.
- (f) Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom he knows or should reasonably know intend to use the object to facilitate a violation of Minnesota Statutes, 1990, Chapter 152; the innocence of an owner or of anyone in control of the object as to a direct violation of Minnesota Statutes,

1990, Chapter 152, shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.

- (g) Instructions, oral or written, provided with the object concerning its use.
- (h) Descriptive materials accompanying the object which explain or depict its use.
- (i) National and local advertising concerning its use.
- (j) The manner in which the object is displayed for sale.
- (k) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community such as a licensed distributor or dealer of tobacco products.
- (l) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
- (m) The existence and scope of legitimate uses for the object in the community.
- (n) Expert testimony concerning its use.

Source: City Code

Effective Date: 9-17-82

B. Prohibitions.

1. Possession of Drug Paraphernalia. It is unlawful for any person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of Minnesota Statutes, 1990, Chapter 152. A violation of this Section is a petty misdemeanor.
2. Manufacture or Delivery of Drug Paraphernalia. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of Minnesota Statutes, 1990, Chapter 152. A violation of this Section is a misdemeanor.
4. Delivery of Drug Paraphernalia to a Minor. Any person eighteen (18) years of age or over who violates this Subparagraph B by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years his junior is guilty of a gross misdemeanor.
5. Advertisement of Drug Paraphernalia. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. A violation of this Section is a misdemeanor.

Source: Ordinance No. 28-86

Effective Date: 2-19-86

- C. Civil Forfeiture. All drug paraphernalia as defined by Subparagraph A of this Subdivision 1 is subject for forfeiture, subject to the provisions set forth in Minnesota Statutes, 1990, Section 152.19, Subdivision 2 and Subdivision 4, in the same manner as if said forfeiture were pursuant to Minnesota Statutes, 1990, Chapter 152.

SECTION 9.07. ANIMAL REGULATIONS AND LICENSES.

Subd. 1. The provisions of Minnesota Statutes, 1994, Section 35.71 are hereby incorporated herein and adopted by reference.

Subd. 2. Definitions. As used in this Code, unless the context otherwise indicates:

- A. "Animal" includes, but is not limited to, both dog and cat, male and female.
- B. "Owner" means any person or persons, firm, association, or corporation owning, keeping, or harboring an animal or the parent or guardian of a person under 18 years of age who owns, harbors, keeps, or has custody of an animal.
- C. "Animal Control Officer" means any person designated by the City to enforce this Section.
- D. "Veterinary hospital" means a place for treatment, hospitalization, surgery, care and boarding of animals and birds, which place is owned and operated by a veterinarian licensed by the State of Minnesota.
- E. "Tag" means a license tag issued by the City of Eden Prairie required hereunder to be procured by every owner of each dog.
- F. "At large" means whenever an animal is off the premises of its owner unless controlled by a leash not to exceed six (6) feet in length with the following exception: while on the private property of another with the landowner's permission, provided the animal owner is present.
- G. "City animal shelter" means any suitable kennel facility used to confine animals which have been impounded under the provisions of this Section.

Subd. 3. License Required. Except as hereinafter provided, it is unlawful for the owner of any dog over six (6) months of age to fail to license such dog. New residents to the City must license their dogs within thirty (30) days after they move into the City. Licenses shall be issued by the City Clerk upon payment of the license fee and upon receipt by the Clerk of a certification from a licensed veterinarian showing that the dog to be licensed has been given a vaccination against rabies in compliance with this Section. Such license shall be for the whole or unexpired portion or the year for which the same is issued and shall expire December 31 following. No separate license shall be required for a dog owned by a commercial kennel. Each commercial kennel owner must, however, comply with vaccination provisions of this Section.

Subd. 4. License and Impounding Fees. License, impounding and maintenance fees shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth currently effective fees shall be kept on file in the office of the City Clerk and open to inspection during regular business hours.

- A. Dog licenses shall be issued free of charge to owners of guide dogs when actually used to guide blind persons.

Subd. 5. Tag and Collar.

- A. Upon presentment of required certificates and payment of the license fee, the City Clerk shall provide and furnish the owner of each licensed dog a tag upon which there shall be stamped or engraved the registered number of the dog, the words "Eden Prairie, MN," and the year when licensed. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed and shall see that the collar and tag

are constantly worn. In case a dog tag is lost or destroyed, a duplicate or new tag will be issued by the City Clerk upon proof that such dog was licensed and upon the payment of the appropriate fee for such duplicate. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee because of the death of the dog or the owner leaving the City before expiration of the license.

- B. It is unlawful for any person, except the owner, authorized agent, or Animal Control Officer, to remove a collar from an animal in the City, except under such circumstances where it is necessary to free an animal from an entanglement which threatens its health or life, or by a licensed veterinarian to whom the animal has been brought for care and treatment. Any person removing a collar from an animal, except as previously described, shall immediately notify the owner, and if the owner's name is not on the tag attached to the collar, then the City Police Department.

Subd. 6. Barking and At Large.

- A. It is unlawful for the owner of any animal to permit such animal to be at large.
- B. No person owning, operating, having charge of, or occupying any building or premises shall keep or allow to be kept, any animal which shall, by any noise, unreasonably disturb the peace and quiet of any person in the vicinity. The phrase "unreasonably disturb the peace and quiet" shall include, but is not limited to, the creation of any noise by any animal or animals which can be heard by any person, including a law enforcement officer or Animal Control Officer, from a location outside of the building or premises where the animal is being kept and which animal noise occurs repeatedly over at least a ten (10) minute period of time, with the total number of noises emitted exceeding thirty (30).

Subd. 7. Female Animals. Every female animal in heat shall be confined within a building or secure enclosure and allowed to be out of such confinement only when the owner of the animal remains in the area and assures that no nuisance is created by the animal's presence out of confinement, provided that no breeding shall take place unless the animal is inside a building.

Subd. 8. Animal Shelter. Any animal found in violation of subdivisions 10, 11 or 15 of this Section; at large; or failing to display proper license while on public property may be taken up by the Animal Control Officer or other such officers designated by the City, and placed in the City Animal Shelter and then confined in a humane manner, and an accurate record of the time of such placement shall be kept on each animal. Every animal so placed in the City Animal Shelter shall be held pursuant to the provisions of Minnesota Statutes, 1994, Section 35.71. Impoundment records shall be preserved for a minimum of six months and shall show (1) the description of the animal by species, breed, sex, approximate age, and other distinguishing traits; (2) the location at which the animal was seized; (3) the date and time of the seizure; and (4) the name and address of any person to whom any animal was transferred. If unclaimed, such animal shall be sold or humanely destroyed and the carcass disposed of, unless it is requested by a licensed education or scientific institution under authority of Minnesota Statutes, 1994, Section 35.71, provided, however, that if a tag affixed to the animal or a statement by the animal's owner after impoundment specifies that the animal not be used for research, such animal shall not be made available to any such institution but may be destroyed after the expiration of the period specified in Minnesota Statutes, 1994, Section 35.71.

Subd. 9. Notice of Impounding. Upon the impoundment of any animal, reasonable effort shall be made to notify the owner; or if the owner of the animal is unknown, a record of impoundment shall be available at the City Police Department for the period of impoundment.

Subd. 10. Disposition of Certain Animals. If any animal in the City is diseased, rabid or exposed to rabies, vicious, dangerous, or believed to be mortally wounded, and if such animal cannot be impounded after a reasonable effort, or cannot be impounded without serious risk to the person attempting to impound such animal, it may be immediately killed by an Animal Control Officer or police officer without notice to the owner.

Subd. 11. Muzzling Proclamation. Whenever the prevalence of rabies renders such action necessary to protect the

public health and safety, the Mayor may issue a proclamation ordering every person owning or keeping an animal to confine it securely on his premises unless it is muzzled so that it cannot bite. Alternatively, the proclamation may require a booster vaccination for rabies for all animals in the City. No person shall violate such proclamation and any unmuzzled animal running at large during the time fixed in the proclamation may be killed by the Animal Control Officer or any police officer without notice to the owner.

Subd. 12. Animal Bite. Whenever any animal owner in the City learns that his animal has bitten any human being, that owner shall immediately notify the City Police Department and such animal shall immediately be quarantined for at least ten (10) days.

- A. If the owner has shown proof that such animal is currently vaccinated against rabies and has agreed to keep said animal separate from other animals and indoors at all times during the quarantine period, such animal may be quarantined at the owner's residence.
- B. If the animal is not currently vaccinated against rabies, such animal shall be quarantined in a Veterinary Hospital or at the City Animal Shelter for a period of ten (10) days.
- C. If the owner cannot be advised of the animal bite within the following two (2) hours, or if the owner fails to quarantine the animal as required by this subdivision, an Animal Control Officer or a police officer shall cause such animal to be impounded. If the animal is found to be rabid, it shall be destroyed. If the animal is not found to be rabid, it shall be returned to its owner after the payment of the impoundment fee. If the owner does not pay such fee within five (5) days of notification to claim or retrieve the animal, the animal may be disposed of as provided in this Section.

Subd. 13. Records. The Animal Control Officer shall keep an account of animals impounded at the City Animal Shelter and of their disposition. He shall turn over accounts to the City Clerk.

Subd. 14. Rabies Vaccination. The owner of a cat or dog shall procure a vaccination against rabies, and such animal shall be re-vaccinated thereafter so as to be immunized against rabies at all times. Vaccination shall be performed and written certification issued only by a doctor licensed to practice veterinary medicine in the state in which the animal is vaccinated. No license shall be granted for a dog which has not received a rabies vaccination.

Subd. 15. Care and Maintenance Required. No owner shall fail to provide any animal with sufficient good food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment. No person shall permit feces, urine or food scraps to remain in an area for a period that is longer than reasonable and consistent with health and sanitation and the prevention of odors. No person shall beat, treat cruelly, torment, or otherwise abuse any animal, or cause or permit any animal fights. No owner of an animal shall abandon such animal.

Subd. 16. Exemption From Provisions. Any dog under the control of any public law enforcement agency and which is used by such agency in law enforcement activities is exempt from the provisions of this section, provided, however, that such dog must be properly vaccinated against rabies as required in Subd. 14.

Subd. 17. Interference With Officers. It shall be a violation of this Section for any unauthorized person to break open an Animal Shelter or attempt to take from any Animal Control Officer any animal taken up by such officer in compliance with this Section, or in any manner to interfere with or hinder such officer in the discharge of his duties under this Section.

Subd. 18. Wild/Exotic Animals Prohibited. No person shall keep, maintain or harbor within the City any of the following animals:

- A. Any animal or species prohibited by Minnesota or Federal Law;

- B. Any non-domesticated animal or species including, but not limited to, the following:
1. Any skunk, whether captured in the wild, domestically raised, de-scented or not de-scented, vaccinated against rabies or not vaccinated against rabies;
 2. Any large cat of the family Felidae, such as lions, tigers, jaguars, leopards, cougars and ocelots, except commonly accepted domesticated house cats;
 3. Any member of the family Canidae, such as wolves, foxes, coyotes, dingoes and jackals, except commonly accepted domesticated dogs;
 4. Any crossbreed, such as the crossbreeds between dogs and coyotes and coyotes or dogs and wolves, not including crossbred domesticated animals;
 5. Any poisonous pit viper, such as a rattlesnake, coral snake, water moccasin or cobra;
 6. Any raccoon;
 7. Any other animal not listed above, but which is not naturally tame or gentle, but is of a wild nature or disposition and which, because of its size, vicious nature or other characteristics would constitute a danger to human life or property. Included herein are animals for which no rabies vaccination has been approved by the State Health Department. Provided, however, that this section shall not apply to falconers or bird banders licensed by the Department of Natural Resources and the U.S. Fish and Wildlife permit.

Subd. 19. Dog Enclosures.

- A. As used in this subdivision, the term "dog enclosure" means any enclosure constructed for shutting in or enclosing dogs and having an area less than 2,000 square feet.
- B. Dog enclosures must be screened from view of adjacent property.
- C. A dog enclosure shall not be placed closer than ten (10) feet to any lot line, except no dog enclosure shall be placed in a front yard, and in no event shall a dog enclosure be placed closer than 50 feet of any dwelling unit other than the owner's property.
- D. No person shall permit feces, urine, or food scraps to remain in an enclosure for a period that is longer than reasonable and consistent with health and sanitation and the prevention of odors.
- E. This subdivision shall be applicable to all dog enclosures constructed after the effective date hereof. Any owner of an existing dog enclosure which is a nuisance or source of filth may be required to comply with this section by notice of compliance given by the City Manager. Failure to comply with such a notice within thirty (30) days of issuance shall be a violation of this subdivision.

Source: Ordinance No. 23-94
Effective Date: 7-22-94

Subd. 20. Adoption of Statutes by Reference. Minnesota Statutes §§ 347.50-.347.56 inclusive are hereby adopted by reference. One copy marked as the official copy shall be filed for use and examination by the public in the office of the City Clerk.

Source: Ordinance No. 21-2006
Effective Date: 8-24-2006

Subd. 21. Procedures for Determination of Dangerous, Potentially Dangerous Dogs and Destruction of Dogs.

When the Chief of Police has determined that a dog is dangerous or potentially dangerous or when destruction of a dog is authorized under Minnesota Statutes § 347.56, the procedures specified in Minnesota Statutes § 347.541 shall be followed. A decision by the Hearing Officer shall be final.

Source: Ordinance No. 6-2009
Effective Date: 6-30-2009

SECTION 9.08. ANIMALS AND FOWL - KEEPING, TRANSPORTING, TREATMENT, HOUSING.

Subd. 1. Definitions. As used in this Section, the following definitions shall apply:

- A. "Farm animals" mean cattle, mules, sheep, goats, swine, ducks, geese, turkeys, chickens, guinea hens and honey bees.
- B. "Animals" include farm animals and all other animals, reptiles and feathered birds or fowl except horses, ponies, dogs, cats, gerbils, hamsters and caged household birds.

Subd. 2. Keeping. It is unlawful for any person to keep or harbor any animal not in transit except (1) farm animals kept in that portion of the City where they are a conforming or non-conforming use under City Code Chapter 11, or (2) animals kept as a part of a show licensed under the City Code, or (3) animals used in a parade for which a permit has been issued under the City Code, or (4) animals kept in a laboratory for scientific or experimental purposes, or (5) animals kept in an animal hospital or clinic for treatment by a licensed veterinarian.

Subd. 3. Animals in Transit. It is unlawful for any person to transport animals unless they are (1) confined within a vehicle, cage or other means of conveyance or (2) restrained by means of bridles, halters, ropes or other means of individual restraint.

Subd. 4. Treatment. It is unlawful for any person to treat an animal in a cruel or inhumane manner.

Subd. 5. Housing. It is unlawful for any person to keep any animal in any structure infested by rodents, vermin, flies or insects.

Subd. 6. Trespasses. It is unlawful for any person to herd, drive or ride any animal over and upon any grass, turf, boulevard, City park, cemetery, garden or lot without specific permission therefor from the owner.

Subd. 7. Fences.

- A. It is unlawful for the owner and occupant of any land used as an enclosure for any horses, ponies or farm animals except honey bees to fail to construct and maintain a fence thereon in at least as good condition of repair and up to standards specified for a legal fence in Minnesota Statutes, 1990, Section 344.02.
- B. It is unlawful for the owner and occupant of any land used as an enclosure for any horse, pony or farm animal to fail, while such land is occupied by any such animal, to keep gates thereon securely closed; and any gate not so kept shall be presumed to be the act of the owner and occupant.

Source: City Code
Effective Date: 9-17-82

Subd. 8. Running at Large. It is unlawful for the owner, or parents or guardian of such owner under eighteen (18) years of age, of a horse, pony or farm animal, except honey bees, to allow such horse, pony or farm animal to run at large.

Source: Ordinance No. 28-86
Effective Date: 2-19-86

SECTION 9.09. HARASSMENT OF DOGS USED FOR PUBLIC SAFETY PURPOSES.

It shall be unlawful to interfere or meddle with any dog being used by the Eden Prairie Police Department or any other peace officer in the performance of any of the functions or duties of the Department or of such officer. No person shall torture, harass, tease, torment, beat, kick, strike, mutilate, injure, disable or kill any dog being used by the Eden Prairie Police Department or any other peace officer in the performance of any of the functions or duties of the Department or of such officer.

Source: Ordinance No. 49-86
Effective Date: 9-17-86

SECTION 9.10. FIRE AND BURGLAR, ROBBERY AND SAFETY ALARMS.

Subd. 1. Purpose. The purpose of section 9.10 A and 9.10 B are to protect the police and fire services of the City from misuse and to provide for the maximum possible service to alarm users. The ordinance is intended to provide for the regulation of Burglar, Robbery and Safety Alarm Systems and Fire Alarm Systems, establish a user fee for false alarms and the registration of Burglar, Robbery and Safety Alarm Systems and Fire Alarm Systems in order to improve the reliability of such systems and reduce or eliminate false alarms. Section 9.10 A regulates Fire Alarm Systems. Section 9.10 B regulates Burglar, Robbery and Safety Alarm Systems.

Subd. 2. Definitions. The following terms as used in sections 9.10 A and 9.10 B shall have the meanings stated:

- A. "Adopted Code(s)" means the Minnesota Fire Code (MFC) and the National Fire Protection Association National Fire Alarm Code 72 (NFPA 72).
- B. "Alarm Initiating Device" means a device that is designed to respond either manually or automatically to the presence of smoke, fire, or the activation of a fire suppression system.
- C. "Alarm user" means the person in control of any alarm system.
- D. "Burglar, Robbery and Safety Alarm System" means and includes any alarm installation designed to be used for safety on the premises which contain the alarm installation including the prevention or detection of burglary or robbery.
- E. "Central Station Company" means any company that receives signals from any alarm system and transmits to the "Police/Fire Communications Center" any request for service as a result of these signals.
- F. "Enforcement Official" means the Fire Chief or his designated representative.
- G. "False alarm" means an audio, visual or electronically transmitted alarm signal eliciting a response by fire and police 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, improper installation or the inadvertence of the alarm user or lessee of an alarm system or of his or her employees or agents. False alarms do not include alarms caused by climatic conditions such as tornadoes, thunderstorms, violent conditions of nature or any other conditions which are clearly beyond the control of the alarm manufacturer, installer or alarm user.
- H. "Fire Alarm System" means and includes any alarm installation designed to be used for the prevention or detection of fire on the premises which contain the alarm installation including monitoring of water flow alarms for fire sprinkler systems.
- I. "Fire Protection Business" means any individual, partnership, corporation or other entity that is appropriately licensed in the state to install or causes to be installed, permits to be installed, alters, maintains, repairs, replaces, services, provides runner services or monitors any Fire Alarm System, fire sprinkler system or special

fire protection system.

- J. “Monitored System” means a Fire Alarm System that is connected pursuant to NSPA 72 or MFC to a Central Station Monitoring Company that receives signals from the Fire Alarm System or fire sprinkler system and notifies the appropriate person or agency depending on the type of alarm signal received.
- K. "Police/Fire Communications Center" is the City facility used to receive emergency requests for service and general information from the public to be dispatched to respective police/fire units.
- L. “Qualified Fire Alarm Technician” means any person licensed by the State of Minnesota to inspect, install, repair or perform maintenance on Fire Alarm Systems.
- M. “Required Fire Alarm System” means a fire alarm system, including fire sprinkler system water flow monitoring, that is required to be installed and maintained by the Adopted Codes.
- N. “UL Certificate/Certification” means a certificate issued by UL that indicates that a Fire Alarm System meets the NFPA 72 code requirements for a central station monitored Fire Alarm System.
- O. “User fee” means a charge payable to the City of Eden Prairie, to defray the expenses of responding to a false fire alarm.

SECTION 9.10 A. FIRE ALARM SYSTEM.

Subd. 1. False Alarm Fees.

- A. Non-Required Fire Alarm System. A Fire Alarm System that is not a Required Fire Alarm System which reports more than three (3) false alarms to the City in a single calendar year will cause the alarm user to be charged a user fee for each false alarm in excess of three (3) per calendar year. The fee charged shall be in accordance with the fee schedule adopted by the City Council.
- B. Required Fire Alarm System. A Fire Alarm System that is a Required Fire Alarm System which reports a more than one (1) false alarm to the City in a single calendar year will cause the alarm user to be charged a user fee for each false alarm in excess of one (1) per calendar year. The fee charged shall be in accordance with the fee schedule adopted by the City Council.
- C. Appeal of User Fee. A Fire Alarm system alarm user who is required by the City to pay a user fee as the result of a false alarm may by written notice appeal the false alarm charge to the City Manager-within ten (10) days of notice from the City of the false alarm charge. The decision of the City Manager shall be final.

Subd. 2. Payment of User Fee.

- A. Payment of user fees provided for under Section 9.10 A. Subd. 1 must be paid to the City within thirty (30) days from the date of 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 late payment charge in accordance with the fee schedule adopted by the City Council.
- B. All delinquent charges for user fees computed as provided in paragraph A above shall be forwarded to the City Clerk who shall prepare a roll each year of the delinquent amounts against the respective properties serviced, which roll shall be delivered to the City Council for certification to the County Auditor on or before October 15 of each year. Prior to delivery of the roll to the City Council, the City Clerk shall give written notice to the property owner on or before September 15th of the City's intention to certify the charges to the auditor.

Subd. 3. Automatic Dialing Devices Prohibited.

- A. No automatic dialing devices initiating a pre-recorded emergency alarm message shall be connected to the Police/Fire Communications Center through any telephone line or other electronic means, except when authorized by the City Manager or his or her designee.
- B. Remote automatic alarm systems and other related devices shall not be installed in such a manner that an automatic alarm signal is connected to the 911 trunks. Under specific circumstances, automatic devices with two-way voice communication may be permitted if the Fire Chief finds that the device complies with Section 1215.0800 Subpart 5 of the Code of Minnesota Administrative Rules and is otherwise in compliance with the requirements of federal, state and local laws and regulations.

Subd. 4. Registration, Certification, Inspection, Testing, Maintenance, Suspension and Annual Education Requirements for Required Fire Alarms.

A. Registration of Required Fire Alarm Systems.

- 1. All Fire Alarm Systems in the City of Eden Prairie which are required by the Adopted Codes must be registered with the Eden Prairie Fire Department. The registration shall be submitted on a form provided by the City of Eden Prairie (hereinafter referred to as “registration or “registrations”). The form shall contain information the City of Eden Prairie deems necessary to properly respond to and manage alarms.

Source: Ordinance No. 12-2009
Effective Date: 12-10-2009

- 2. The Fire Alarm System alarm user shall be required to file an amended registration whenever there is a change in the Fire Protection Business responsible for maintaining, servicing, and/or monitoring the Fire Alarm System. Registrations shall not be transferable from one property to another or from one alarm user to another.
- 3. Every Fire Alarm System alarm user shall notify the Enforcement Official of the existence of a Fire Alarm System prior to the Fire Alarm System being placed into operation. Each Fire Protection Business installing Fire Alarm Systems shall provide the alarm user with notice of the existence of this ordinance, registration information and a copy of the Fire Alarm System operation instructions in accordance with Adopted Codes, and the manufacturer’s instructions.
- 4. The Fire Alarm System alarm user shall complete and deliver the Fire Alarm System Registration on the form specified by the City to the Fire Chief before the Fire Alarm System is activated or placed into service.

B. System Certification. All required Fire Alarm Systems installed after January 1, 1986 shall have a UL72 certificate. All required Fire Alarm Systems that are updated, modified or replaced must have a UL72 certificate issued certifying that the Fire Alarm System is in compliance with Adopted Codes. The certificate shall be signed by a Qualified Fire Alarm Technician.

C. Inspection, Testing and Maintenance.

- 1. The Fire Alarm System alarm user shall have all Fire Alarm Systems inspected and tested at least once per year in accordance with Adopted Codes.
- 2. The Fire Alarm System alarm user shall maintain all Fire Alarm Systems in accordance with manufacturer specifications and Adopted Codes.

D. Annual Alarm System Training. Every alarm user of a Required Fire Alarm System shall complete the City Fire Annual Alarm User Training course no later than March 31 of each year, provided however that for the year 2009, the training shall be completed no later than July 1, 2009. The course may be completed either online or at the offices of the Enforcement Official. The alarm user may designate as the person(s) to complete the training such individual(s) who have responsibility to supervise the maintenance of the Required Fire Alarm System or such other person(s) as approved in writing by the Enforcement Official.

E. Registration Fees.

1. No fee shall be charged for the initial registration of a Fire Alarm System. No fee shall be charged for any registration that is required to be resubmitted for any reason other than suspension. Any registration that has been suspended for false alarms as stated below will be charged a registration reinstatement fee as set forth in the fee schedule adopted by the City Council.
2. Failure to pay the fee within thirty (30) days' notice will cause the alarm user to be considered delinquent and subject to a late payment charge in accordance with the fee schedule adopted by the City Council.

Source: Ordinance No. 12-2009
Effective Date: 12-10-2009

F. Required Fire Alarm System Registration Suspension. An alarm user of a Required Fire Alarm System who fails to complete the Annual Alarm System Training as required above or an alarm system which reports more than six (6) false alarms to the Police/Fire Communications Center in a single calendar year will cause the registration of the Fire Alarm System to be suspended. If the registration has been suspended for failure to complete the Annual Alarm System Training the alarm user must complete the training and submit to the Enforcement Official the required fee to reinstate the registration. If the registration has been suspended for reporting more than six (6) false alarms as specified above, the alarm user must have the system repaired and submit documentation of the repairs to the Enforcement Official, along with the required fee to reinstate the registration.

G. Appeal of Registration Suspension Fee. Any alarm user whose registration of the Fire Alarm System is suspended may request in writing a hearing on the suspension. If a hearing is requested, the date for the hearing shall be set not more than fourteen (14) days after receipt of the request for hearing. The hearing shall be held by the Hearing Officer, who shall be appointed by the City Manager and who may be an employee of the City. Upon conclusion of the hearing, the Hearing Officer shall, within ten (10) days, make his decision which reverses or affirms the suspension and shall notify the alarm user in writing of his decision ("Hearing Officer's Notice of Decision"). If the Hearing Officer's decision is to affirm the suspension, the Hearing Officer shall include in the Hearing Officer's Notice of Decision findings and conclusions supporting the decision. The decision of the Hearing Officer shall be final.

SECTION 9.10 B. BURGLAR, ROBBERY AND SAFETY ALARMS.

Subd. 1. False Alarm Fees.

A. A Burglar, Robbery and Safety Alarm System which reports more than three (3) false alarms to the City in a single calendar year will cause the alarm user to be charged a user fee for each false alarm in excess of three (3) per calendar year. A fee schedule will be set by the City Council based upon the number of false alarms reported per calendar year.

B. Any Burglar, Robbery and Safety Alarm System alarm user which is required by the City to pay a user fee as the result of a false alarm may make a written appeal of the false alarm charge to the City Manager within ten (10) days of notice by the City of the false alarm charge. The City Manager will have authority to make a final determination as to whether the appellant is to be charged. The decision of the City Manager shall be final.

Subd. 2. Payment of fees.

- A. Payment of user fees provided for under Subd. 3 must be paid to the City within thirty (30) days from the date of 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 late payment charge in accordance with the fee schedule adopted by the City Council.

Source: Ordinance No. 12-2009
Effective Date: 12-10-2009

- B. All delinquent charges for user fees computed as provided in paragraph A above shall be forwarded to the City Clerk who shall prepare a roll each year of the delinquent amounts against the respective properties serviced, which roll shall be delivered to the City Council for certification to the County Auditor on or before October 15 of each year. Prior to delivery of the roll to the City Council, the City Clerk shall give written notice to the property owner on or before September 15th of the City's intention to certify the charges to the auditor.

Subd. 3. Automatic Dialing Devices Prohibited.

- A. No automatic dialing devices initiating a pre-recorded emergency alarm message shall be connected to the police/fire communications center through any telephone line, except when authorized by the City Manager or his or her designee.
- B. Remote automatic alarm systems and other related devices shall not be installed in such a manner that an automatic alarm signal is connected to the 911 trunks. Under specific circumstances, automatic devices with two-way voice communication may be permitted if the Police Chief finds that the device complies with Section 1215.0800 Subpart 5 of the Code of Minnesota Administrative Rules and is otherwise in compliance with the requirements of federal, state and local laws and regulations.

Subd. 4. Burglar, Robbery and Safety Alarm System Alarm System Registration.

- A. Every Burglar, Robbery and Safety Alarm System alarm user must file with the police department a registration for each alarm system used within (30) days of activation of the system and keep the registration information current. After the first response to an unregistered Burglar, Robbery and Safety Alarm System, the police department has the authority to not respond to subsequent alarms from that alarm system as long as that alarm system remains unregistered. The authority to not respond continues indefinitely, and the alarm user is not entitled to one response per year.

Source: Ordinance No. 12-2009
Effective Date: 12-10-2009

- B. The registration of the Burglar, Robbery and Safety Alarm System will be on a form provided by the City of Eden Prairie. The form shall contain information the City of Eden Prairie deems necessary to properly respond to and manage alarms.

Subd. 5. Suspension of Police Response.

- A. Notice of Suspension of Police Response. Where the Burglar, Robbery and Safety Alarm System is unregistered (Unregistered System) or where an alarm user is more than 90 days overdue in payment of alarm fines (Overdue Payments), the City of Eden Prairie may serve, in-person or by U.S. certified mail addressed to the address at which the alarm is located written notice (hereinafter referred to as "Notice") that effective fourteen (14) days from the date of the Notice, the Eden Prairie Police Department will no longer respond to alarm dispatch requests from that site (hereinafter referred to as "Suspension"), unless there is an in-person call for assistance from a person at or near the premises or other independent information that verifies the need for an immediate police response. The Suspension will be revoked and Police response will be reactivated in the

case of an Unregistered System when the alarm system is registered and in the case of an Overdue Payments once all Overdue Payments and fines have been paid.

Source: Ordinance No. 12-2009

Effective Date: 12-10-2009

- B. Written Appeal of Suspension. Any Burglar, Robbery and Safety Alarm System alarm user who has been given Notice of Suspension may by written notice appeal the Suspension to the City Manager within ten (10) days of date of the Notice. The decision of the City Manager shall be final.

Source: Ordinance No. 5-2009

Effective Date: 5-14-2009

Source: Ordinance No. 62-87

Effective Date: 5-19-88

SECTION 9.11. RENTAL HOUSING.

Subd. 1. Purpose. The purpose of this section is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the use and occupancy, construction and maintenance of all residential rental buildings and structures within the City. The provisions contained herein are in addition to other applicable provisions of the City Code and not in lieu thereof. Any provisions contained herein which are inconsistent or in conflict with any other provision of the City Code shall supersede such other provisions.

Subd. 2. Scope. The provisions of this Section shall apply to all rental buildings. Where any building or portion thereof is used or intended to be used as a combination apartment house-hotel, the provisions of this Section shall apply to the separate portions as if they were separate buildings.

Subd. 3. Enforcement.

- A. Authority. The Administrative Authority is hereby authorized and directed to enforce all of the provisions of this section.
- B. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this Section, or whenever the Administrative Authority or an authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the Administrative Authority or an authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Administrative Authority by this Section. If such building or premises is occupied, the Administrative Authority or representative shall first present proper credentials and request entry; if such building or premises is unoccupied, a reasonable effort shall be made to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Administrative Authority or representative shall have recourse to every remedy provided by law to secure entry.
- C. Substandard Buildings. All rental buildings or portions thereof which are determined to be substandard as defined in this Section constitute a violation of this Section and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures specified in Subdivision 10 of this Section.
- D. Modifications. Whenever there are practical difficulties involved in carrying out the provision of this Section, the Administrative Authority may grant modifications for individual cases, provided that the modification is in conformity with the intent and purpose of this Section and that such modification does not reduce the level of any fire-protection requirements or structural integrity. The details of any action granting modifications shall be recorded and entered in the files of the Administrative Authority.

- E. Building Code Board of Appeals. Appeals of orders, decisions or determinations made by the Administrative Authority relative to the application and interpretation of this Section shall be heard and decided by the Building Code Board of Appeals. The procedures for review or appeal shall be those set forth in Subdivision 11 of this Section.
- F. Violations. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, rent or let to another, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this Section.

Subd. 4. Definitions. For the purpose of this Section, certain terms, phrases, words and their derivatives shall be construed as specified in either this section or as specified in the Uniform Building Code.

- A. "Administrative Authority" is the Fire Chief, the Building Official or their designee.
- B. "Apartment house" is any rental building which is intended or designed to be occupied or which is occupied as the home or residence of three (3) or more families living independently in separate dwelling units and doing their own cooking in the rental building.
- C. "Building Code" is the Minnesota State Building Code adopted by the City.
- D. "Dwelling" is any rental building which is not an apartment house, lodging house or a hotel and which contains one or more dwelling units.
- E. "Dwelling unit" is a single unit situated within a rental building providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.
- F. "Efficiency dwelling unit" is a dwelling unit containing only one (1) habitable room and meeting the requirements of Section 1208 of the Building Code.
- G. "Family" is an individual or two (2) or more persons related by blood, marriage or adoption, including foster children and bona fide domestic servants employed on a full-time basis.
- H. "Guest room" is a habitable space in a hotel or lodging house designed or intended to be used or occupied or which is used for sleeping purposes by guests.
- I. "Habitable space" is a space or room in a rental building for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas, are not considered habitable space.
- J. "Hotel" is any rental building or portion thereof containing six (6) or more guest rooms.
- K. "Hot water" is water supplied to plumbing fixtures at a temperature of not less than 110 degrees F.
- L. "Lodging house" is any rental building containing not more than five (5) guest rooms.
- M. "Rental building" is any building or structure or portion thereof used, designed, or intended to be used for human habitation and for which use the owner receives, is entitled to receive or will receive consideration in the form of money, goods, labor, or otherwise. Consideration does not include compensation received by a family member from another family member living in the same dwelling unit.

Subd. 5. Owner and Occupant Responsibilities.

- A. Owner.

1. Owners of rental buildings shall construct and maintain said buildings in accordance with the requirements of this Section.
2. No persons shall willfully or wantonly damage, mutilate or deface any exterior surface of any rental building by placing thereon any marking, carving, or graffiti. It shall be the responsibility of the owner to restore said surface to an approved professional state of maintenance and repair.
3. No person shall let to another for occupancy any rental building or dwelling unit which does not comply with the applicable fire prevention provisions.

B. Occupants.

1. Each occupant of a rental building shall keep in a clean and sanitary condition that part of the dwelling unit and premises thereof which that person occupies or controls.
2. Every occupant of a rental building shall dispose of garbage and rubbish in a clean and sanitary manner by placing it in the disposal facilities.
3. No person shall occupy any rental building or dwelling unit which does not comply with the applicable fire prevention provisions.

Subd. 6. Space and Occupancy Standards.

A. Light and Ventilation.

1. Each habitable space in a rental building shall be provided with:
 - (a) Natural light by means of exterior glazed openings with an area not less than one-tenth of the floor area of such rooms with a minimum of ten (10) square feet, and
 - (b) Natural ventilation by means of openable exterior openings with an area of not less than one-twentieth of the floor area of such rooms with a minimum of five (5) square feet.
2. Bathrooms, water closet compartments, laundry rooms and similar rooms within a rental building shall be provided with natural ventilation by means of openable exterior openings having an area not less than one-twentieth of the floor area of such rooms with a minimum of 1-1/2 square feet, except that a window shall not be required in such spaces equipped with a mechanical ventilation system.
3. Exterior glazed openings required for natural light and exterior openings required for ventilation shall open directly to the outside. Windows may open into a roofed porch where the porch:
 - (a) Abuts a street, yard, or court; and
 - (b) Has a ceiling height of not less than seven (7) feet; and
 - (c) Has the longer side at least sixty-five percent (65%) open and unobstructed.
4. For the purpose of determining light and ventilation requirements, any habitable space may be considered as a portion of an adjoining habitable space when one-half of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area of the interior room or twenty-five (25) square feet, whichever is greater.

5. Mechanical Ventilation. In lieu of exterior openings for natural ventilation, a mechanical ventilation system connected directly to the outside may be provided.
 - (a) Such system shall be capable of providing two (2) air changes per hour for each room in habitable space. One-fifth of the air supply shall be taken from the outside.
 - (b) In bathrooms, water closet compartments, laundry rooms and similar rooms a mechanical ventilation system capable of providing five (5) air changes per hour shall be provided.

B. Sanitation.

1. Dwelling Units and Lodging Houses. Every dwelling unit and every lodging house shall be provided with a bathroom equipped with facilities consisting of a water closet, lavatory, and either a bathtub or shower.
2. Hotels. Where private water closets, lavatories and baths are not provided in a hotel, there shall be provided on each floor for each sex at least one (1) water closet and lavatory and one (1) bath accessible from a public hallway. Additional water closets, lavatories and baths shall be provided on each floor for each sex at the rate of one (1) for every additional ten (10) guests, or fractional number thereof in excess of ten (10). Such facilities shall be clearly marked for "Men" or "Women."
3. Kitchen. Each dwelling unit shall be provided with a kitchen. Every kitchen shall be provided with a kitchen sink. Wooden sinks or sinks of similarly absorbent material shall not be permitted.
4. Fixtures. All plumbing fixtures in rental buildings shall be connected to a sanitary sewer or to an approved private sewage disposal system. Said plumbing fixtures shall be connected to an approved system of water supply and provided with hot and cold running water necessary for its normal operation. Said plumbing fixtures shall be of an approved glazed earthenware type or of a similarly nonabsorbent material.
5. Room Separations. Every water closet, bathtub or shower required by this section shall be installed in a room which will afford privacy to the occupant. A room in which a water closet is located shall be separated from food preparation or storage rooms by a tight-fitting door.
6. Premises Identification. Building shall have approved address numbers, placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background and numbers shall be a minimum of 4 inches high.

Subd. 7. Mechanical Requirements.

- A. Heating. Each rental building shall be provided with heating facilities capable of maintaining a room temperature of sixty eight degrees F. in each habitable space at a point three (3) feet above the floor. Said facilities shall be installed and maintained in a functional and safe condition. Heat shall be supplied during the period of September 15th to May 15th. Exception: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required, provided that the heating system is operating at its full design capacity.
- B. Electrical. Where there is electrical power available within three hundred (300) feet of any rental building, said rental building shall be connected to such electrical power. Every habitable room shall contain at least two (2) electrical convenience outlets or one (1) convenience outlet and one (1) electric light fixture. Every water closet compartment, bathroom, laundry room, furnace room and public hallway shall contain at least one (1) electric light fixture.

- C. Ventilation. Where mechanical ventilation is provided in lieu of the natural ventilation required by Subdivision 5 of this Section, such mechanical ventilating system shall be maintained in operation during the occupancy of any rental building or portion thereof. Ventilation systems in parking garages under apartments shall be installed in conformance with the Building Code and maintained and operated as installed. The entire ventilation system must be maintained in proper working order at all times.

Subd. 8. Building Interior.

- A. Interior surfaces. Interior surfaces including windows and doors shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood, and other defective surfaces shall be corrected.
- B. Interior Doors. Every interior door shall fit reasonably within its frame and shall be capable of being opened and closed by being properly attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.
- C. Handrails and Guards. Every handrail and guard shall be firmly fastened and capable of supporting normally applied loads and shall be maintained in good condition in conformance with the code under which it was constructed.
- D. Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

Subd. 9. Exits. Every dwelling unit or guest room shall have access directly to the outside or to a public corridor. Every guest room and habitable space intended for use as or used for sleeping shall have at least one (1) operable window or exterior door approved for emergency escape or rescue. Such doors or windows shall be operable from the inside to provide a full, clear opening without the use of separate tools.

Subd. 10 Smoke Detectors. Existing Group R occupancies not already equipped with single station smoke alarms shall be equipped with approved single station smoke alarms. Smoke detectors shall be installed on each floor of residential buildings in accordance with the Minnesota State Fire Code. Smoke Alarms shall be maintained in an operative condition at all times and shall be replaced or repaired when defective.

Subd. 11. Substandard Buildings.

- A. General. Any rental building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard rental building in violation of this Section.
- B. Inadequate Light and Ventilation. Inadequate light and ventilation shall include but not be limited to the following:
1. Lack of, or improper operation of required ventilating equipment in a rental building.
 2. Lack of minimum amounts of natural light and ventilation required by this section.
 3. Lack of required electrical lighting in a rental building.
- C. Inadequate Sanitation. Inadequate sanitation shall include but not be limited to the following:
1. Lack of, or improper water closet, lavatory, bathtub or shower in a dwelling unit or lodging house.
 2. Lack of, or improper water closets, lavatories and bathtubs or showers per number of guests in a hotel.
 3. Lack of, or improper kitchen sink in a dwelling unit.
 4. Lack of hot and cold running water to plumbing fixtures in a hotel.

5. Lack of hot and cold running water to plumbing fixtures in a dwelling unit or lodging house.
 6. Lack of adequate heating facilities in a rental building.
 7. Dampness of habitable space.
 8. Infestation of insects, vermin or rodents.
 9. General dilapidation or improper maintenance of a rental building.
 10. Lack of connection to required sewage disposal system.
 11. Lack of adequate garbage and rubbish storage and removal facilities as determined by the Administrative Authority.
 12. Presence of mold or other fungal growth.
- D. Structural Hazards. Structural hazards shall include but not be limited to the following:
1. Deteriorated or inadequate foundations.
 2. Defective or deteriorated flooring or floor supports.
 3. Flooring or floor supports of insufficient size to carry imposed loads with safety.
 4. Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
 5. Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
 6. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration.
 7. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.
 8. Fireplaces or chimneys which list, bulge or settle, due to defective material or deterioration.
 9. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
- E. Hazardous Electrical Wiring. Electrical wiring hazards shall include but not be limited to the following: Electrical wiring which was installed in violation of laws in effect at the time of installation or electrical wiring not installed in accordance with generally accepted construction practices in areas where no laws were in effect or which has not been maintained in good condition or which is not being used in a safe manner.
- F. Hazardous Plumbing. Plumbing which was installed in violation of laws in effect at the time of installation or plumbing not installed in accordance with generally accepted construction practices in areas where no laws were in effect or which has not been maintained in good condition or which is not free of cross-connections or siphonage between fixtures.
- G. Hazardous Mechanical Equipment. Mechanical equipment which does not comply with the mechanical requirements of this Section and which was installed in violation of laws in effect at the time of installation or mechanical equipment not installed in accordance with generally accepted construction practices in areas where no laws were in effect or which has not been maintained in good and safe condition.
- H. Faulty Weather Protection, which shall include but not be limited to the following:
1. Deteriorated, crumbling or loose plaster.
 2. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
 3. Defective or insufficient weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.
 4. Broken, rotted, split or buckled exterior wall coverings or roof coverings.
- I. Faulty Materials of Construction. All materials of construction except those which are specifically allowed or approved under the applicable laws and which have been adequately maintained in good and safe condition.

- J. Hazardous or Unsanitary Premises. Premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials and similar materials or other conditions exist.
- K. Improper Occupancy. All buildings or portions thereof occupied for living, sleeping, cooking or dining purposes which were not designed or intended to be used for such occupancies.

Subd. 12. Notices and Orders of Administrative Authority.

- A. Notice. Whenever the Administrative Authority determines that a rental building is a substandard building, or that any other violation exists under this Section, or that there are reasonable grounds to believe that a violation exists, notice shall be given to the person or persons responsible therefore. Such notice shall:
 - 1. Be in writing.
 - 2. Include a description of the real estate sufficient for identification.
 - 3. Describe the conditions found to constitute the violation.
 - 4. Specify the remedial action required.
 - 5. Require that any permits necessary to effectuate remedial action be secured and the work physically commenced within twenty (20) days and completed within such time as the Administrative Authority shall determine is reasonable under the circumstances.
 - 6. State that a motion for summary enforcement of the order will be made to the District Court unless, within twenty (20) days, work is physically commenced or an answer is filed as provided for in Minnesota Statutes, 1990, Section 463.18.
- B. Emergency Orders. Whenever the Administrative Authority finds that an emergency exists in relation to the enforcement of the provisions of this Section which requires immediate action to protect the health, safety or welfare of occupants of any rental building, the Administrative Authority may issue an order reciting the existence of such emergency and requiring that such action be taken as deemed necessary to meet the emergency, notwithstanding any other provision of this Section. When any such emergency shall be declared to exist the Administrative Authority immediately shall report the same in writing to the city council. Every notice of emergency shall include the following language:

"If you do not comply with this Order by the above date, the City may remedy the violation and assess the costs to you or allow the occupants to make the repairs and deduct the expense from the occupant's rent."

Subd. 13. Appeal.

- A. Right to Appeal. Any person entitled to service under this Section may appeal from any notice and order served by the Administrative Authority. The appeal shall constitute an answer to the notice and order as provided for in Minnesota Statutes, 1990, Section 463.18.
- B. Procedure. Appeal shall be made to the Administrative Authority within fifteen (15) days after the notice and order is served. The appeal shall be made in writing and contain a brief statement of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
- C. Scheduling and Noticing Appeal for Hearing. As soon as practicable after receiving the written appeal, the Administrative Authority shall fix a date, time and place for hearing of the appeal by the Building Code Board of Appeals. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant by the Board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal.

- D. Effect of Failure to Appeal. Failure of any person to file an appeal in accordance with the provisions of this Section shall constitute a waiver of the right to an administrative hearing and administrative adjudication of the notice and order or to any portion thereof.

Subd. 14. Enforcement of the Order of the Administrative Authority or the Building Code Board of Appeals.

- A. Compliance. After any order of the building official or Building Code Board of Appeals made pursuant to this Section shall have become final, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.
- B. Failure to Obey Order. If, after any order of the Administrative Authority or Building Code Board of Appeals made pursuant to this Section has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Administrative Authority may (1) cause such person to be prosecuted under subsection 1 of this subdivision or (2) commence an appropriate action in District Court.

Source: Ordinance No. 23-92

Effective Date: 6-26-92

Source: Ordinance No. 15-2006

Effective Date: 5-25-2006

SECTION 9.12. TRAPPING OF ANIMALS.

Subd. 1. Policy. This Section reflects the City's policy of managing wildlife while maintaining the natural habitat of the area. This policy includes the City's desire to mitigate the exposure of people and domestic animals to traps. Public education concerning the various species living in the area and their habits is the preferred method of minimizing any conflict between humans and wildlife. The city recognizes, however, that even with a knowledgeable and sensitive citizenry, circumstances arise where trapping becomes a necessary method of control.

Subd. 2. Definitions.

- A. "Trap" means any mechanical device, snare, artificial light, net, bird line, or contrivance used to trap, catch, snare, kill or otherwise restrain the free movement of any wild animal.
- B. "Trapping" means setting, laying, or otherwise using a trap to catch, snare, kill or otherwise restrain the free movement of any wild animal.
- C. "Wild animal" is defined as wild mammals and birds only.
- D. "Wildlife nuisance" is defined as action by an animal which causes damage to property or poses an undue threat to safety.

Subd. 3. Requirements.

- A. It is unlawful for any person to trap in the City of Eden Prairie unless such persons have in their possession each of the following:
 - 1. A valid Minnesota trapper's license issued by the Minnesota Department of Natural Resources;
 - 2. A certificate demonstrating that the trapper successfully completed a Minnesota Trappers Association (MTA) trapper education course or is a certified MTA trapping instructor;
 - 3. Written permission from the landowner or public agency;

4. A trapping permit from the City of Eden Prairie.
- B. Application for a City trapping permit shall take place pursuant to the requirements contained in Section 5.02 of this Code and shall be submitted to the City Police Department. Additionally, applicants shall submit proof of a current license for trapping from the Department of Natural Resources and of a passing score on the test administered by the Minnesota Trappers Association.

Subd. 4. Permitted Area. Trapping by City permit shall be conducted only in the areas permitted for the discharge of shotguns firing shotgun slugs, as specified in Section 9.40, Subd. 3.A.2.(a) herein.

Subd. 5. Permitted Traps within Permitted Area. Trapping on defined permitted land is restricted to the use of leghold spring traps no larger than size 1□. Trapping in water in defined permitted areas is restricted to the use of conibear-type traps with a jaw opening no larger than 5 inches by 5 inches (size 110) and drowning set leghold traps.

- A. All leghold traps set on dry land shall be:
 1. Placed at least 500 feet from a residence, except when the trap placement is authorized or directed by the residence's occupant;
 2. Entirely concealed under a layer of soil or other trap covering;
 3. Firmly anchored with a stake or heavy drag;
 4. Placed no closer to an exposed bait, fur or feathers than allowed by the Minnesota Department of Natural Resource regulations.
- B. Trapping is prohibited within 250 feet of the boundaries of any city park or organized recreational area, except as provided under Subd. 9.

Subd. 6. Trapping Outside of Permitted Area. Trapping outside of the permitted area is allowed only under the following circumstances:

- A. If a property owner believes that a wildlife nuisance situation exists, the property owner will contact the City Police Department and file a "wildlife management request form" which describes the nature of the nuisance. The complaint will be handled per Resolution No. 91-260 which adopts a City wildlife management plan. If it is determined by the City Police Department that the nuisance is "bona fide," the property owner will be provided with a list of permitted trappers along with a limited permit to abate the specific wildlife nuisance, subject to any other restrictions.
- B. Traps shall be placed at least 500 feet from a residence, except when the trap placement is authorized or directed by the residence's occupant.
- C. Trapping is prohibited within 250 feet of the boundaries of any city park or organized recreational area.

Subd. 7. Permitted Traps Outside of Permitted Trapping Area. Every reasonable effort must be made to use non-lethal methods, including but not limited to: cage-type traps, repellants, harrassment and exclusionary devices. If it is determined by the City that none of the above methods are effective, trapping on land is restricted to the use of leghold spring traps no larger than size 1□. Trapping in water is restricted to the use of conibear-type traps with jaw opening no larger than 5 inches by 5 inches (size 110).

Subd. 8. Release of Animals. Animals may be released from captivity only with the express permission of the owner of the property upon which any release shall take place.

Subd. 9. Exceptions. This Section shall not apply to:

- A. Quick-kill trapping if the traps are designed only to kill rats, mice, gophers or moles.
- B. Persons using cage-type live traps for trapping animals causing damage to property after using other reasonable effort to use other non-lethal methods, including but not limited to: repellants, harrassment and exclusionary devices.
- C. Employees or duly authorized representatives of the city, county, state or federal government acting within the course and scope of their employment.
- D. Falconers or bird banders licensed by the Department of Natural Resources and the U.S. Fish and Wildlife Service permit.
- E. Persons using a net for trapping and relocating Canadian geese under a U.S. Fish and Wildlife Service permit.
- F. Trapping on lands owned or managed by the Minnesota Valley National Wildlife Refuge shall be regulated solely by the U.S. Fish and Wildlife Service.

Source: Ordinance No. 19-93
Effective Date: 6-25-93

SECTION 9.13. TEMPORARY TOILET FACILITIES.

Subd. 1. Purpose. The City Council is empowered by law to provide for and regulate the disposal of sewage and to provide for the promotion of health, safety, order, convenience and the general welfare of its citizens. The purpose of this ordinance is to provide for the disposal of sewage from construction sites and to promote the health, safety and general welfare of the public as the same relates to the disposal of sewage from such sites.

Subd. 2. Toilet Facilities Required. No person shall commence or proceed with the erection, construction, alteration, repair, raising, adding to, removal or demolition of any building or structure, unless adequate, suitable, sanitary toilet facilities under the control of such person are provided for the use of any person employed or working upon such building or structure. Such toilet facilities shall be located upon or within a reasonable distance of the lot, premises, or site upon which such work is being done. In no case shall the line of travel to any toilet facility exceed 500 feet. If such person proposes to use toilet facilities located on the premises in compliance with Section 9.03 of the City Code, the owner of the premises shall consent thereto in writing and such sanitary facilities shall thereafter be considered under the control of such person for purposes of this subdivision.

Subd. 3. Toilet Standards. The sewage disposal method shall not endanger the public health or safety. Each toilet shall be of a water flush type and connected to a public sewer or a portable chemical type with a capacity of not less than 50 gallons. Containers of chemical type toilets shall be non-absorptive, non-corrosive materials. Containers shall be completely emptied, thoroughly cleaned and disinfected at least weekly. The following specifications apply to all temporary toilets:

- A. Toilets shall be maintained in a clean, sanitary and functional condition;
- B. Each unit shall be properly cleaned on a routine basis;
- C. Chemicals, toilet tissue and sanitary seat covers shall be maintained in a supply sufficient for use during an entire day;
- D. Any defective or inadequate unit shall be immediately removed from service;
- E. Toilet room shall be ventilated to the outside and adequately lighted;

- F. Toilets shall be serviced on a regular schedule. Servicing shall include use of a disinfectant for cleaning urinals and seats, removing waste from containers, recharging containers with an odor controlling chemical and installing an adequate supply of toilet tissue and seat covers;
- G. Waste shall be disposed of or discharged through the sanitary sewer systems in accordance with applicable regulations;
- H. Waste containers shall be fabricated from impervious material. Containers shall be water tight and capable of containing the chemical waste in a sanitary manner. Removal of waste shall be handled in a clean and sanitary manner by means of vacuum hose and received by a leak proof tank truck. All valves on the tank shall be leak proof.

Source: Ordinance No. 18-94
 Effective Date: 7-1-94

SECTION 9.14. REPEALED

Source: Ordinance No. 13-2004
 Effective Date: 5-6-2004

SECTION 9.15. RESTRICTIONS RELATING TO THE SALE OF LAWN FERTILIZER.

Source: Ordinance No. 21-2002
 Effective Date: 7-11-2002

Subd. 1. Purpose. The purpose of this Ordinance is to establish regulations that will aid the City in maintaining and improving lake resources within its jurisdiction, thus enhancing the enjoyment of the lakes by City residents and other users. The provisions of Minnesota Statutes 2002, Chapter 18C, Fertilizer, Soil Amendment, and Plant Amendment Law, are hereby incorporated herein and adopted by reference.

Subd. 2. Definitions. The definitions contained Minnesota Statutes § 103E.005, subd. 1, as amended, are adopted by reference. For the purpose of this section, certain terms and words are defined as follows:

- A. Person: Person means an individual, firm, partnership, association or private corporation.

Source: Ordinance No. 13-2004
 Effective Date: 5-6-2004

Subd. 3. Effective July 31, 2002, no person, firm, corporation, franchise, or commercial establishment shall sell any lawn fertilizer, liquid or granular, within the City of Eden Prairie that contains any amount of phosphorus or other compound containing phosphorus, such as phosphate, unless:

- 1. Phosphorus-free fertilizer is also for sale;
- 2. Phosphorus-free fertilizer and phosphorus-containing fertilizer are separately displayed with each display being clearly marked as to whether or not the fertilizer contains phosphorus;
- 3. Displays of phosphorus-containing fertilizers shall be limited to ten percent (10%) of the quantity of phosphorus-free fertilizer on display at any time;
- 4. Fertilizer displays shall include signage providing information on phosphorus. All signage must be pre-approved or provided by the City on request.

Source: Ordinance No. 13-2004
 Effective Date: 5-6-2004

Subd. 4. Penalty. Any person violating this section shall be guilty of a petty misdemeanor.

Source: Ordinance No. 13-2004

Effective Date: 5-6-2004

SECTION 9.16. EXTERIOR BUILDING MAINTENANCE.

Source: Ordinance No. 26-2004

Effective Date: 12-30-2004

Subd. 1. Declaration of Nuisance. Buildings, fences, and other structures, which have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood, are declared to be public nuisances. Such structures (a) are unsightly, (b) decrease adjoining landowners' and occupants' enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhood patterns.

Subd. 2. Standards. Any building, fence, or other structure is a public nuisance if it does not comply with the following requirements:

- A. No part of any exterior surface shall have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.
- B. Every exterior surface, which has had a surface finish such as paint applied, shall be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface shall have peeling, cracked, chipped or otherwise deteriorated surface finish on more than ten percent (10%) of:
 - 1. Any one wall or other flat surface, or
 - 2. All doors and windows, door and window moldings, fascia, soffit, eaves, gutters, and similar projections on any one side or surface.
- C. No glass, including windows and exterior light fixtures, shall be broken or cracked, and no screens shall be torn or separated from moldings.
- D. All exterior doors and shutters shall be hung properly and have an operable mechanism to keep them securely shut or in place.
- E. All cornices, moldings, lintels, sills, bay or dormer windows, and similar projections shall be kept in good repair and free from cracks and defects which make them hazardous or unsightly.
- F. Roof surfaces shall be tight and have no defects, which admit water. All roof drainage systems shall be secured and hung properly.
- G. Decks, porches, fences, chimneys, antennae, air vents, and other similar projections shall be structurally sound and in good repair. Such projections shall be secured properly, where applicable, to an exterior wall or exterior roof.
- H. Temporary construction fencing, including but not limited to erosion control hay bales, fabric and plastic, shall not be used in lieu of permanent fencing and when installed on construction sites shall be removed following the elimination of hazards or completion of construction projects.

Subd. 3 Enforcement.

- A. Notice of Certain Violation. When a property or building is in violation of this Section, the Chief Building Official may issue the property owner of record a written "Notice of Violation and Compliance Order" which

shall include the following information:

1. A description of the property sufficient for identification;
2. Description of the violation(s);
3. The action required to remedy the violation(s);
4. The time within which the remedy must be completed;
5. Actions that may be taken by the City if repairs are not made in the time period specified in the Notice of Violation and Compliance Order;
6. Notice of Right of appeal.

B. Civil Remedies. In addition to enforcement pursuant to Section 9.99, this Section may be enforced by injunction, action for abatement, or other appropriate civil remedy.

Subd. 4. Appeals. Any person aggrieved by a Notice of Violation and Compliance Order shall have the right of appeal pursuant to City Code Section 2.80. The Council may uphold the violation, void all violations, or change any described violation by adding violations, removing violations or changing the order to repair.

Subd. 5. Severability. If any provision of this Section or the application of any provision to a particular situation is held to be invalid by a court of competent jurisdiction, the remaining portions of the Section and the application of the Section to any other situation shall not be invalidated.

(Sections 9.17 through 9.29, inclusive, reserved for future expansion.)

SECTION 9.30. DISORDERLY CONDUCT GENERALLY.

It is unlawful for any person in a public or private place, knowing or having reasonable grounds to know that it will or will tend to alarm, anger or disturb others or provoke any assault or breach of the peace, to do or permit upon premises owned or controlled by him the following: (1) engage in brawling or fighting; (2) disturb an assembly or meeting not unlawful in its character; or, (3) engage in offensive, obscene or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others; or, (4) willfully and lewdly expose his person or the private parts thereof or procure another to so expose himself; behave in an open or gross licentious or lascivious manner; or perform any act of public indecency; or, (5) voluntarily enter the water of any lake, river or City public swimming pool between the hours of 10:00 o'clock P.M. and 8:00 o'clock A.M. except with specific permission or enter such water without being garbed in a bathing suit sufficient to cover his person and equal to the standards generally adopted and accepted by the public; or, (6) cause the making or production of an unnecessary noise by shouting or by any other means of mechanism including the blowing of any automobile or other vehicle horn; or (7) use a flash or spotlight in a manner so as to annoy or endanger others; or, (8) drink or display any intoxicating liquor or non-intoxicating malt liquor in or about any premises where such drinking or display is prohibited by law; or, (9) cause defacement, destruction or otherwise damage to any premises or any property located thereon; or, (10) strew, scatter, litter, throw, dispose of or deposit any refuse, garbage or rubbish unto any premises except into receptacles provided for such purpose; or, (11) fail or refuse to vacate or leave any premises after being lawfully 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 the 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 official duty, nor shall it include the wife, children, employee or tenant of such owner or occupier.

SECTION 9.31. DISORDERLY CONDUCT ON SCHOOL GROUNDS AND IN SCHOOL BUILDINGS.

Subd. 1. Defacement of School Buildings. It is unlawful for any person to make with ink, paint, chalk or other substance or post handbills on, or in any other manner deface or injure, any school building or structure used or usable for school purposes. It is unlawful for any person to mark, deface, or injure fences, trees, lawns, or fixtures appurtenant to or located on the site of such buildings, to post handbills on such fences, trees or fixtures, or to place a sign anywhere on any such site.

Subd. 2. Breach of Peace on School Grounds. It is unlawful for any person to willfully or maliciously make or assist in making on any school grounds adjacent to any school building or structure any noise, disturbance or improper diversion or activity by which peace, quiet and good order shall be disturbed.

Subd. 3. Offensive Language and Conduct. It is unlawful for any person to use offensive, obscene, or abusive language or engage in boisterous or noisy conduct tending reasonably to arouse alarm, anger or resentment in others on any school grounds or in buildings or structures.

Subd. 4. Improper Conduct While School in Session. It is unlawful for any person to, in any school room or in any building or on the grounds adjacent to the same, disturb or interrupt the peace and good order of such school while in session. It is also unlawful for any person not in immediate attendance in such school and being in such building or upon the premises belonging thereto to conduct or behave himself or herself improperly. It is also unlawful for any person upon the request of a teacher of such school or the person in charge thereof to leave said building or premises to neglect or refuse so to do.

Source: City Code
Effective Date: 9-17-82

Subd. 5. Loitering and Improper Presence on School Grounds. It is unlawful for any person to loiter on any school grounds or in any school building or structure or to fail to or refuse to vacate or leave school premises after being lawfully requested to do so orally or in writing by school personnel or any law enforcement agent or official. It is unlawful for any person to appear on school property after being given written notice by school personnel or any law enforcement agent or official to stay off school property for any designated, reasonable length of time.

Source: Ordinance No. 28-86
Effective Date: 2-19-86

SECTION 9.32. DISORDERLY CONDUCT - NOISY PARTIES.

Subd. 1. It is unlawful for any person or persons to congregate on any private lands because of, or participate in, any party or gathering of people from which noise emanates of a sufficient volume or of such nature as to disturb the peace, quiet or repose of other persons. Any owner or person in lawful possession or control of such private lands who has knowledge of the disturbance and fails to immediately abate said disturbance shall be guilty of a violation of this Section.

Subd. 2. It is unlawful for any person or persons to congregate on any private lands of another because of or participate in, any party or gathering of people in the absence of the owner of said private lands being present without first having obtained written permission from said landowner. Such written permission shall at all times be in the possession of one or more persons at the site of such congregation. The document containing the written permission must bear the signature of the landowner and date of the permitted use. Failure to display written permission upon request shall be considered prima facie evidence of an absence of permission from the owner.

Subd. 3. A violation of Subdivision 1 or 2 of this Section shall give a police officer the authority to order all persons present other than persons identifying themselves as the owner or person in lawful possession of control of such land to immediately disperse. Any person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this Section.

SECTION 9.33. SLEEPING AND LOITERING IN STREETS OR PUBLIC PLACES.

Subd. 1. Definition. The term "loiter," as used in this Section, means and includes (1) obstruction of free and unhampered passage of pedestrians or vehicles; (2) interfering with any person lawfully on the premises by obstructing passage; or, (3) refusing to move on when so requested by a peace officer when such peace officer reasonably makes such request to preserve or promote public peace and order.

Subd. 2. Unlawful Acts.

- A. It is unlawful for any person to loiter upon public property except parks.
- B. It is unlawful for any person to sleep upon streets or in or upon public buildings or structures.

SECTION 9.34. 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 City Manager or his designee, 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 except as otherwise authorized by the City Code.

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 chemical 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. 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 except as permitted on streets pursuant to Section 6.06, Subdivision 5.

Subd. 5. Continuing Violation. Each day that any person continues in violation of this Section shall be a separate offense and punishable as such.

Subd. 6. Condition. Before granting any permit under any of the provisions of this Section, the Council may impose such insurance or bonding conditions thereof 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 9.35. CURFEW.

Subd. 1. Curfew - Minors.

- A. It is unlawful for any minor person under the age of fifteen (15) years to be or loiter upon the streets or public places between the hours of 10:00 o'clock P.M. and 5:00 o'clock A.M.
- B. It is unlawful for any minor person age fifteen (15) years and under the age of eighteen (18) years to be or loiter upon the streets or public places between the hours of midnight and 5:00 o'clock A.M.

Subd. 2. Curfew - Parents and Guardians. It is unlawful for any parent, guardian, or other person having the legal care or custody of any minor person to allow or permit such minor person to be or loiter upon the streets or public places in violation of this Section unless such minor is accompanied by a person of lawful age having such minor person in charge.

Subd. 3. Curfew - Places of Amusement, Entertainment or Refreshment. It is unlawful for any person operating or in charge of any place of amusement, entertainment or refreshment, or other place of business to allow or permit any minor person to be or loiter in such place in violation of this Section unless such minor is accompanied by a person of

lawful age having such minor person in charge. This Subdivision shall not be construed to permit the presence at any time of any person under age in any place where his presence is otherwise prohibited by law.

Subd. 4. Exceptions. Such curfew shall not apply to any students under the age of eighteen (18) years who are lawfully attending, going to or returning from school, church or community-sponsored athletic, musical or social activities or events.

SECTION 9.36. 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, 1990, Chapter 169, and the term "abandon" means to permit to remain thereon for a continuous period in excess of forty-eight (48) hours.

SECTION 9.37. 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, furniture, household furnishings or appliances, or parts or components thereof on any property, public or private, unless housed within a building; and any violation is hereby declared to be a nuisance. This Section shall not apply to a disposal area operated or designated by a governmental unit.

SECTION 9.38. CONSUMPTION AND POSSESSION OF BEER, WINE OR LIQUOR ON STREETS AND PUBLIC PROPERTY.

It is unlawful for any person to consume or possess in an unsealed container beer, wine or liquor, as those terms are defined in Chapter 4 of the City Code, on any street or other public property except City parks (unless such park is sign-posted prohibiting) and other public property when and where permission has been specifically granted or licensed by the Council provided that this Section shall not apply to the possession of an unsealed container in a motor vehicle on streets or public property when the container is kept in the trunk of such vehicle if it is equipped with a trunk or kept in some other area of the vehicle not normally occupied by the driver or passengers if the motor vehicle is not equipped with a trunk. For the purpose of this Section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

SECTION 9.39. CONSUMPTION AND POSSESSION OF BEER, WINE OR LIQUOR ON PRIVATE PARKING LOTS.

It is unlawful for any person to consume or possess in an unsealed container beer, wine or liquor, as those terms are defined in Chapter 4 of the City Code, on any privately-owned parking lot which is clearly sign-posted prohibiting such possession and consumption provided that this Section shall not apply to the possession of an unsealed container in a motor vehicle on privately-owned parking lots when the container is kept in the trunk of such vehicle if it is equipped with a trunk or kept in some other area of the vehicle not normally occupied by the driver or passengers if the motor vehicle is not equipped with a trunk. For the purpose of this Section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

Source: City Code
Effective Date: 9-17-82

SECTION 9.40. FIREARMS REGULATION.

Subd. 1. Declaration of Policy. It is hereby found and declared that inasmuch as the City is a developing community wherein the land uses are becoming more intense thus reducing the amount of open land available for the discharge of firearms and dangerous weapons that it has become necessary to limit the discharge of firearms and dangerous weapons to certain areas in the community in which it will not pose a hazard to the safety of others.

Subd. 2. Definition. Terms used in this Section shall have the following meanings:

- A. "Approved Archery Ranges" means those ranges which have been approved by the City Manager or designee where special target-tipped arrows are used.
- B. "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.
- C. "Discharge of firearms" means any shooting whether it be for hunting game, target practice or otherwise.
- D. "Shotgun shotshell" means a shell fired in a shotgun containing multiple shot.
- E. "Shotgun slug" means a shell fired in a shotgun containing one slug, ball, or other single projectile.

Subd. 3. Permit Required for Discharge of Firearms. No person may fire or discharge a firearm or discharge or use any dangerous weapon within the City without first securing a permit to do so from the City.

A. Areas Where Permitted.

1. A permit may be granted to discharge firearms or dangerous weapons, except shotguns firing shotgun slugs, only in the following areas:
 - (a) In that part of the City, West and South of the following line: commencing at the intersection of Hennepin County Road 1 and a line ("Line A") parallel to and 1600 feet west of the East line of Section 27 and 34, Township 116, Range 22, then South along Line A to River Road, then East along River Road to the East line of Section 34, then South along the East line of Section 34 to the southerly line of the City and there terminating; South of Hennepin County Road 1; North of the southerly line of the City and East of the westerly line of the City.
 - (b) In that part of the City which is Section 18 and Section 19, Township 116, Range 22, for the remainder of 1989 when the landowner is present.
 - (c) In areas approved by the City Council where the issuance of a permit is for the purpose of wildlife management and is in the best interest of public safety.
2. A permit may be granted to discharge shotguns firing shotgun slugs only in the following areas:
 - (a) Commencing at the intersection of Trunk Highway 169-212 with the westerly border of the City; then easterly along Trunk Highway 169-212 to Riverview Road; then easterly along Riverview Road to the East line of Section 34, Township 116, Range 22, then South along said East line to the Minnesota River, then westerly along the Minnesota River to the westerly border of the City; then along the westerly border of the City to the point of beginning -- in accordance with the following:
 - (1) Permits for the discharge of shotgun slugs shall not at any time exceed fifteen (15) each for that part of the area West and that part of the intersection of Indian Road with Trunk Highway 169-212 extending southerly along Indian Road to a point where Indian Road turns westerly and then South to the Minnesota River.
 - (2) The land on which any holder of a permit may discharge a shotgun slug within the area bordering on Highway 169-212 shall be posted with signs prohibiting hunting without permission of the owner situated not greater than five hundred (500) feet from each other.

- B. Application For Permit. A permit may be issued to individuals who comply with the following criteria:
1. Persons over eighteen (18) years of age may apply for an individual permit to discharge a firearm or dangerous weapon. Persons under eighteen (18) years of age may apply for a permit to discharge a firearm or dangerous weapon if at the time of such discharge or use, the youth is accompanied by an adult parent or legal guardian.
 2. An application for a permit shall be filed in writing on forms provided by the City and accompanied by a fee determined by City Council resolution. No fee shall be required for a permit for a landowner, his immediate family, or his guests to discharge a firearm or dangerous weapon on property owned by himself.
- C. Limitations on Permits. Permits issued for the discharge of firearms or dangerous weapons shall be subject to the following limitations:
1. The property upon which the discharge will occur shall be at least forty (40) contiguous acres.
 2. The holder of a permit shall not discharge a shotgun slug within fifteen hundred (1500) feet of a building or a roadway.
 3. The holder of a permit shall not discharge a shotgun shotshell within one thousand (1000) feet of a building or a roadway.
 4. Permits issued for the discharge of firearms or dangerous weapons shall be limited to the use of bows and arrows, B-B guns, shotgun shells and shotgun slugs.
 5. An individual who is hunting pursuant to a guest permit must be accompanied by the landowner.
 6. Permits issued for the discharge of shotgun slugs shall be limited to those times permitted for hunting deer by the Minnesota Department of Natural Resources. Permits issued for the discharge of other dangerous weapons shall be restricted to the calendar year during which the permit was issued.

Subd. 4. Approved Archery Ranges. A permit is not required for the discharge of special target-tipped arrows at approved archery ranges. The use of crossbows are prohibited from approved archery ranges.

Subd. 5. Cancellation of Permit. A violation of the provisions of this Section or any permit issued hereunder on any property for which the person has been issued may result in the cancellation of all permits for the discharge of weapons or firearms on such property and the denial of applications for permits on such property.

Subd. 6. Lawful Defense of Person, Property or Family. Nothing herein shall be construed to prohibit any firing of a gun, pistol or other weapon when done in lawful defense of person, property or family or by law enforcement personnel executing their official duties.

Source: Ordinance No. 27-89
Effective Date: 10-19-89

SECTION 9.41. NOISE.

Subd. 1. Definitions. For the purpose of this section the following terms shall have the meanings stated:

- A. "Air circulation device" - A mechanism designed and used for the controlled flow of air used in ventilation, cooling, or conditioning, including, but not limited to, central and window air conditioning units.
- B. "L10" - means the sound level, expressed in decibels (dBA) which is exceeded 10% of the time for a one-hour period, as measured by a sound level meter having characteristics as specified in the latest standards, S1.4 of the

American National Standards Institute. And using test procedures approved by the City Manager or his/her designee.

- C. "L50" - means the sound level similarly expressed and measured as L10 which is exceeded 50 % of the time for a one hour period.
- D. "Noise" - Any erratic, intermittent, and/or statistically random oscillations which result in disturbing, harmful, or unwanted sound.
- E. "Person" - An individual, firm, partnership, corporation, trustee, association, the state and its agencies and subdivisions, or any body of persons whether incorporated or not and with respect to acts prohibited or required herein, person shall include employees and licensees.
- F. "Sound" - A temporal and spatial oscillation in pressure or other physical quantity in a medium with internal forces which causes compressions and rarefactions of that medium and which is propagable at finite speed to distant points.
- G. "Sound Level" (Noise Level) - The A-weighted sound pressure level, expressed in dBA, obtained by the use of a sound-level meter having characteristics as specified in the American National Standards Institutes (ANSI) standard S1-4-1961.

Subd. 2. Noise. No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any persons or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of the following subdivisions.

- A. Loading, unloading, unpacking. No person or equipment shall create loud and excessive noise in loading, unloading, or unpacking any vehicle.
- B. Paging systems and intercom systems. No person in the Commercial, Industrial or Office zoning district shall use or operate or permit use or operation of any paging system or intercom system in distinctly and loudly audible manner as to disturb the peace, quiet, and comfort of any person nearby. Operation of any such equipment in such a manner as to be plainly audible at the property line of the structure or building in which it is located, or at a distance 50 feet beyond the property line if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.
- C. Loudspeakers, amplifiers for advertising, etc. No person in the Commercial, Industrial, or Office zoning district shall operate or permit the use or operation of any loudspeaker, sound amplifier, or other device for the production or reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle.

Subd. 3. Hourly Restrictions on Certain Operations.

- A. Domestic power equipment. No person shall operate in the Rural, R1 or RM zoning district a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. Monday through Sunday. Snow removal equipment is exempt.
- B. Construction activities. No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 7:00 p.m. Monday through Saturday. No construction activities may occur on Sundays or legal Holidays. The City Manager may, upon good cause being shown, vary these days and hours in writing.

Subd. 4. Receiving Land Use Standards. Maximum noise levels by receiving land use districts. No person shall operate or cause or permit to be operated any source of noise in such a manner as to create a noise level exceeding the limit set in table I for the land use category specified when measured at or within the property line of the receiving land use.

Table I. Sound Levels by Receiving Land Use Districts

	Day 7:00 am - 10:00 pm	Day 7:00 am - 10:00 pm	Night 10:00 pm - 7:00 am	Night 10:00 pm - 7:00 am
Receiving Land Use Districts	L10	L50	L10	L50
Residential	65	60	55	50
Commercial, Office, Public	70	65	70	65
Industrial	80	75	80	75

The limits of the most restrictive district shall apply at the boundaries between different land use categories. The determination of land use shall be by its zoned designation.

Subd. 5. Air Circulation Devices. No person shall permanently install or place any air circulation device, except a window air condition unit, in any outdoor location such that the device in that location does not comply with the noise level standards prescribed in Subdivision 4.

Subd. 6. Exceptions.

- A. Emergency Work. Noise created exclusively in the performance of emergency work to preserve the public health, safety, or welfare, or in the performance of emergency work necessary to restore a public service or eliminate a public hazard shall be exempt from the provisions of this ordinance. Any person responsible for such emergency work shall take all reasonable actions to minimize the amount of noise.
- B. Government sponsored activities. Certain activities related to public entertainment including but not limited to Fourth of July Fireworks, City sponsored Concerts in public parks, licensed carnivals, and parades shall be exempt from the provisions of this ordinance.

Subd. 7. Administration.

- A. Administering officer. The noise control program established by this ordinance shall be administered by the City Manager or his\her designee.
- B. Testing Procedures. The City Manager or his\her designee may enlist the services of the Minnesota Pollution Control Agency or the services of a private noise testing company when testing for noise levels is believed in excess of Subdivision 4 of this section.
- C. Studies, etc. The City Manager or his/her designee may conduct such research, monitoring, and other studies related to sound as are necessary or useful in enforcing this ordinance and reducing noise in the City. He/she shall make such investigations and inspections in accordance with law as required in applying ordinance requirements.
- D. Noise impact statements. The City Manager or his\her designee may require any person applying to the City for a change in zoning classification or a permit or license for any structure, operation, process, installation, or

alteration, or product that may be considered a potential noise source to submit a noise impact statement on a form, supplied by the City of Eden Prairie. The City Manager or his/her designee shall evaluate each such statement and make appropriate recommendations to the Council or other agency or officer authorized to take the action or approve the license or permit applied for.

E. Performance Standards - Test.

1. By Owner. In order to assure compliance with the performance standards set forth above, the Council may require the owner or operator of any permitted use to have made such investigations and tests as may be required to show adherence to the performance standards. Such investigations and tests as are required to be made shall be carried out by an independent testing organization as may be selected by the Council after 30 days notice. The cost incurred in having such investigations and test conducted shall be shared equally by the owner or operator and the City, unless the investigation and test disclose noncompliance with the performance standards, in which event the entire investigation or testing cost shall be paid by the owner or operator.
2. By City. The procedure above stated shall not preclude the City from making any tests and investigations it finds appropriate to determine compliance with these performance standards.

Subd. 8. Variances.

- A. Authority. The City Manager or his/her designee shall have the authority to grant variances from the requirements of any section of this ordinance.
- B. Application. Any person seeking a variance shall file an application with the City Manager or his/her designee on a form prescribed by the City. Information to be supplied in the application shall include but not be limited to the following information:
 1. Statement of the dates and times during which the noise is proposed.
 2. The location of the noise source.
 3. The nature of the noise source.
 4. Reasons why the variance is sought and identified hardship.
 5. Steps taken to minimize the noise level.
 6. Other information as required by the City Manager.

Subd. 9. Enforcement.

- A. Notice of certain violation. When the City Manager or his/her designee determines that a noise exceeds the maximum sound level permitted under Receiving Land Use Standards in this section, he or she shall give written notice of the violation to the owner or occupant of the premises where the noise originates and order such person to correct or remove each specified violation within such reasonable time as is prescribed in the notice. The failure to remove or correct any such violation within the time so prescribed constitutes a violation of this ordinance.
- B. Civil remedies. In addition to enforcement pursuant to Section 9.99 of Chapter 9 this Ordinance may be enforced by injunction, action for abatement, or other appropriate civil remedy.

- C. Severability. If any provision of this ordinance or the application of any provision to a particular situation is held to be invalid by a court of competent jurisdiction, the remaining portions of the ordinance and the application of the ordinance to any other situation shall not be invalidated.

Source: Ordinance No. 35-94
Effective Date: 9-30-94

Section 9.42. Eden Prairie Smokefree Air Ordinance of 2002. This Section shall be known as the Eden Prairie Smokefree Air Ordinance of 2002.

Source: Ordinance No. 31-2002
Effective Date: 11-21-2002

Subd. 1. General Provisions.

- A. Findings and Intent. The Eden Prairie City Council does hereby find that:

1. Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer. The U.S. Surgeon General has determined that secondhand smoke is responsible for the early deaths of 65,000 Americans annually.
2. The Public Health Service's National Toxicology Program has listed secondhand smoke as a known carcinogen (U.S. DHHS, 2000, citing Cal. EPA, 1997).
3. Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer.
4. The Americans With Disabilities Act, which requires that disabled persons have access to public places and workplaces, deems impaired respiratory function to be a disability.
5. The U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke. The Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke.
6. A significant amount of secondhand smoke exposure occurs in the workplace. Employees who work in smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function.
7. Smoke-filled workplaces result in higher worker absenteeism due to respiratory disease, lower productivity, higher cleaning and maintenance costs, increased health insurance rates, and increased liability claims for diseases related to exposure to secondhand smoke.
8. Smoking is a potential cause of fires.

9. Accordingly, the Eden Prairie City Council finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in city facilities and parks.

B. Definitions. For the purpose of this section, the following terms shall have the meanings:

1. "City Facilities" means buildings owned or operated by the City, including owned or operated outdoor areas of the lot or parcel on which the building is situated.
2. "Parks" means any open or enclosed land and improvements or facility wherever located which is owned, leased or operated by the City and which is reserved, designated or used for a playground, picnic area, garden area, beach, or other recreational or open space area.
3. "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, or plant in any manner or in any form.

Subd. 2. General Restrictions.

A. Prohibition of Smoking in Certain Areas. Smoking is prohibited in the following areas:

1. Parks;
2. City Facilities;
3. Inside motor vehicles owned or operated by the City when occupied by two or more persons.
4. Inside motor vehicles at City Facilities and Parks.

B. Where Smoking Not Regulated. Notwithstanding any other provision of this Section to the contrary, the following areas shall be exempt from the provisions of this Section:

1. Leases of City Facilities, or those portions thereof, to non-City entities or individuals which have been entered into prior to the adoption of this ordinance,
2. In designated outdoor areas of City Facilities; and
3. City streets, easements, sidewalks, trails (except trails adjacent to or within Parks) and paths.

C. Posting of Signs

1. "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted outside every City Facility and Park.
2. All ashtrays and other smoking paraphernalia shall be removed from every area where smoking is prohibited under this Section.

Subd. 3. Enforcement.

A. Complaints. Any citizen who desires to register a complaint under this Section may initiate enforcement with the City Manager or his/her designee.

- B. Violation and Penalty. It shall be a petty misdemeanor for any person to smoke in an area where smoking is prohibited by the provisions of this Section. The fine for violation of this provision shall be \$100 plus all surcharges mandated by law.
- C. Other Applicable Laws. This Section shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.
- D. Severability. If any provision, clause, sentence, or paragraph of this Section or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Section which can be given effect without the invalid provision or application, and to this end the provisions of this Section are declared to be severable.

(Sections 9.43 through 9.59, inclusive, reserved for future expansion.)

SECTION 9.60. REGULATION OF USE OF LAKE WATERS GENERALLY.

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

- A. "Dock" - Any wharf, pier, or other structure constructed or maintained in the lake or located above the surface of public water, whether floating or not, including all "L's" or "T's", or post which may be a part thereof, whether affixed or adjacent to the principle structure.
- B. "Water Oriented Accessory Structure" - A structure used solely for watercraft storage including storage of related boating and water-oriented sporting equipment. The term does not include slip structure or moorings.
- C. "Watercraft Cover" - A temporary cover solely for the protection of watercraft.
- D. "Mooring" - Any buoy, post, structure or other devise at which a water craft may be moored and which is surrounded by navigable water.
- E. "Slip Structure" - A structure designed solely to secure a watercraft for the purpose of protecting it from damage from sun, wind, storm, or rain.
- F. "Structure" - See definition in Chapter 11, Section 11.02 entitled definitions.

Subd. 2. Nuisances Prohibited. It is unlawful for any person to commit or maintain a public nuisance in or upon the waters of any lake or other body of water; and no person shall let, permit, or enable any other person to use any boat, dock, craft or structure, or portion thereof, knowing that it is intended to be used for committing or maintaining a public nuisance. It is also unlawful for any person to willfully prevent, hinder, or oppose or obstruct a public official in the performance of his duty in carrying out the provisions of this Section or in removing or abating a public nuisance.

Subd. 3. Nuisances Defined. A public nuisance consists in doing or omitting to perform one or more of the following:

- A. Injure or endanger the safety, health, or comfort of the public; or
- B. Offend public decency; or
- C. Unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for use or passage a lake or other body of water; or

- D. Cause the depositing or littering of refuse or waste or other deleterious, poisonous or injurious substance upon water or ice of any lake or other body of water; or
- E. Cause the depositing of sewage into lake waters; or
- F. Cause the erection or maintenance of any dock or structure which interferes with, obstructs, or tends to obstruct or render dangerous for use the waters of any lake.

Subd. 4. It is unlawful for any person to fail to equip and to operate a boat, vessel or watercraft in accordance with the provisions of Chapter 361 of Minnesota Statutes, 1990, which Statutes are hereby adopted and incorporated herein and made a part hereof by reference, as fully as if set forth herein provided that these additional requirements shall be met by all owners and operators of watercraft within the harbor limits established herein, namely:

- A. All watercraft in use or underway between sunset and sunrise shall be equipped with and have in operation red and green running lights in the forward section of the boat and a white light at the stern or on the superstructure, which white light shall be visible on a dark night with clear atmosphere for a distance of two (2) miles from any direction provided, however, that motor powered watercraft under sixteen (16) feet in overall length may use portable lights, which must be clamped on the watercraft when in use, and non-powered watercraft may use a portable single white light which is visible from any direction for a distance of two (2) miles on a dark night with clear atmosphere.
- B. All watercraft when at anchor or drifting must show a white light visible from any direction for a distance of one (1) mile, and such light shall be lit from sunset to sunrise except that a watercraft anchored in a cove within one hundred (100) feet of shore and two hundred (200) feet away from normal navigation and any watercraft anchored at a dock or pier need not have the white light lit.
- C. All watercraft shall have on board and readily accessible Coast Guard Approved life preservers, vests or buoyant cushions capable of keeping every person on board afloat.
- D. No watercraft other than an authorized Water Patrol Boat or other police watercraft shall use or display a red light except a red running light.
- E. No watercraft other than an authorized Water Patrol Boat or other police watercraft shall use or display a police, sheriff or law enforcement officer's flag or any device designed to simulate such a flag.
- F. No person shall board, use, damage or tamper with a watercraft except when done by the owner or with the owner's consent.
- G. No person under fifteen (15) years of age shall operate a watercraft powered by a motor of ten (10) horsepower or more unless accompanied by a competent person fifteen (15) years of age or older.
- H. No person shall tow or operate a watercraft towing one (1) or more persons behind a watercraft on water skis, aquaplane, surfboard, saucer, or similar device except in compliance with these regulations:
 - 1. Every person being towed shall wear a life vest, belt or other buoyant device except with written permission of the County Sheriff.
 - 2. Not more than two (2) persons may be towed at one time except with written permission of the County Sheriff.
 - 3. No person shall be towed from one-half hour after official sunset to sunrise.

4. No person shall be towed by a rope, cable or other towing device longer than eighty-five (85) feet except with a written permit of the County Sheriff.
5. No person shall operate a watercraft when towing a person, and no person being towed shall come within one hundred fifty (150) feet of any bathing area, skin diver's warning flag, swimmer, or raft, watercraft, dock or pier except that raft, dock or pier from which he is operating.
6. No person shall tow or be towed during a holiday, or Saturday or Sunday, or in a congested area at any time unless two competent persons are on the boat or watercraft. The driver of such watercraft shall be at least fifteen (15) years of age and must watch where the watercraft is being driven at all times. The second person on board the watercraft shall be an observer, and shall be at least twelve (12) years of age, and shall watch the person or persons being towed at all times.
7. No person shall drag an unoccupied tow line behind a watercraft for an unreasonable length of time.
8. No person shall tow or be towed into or through a marked channel connecting two (2) bodies of water.

Subd. 5. The operator of any motor boat, speed boat, or of any vessel under power shall not overtake or pass any watercraft in a channel or narrow passage; and all watercraft shall proceed through all channels and narrow passages of water with closed throttle.

Subd. 6. No person shall obstruct or interfere with passage of a boat or vessel through a channel or narrow water passageway.

Subd. 7. No person shall operate a boat or vessel in a careless or reckless manner in or about a public swimming beach.

Subd. 8. No person shall swim in a channel, or jump or dive from a channel bridge or dam.

Subd. 9. No person shall operate any watercraft, automobile, vehicle or powered propelled device on the open water or upon an ice covered body of water in such a manner as to endanger life, limb or property.

Subd. 10. No person shall anchor or operate a boat within one hundred (100) feet of a structure holding a lawful permit to be used for the purpose of a ski jump or within one hundred (100) feet of the buoys used as markers for the water ski course during such times as the said water ski course and jump are in use by water skiers.

Subd. 11. Regulation of Structures

A. Prohibition. It is unlawful for any person to use any area of any public waters outside of an authorized dock use area, for docks, mooring, boat storage, swimming floats, ski jump storage or diving towers, unless such use is specifically permitted under the provisions of this Section.

B. Authorized Dock Use Area. An authorized dock use area is described as follows:

1. Length - The authorized dock use area for lots bordering on the lake extends into the lake a distance equal to the lot's lake frontage to be measured at right angles to the side lot lines and, except as provided herein, shall not extend into the lake a distance of greater than 100 feet in the case of commercial docks and 75 feet in the case of other docks to be measured on a line parallel to the side lot lines as extended into the lakes.
2. Width - The authorized dock use area for lots bordering on the lake is limited in width by the setback limitations prescribed herein. The setback from side lot lines as extended into the lake shall be 15 feet for private docks and 20 feet for commercial docks. Where boat slips open toward a side lot line, the setback provided shall be at least equal to the slip depth, but shall not be less than 20 feet.

3. Multiple Docks - Only one dock is allowed per abutting lot.
- C. Structures Not to Obstruct. No dock or other structure shall be so located as to obstruct a navigable channel, or so as to obstruct reasonable access to any other dock, mooring area or similar structure authorized under this Chapter. No dock, mooring area or similar structure shall be located or designed so that it unnecessarily requires or encourages boats using it to encroach into any other authorized dock use area.
 - D. Unusual Configuration. Where the provisions of this Section would cause the authorized dock use area of two or more lots to overlap, or where there is any other unusual configuration of shoreline or extended lot lines, which causes a conflict between the owners of two or more adjacent or nearby lots in that they may tend to use the same area of any public waters for docks, mooring areas or other structures or for reasonable access thereto, the owner of any of the affected lots may apply to the Council for a variance pursuant to this Section. A variance may be (1) to permit the applicant to locate a dock, mooring area or other structure in a location different from that permitted by this Section, or (2) to permit the owner of any adjacent or nearby site lot to do so.
 - E. Docks: Dimension Limits. A dock as defined in Subdivision 1 of this Section shall not exceed, in the case of a commercial dock, 600 square feet, and in the case of a residential dock, 450 square feet.
 - F. Prohibited Structure. The following may not be erected on a public water: (1) water-oriented accessory structure; or (2) any structure above the horizontal plane of a dock except watercraft covers and slip structures as regulated by this Subdivision. A non-conforming dock or roof lawfully in existence upon enactment of this ordinance may not be structurally altered or expanded in any way.
 - G. Surface Water-oriented Commercial Use. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 1. Any signs must comply with Chapter 11, Section 11.70.
 2. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.
 3. Outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
 - H. Storage. Unless otherwise specifically permitted by this Section, no structure on a public water may be used for the storage of any materials or items other than watercraft.
 - I. Multiple Docks. Only one dock is allowed per abutting lot.
 - J. Temporary Structures. No swimming floats, ski jumps, diving towers, buoys, markers, or other structures surrounded by navigable water shall be located in a public water more than 100 feet from the shoreline without being authorized by a permit from the City. The Council may grant any such permit, provided that the proposed structure is not more than 200 feet from the shoreline, if it determined that the granting of such permit will not create hazards or obstructions to navigation. Permits shall not be issued for free floating structures. Permits are not required for diving floats or navigation buoys.
 - K. Permits. Any change in the length, width, height, or location of a structure requiring a permit under this Section requires the issuance of a new permit. If a permit is denied, or if any activity or structure does not otherwise conform with the requirement of this Section, a variance may be sought consistent with the requirements of this

Section. In applying for any permit under this Section, the following information shall be supplied by the applicant:

1. The name, address, and telephone number of the applicant.
2. The type, number, and proposed location of structures for which the permit is sought.
3. The period of time for which the permit is sought. (No more than 3 years.)
4. A statement as to whether the structure will be reflectorized.
5. If an organization is seeking the permit, a statement as to the nature of the organization.
6. If the permit is sought for a particular event, the nature of the event.
7. Such other information as the City Planner may require to assist him, or the Council, in considering the application for the permit.
8. A statement by the applicant that he assumes responsibility for the presence and removal of all structures in the protected water.

L. Factors Considered Prior to Granting Permit. In exercising its discretion to grant or deny permits, the Council may consider, among other things, the following:

1. Whether the structure will be structurally safe for use by the intended users.
2. Whether the facility will comply with the regulations contained in this Section.
3. Whether the proposed structure will create a volume of traffic on the public water in the vicinity of the facility which will tend to be unsafe or which will cause an undue burden on traffic upon the public water in the vicinity of the facility.
4. Whether the proposed facility will be compatible with adjacent development.
5. Whether the proposed facility will be compatible with the maintenance of the natural beauty of the public water.
6. Whether the proposed facility will affect the quality of the water of the public water and the ecology of the public water.
7. Whether the proposed facility, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the facility.
8. Whether adequate sanitary and parking facilities will be provided in connection with the proposed facility.

M. Permit Conditions. The Council may impose written conditions on the issuance of a permit. A violation of the terms and conditions of the permit is a violation of this Section and grounds for revocation of the permit.

N. Permit Revocation. A permit may be revoked by the Council.

1. The Council may revoke a permit for any of the following causes:
 - a. A permitted structure is found to be a hazard.

- b. The permitted structure is an obstruction to safe use of the lake.
 - c. The permit is not in compliance with the requirements of this Section.
2. Notice of the hearing for revocation of a permit shall be given by the City Clerk in writing, setting forth specifically the grounds of the complaint and the time and place of hearing.
 3. Such notice shall be mailed, postage prepaid, to the permittee to his/her last known address at least five (5) days prior to the date set for hearing, or shall be delivered in the same manner as a summons at least three (3) days prior to the date set for hearing.
- O. **Permit Fees.** When filing the application, the applicant shall pay non-refundable fees for temporary structure and all other permit fees in amounts which have been determined by the Council and fixed by resolution. A copy of such resolution shall be kept on file in the office of the City Clerk and uniformly enforced.

Source: Ordinance No. 17-96
Effective Date: 4-26-96

SECTION 9.61. REGULATION OF USE OF ANDERSON LAKES.

Subd. 1. Anderson Lakes and all that part of the lake front owned by the Hennepin County Park Reserve District shall be and hereby is set apart for nature study purposes to be used only for such purposes and for such other recreational purposes not inconsistent with nature study purposes.

Source: Ordinance No. 70-84
Effective Date: 4-5-84

Subd. 2. All recreational use of said Anderson Lakes area such as boating, fishing, swimming, ice boating, and snowmobiling shall be prohibited in order to preserve said area in natural habitat and to promote for the public good and welfare the entire area as a nature study area.

Source: City Code
Effective Date: 9-17-82

Subd. 3. It is unlawful for any person to launch or remove any vessel from the waters or the ice of Anderson Lakes over public property except as permitted by and under the supervision of the Hennepin County Park Reserve District staff for nature study.

Subd. 4. Except for public officers in the performance of their duty, it is unlawful for any person to enter, remain within, drive, operate any vessel or watercraft into or within Anderson Lakes except as permitted by and under the supervision of the Hennepin County Park Reserve District staff for nature study.

Source: Ordinance No. 70-84
Effective Date: 4-5-84

Subd. 5. It is unlawful for any person to land on or take off from the waters of Anderson Lakes with any aircraft.

Subd. 6. It is unlawful for any person to operate any vessel on the waters of Anderson Lakes which is operated by mechanical air propulsion above the surface of the water.

Subd. 7. It is unlawful for any person to throw, discharge, deposit, leave, cause, suffer or permit to be thrown, discharged, deposited, or left either from the shore or any pier, vessel, or vehicle any refuse matter of any description into the waters of Anderson Lakes.

Source: City Code
Effective Date: 9-17-82

SECTION 9.62. REGULATION OF USE OF BRYANT LAKE.

Subd. 1. It is unlawful for any person to operate any boat, vessel or watercraft on Bryant Lake in excess of fifteen (15) miles per hour from noon until 6 P.M. on Sundays from Memorial Day Weekend through Labor Day. Authorized enforcement, emergency and resource management personnel are exempt from this provision when performing their assigned duties.

Subd. 2. It is unlawful for any person to tow one (1) or more persons or to be towed behind a watercraft on water skis, aquaplane, surfboard, saucer, innertube, or similar device on Bryant Lake unless two (2) competent persons are on the watercraft. The driver of such watercraft must watch where the watercraft is being driven at all times. The second person on board the watercraft shall be an observer and shall watch the person or persons being towed at all times. Where this provision conflicts with Section 9.60, Subd. 3.N., this provision shall control.

Source: Ordinance No. 85-84
Effective Date: 5-31-84

SECTION 9.63. REGULATION OF USE OF ROUND LAKE.

Subd. 1. It is unlawful to launch or operate a motorboat on Round Lake except for (1) boats powered by electric motors; (2) boats operated by enforcement, emergency and resource management personnel acting in the performance of their duties; and (3) excursion boats owned and operated by the City of Eden Prairie.

Source: Ordinance No. 28-85
Effective Date: 10-10-85

SECTION 9.64. REGULATION OF USE OF RILEY LAKE.

Subd. 1. A slow, no-wake zone extending one hundred fifty (150) feet out from Riley Lake Park and eight hundred (800) feet in length shall be designated and marked with necessary buoys and signs. Watercraft shall operate in the slow, no-wake zone at the slowest possible speed necessary to maintain steerage and in no case greater than five (5) miles per hour.

Subd. 2. A water skier pick-up and drop-off area seven hundred (700) feet in length shall be designated on City land and adjacent waters south of the swim area and marked with necessary buoys and signs. No water skiers shall be picked up or dropped off from any City land adjoining Riley Lake except in the designated area.

Subd. 3. Notice. A sign shall be constructed at each public waterfront facility on Riley Lake clearly designating the slow, no-wake zone and water skier pick-up and drop-off zone. Each zone will be marked with necessary buoys and signs.

Source: Ordinance No. 8-86
Effective Date: 5-1-86

SECTION 9.65. REGULATION OF USE OF MITCHELL LAKE.

It is unlawful to operate any watercraft, vessel, or boat on Mitchell Lake with a motor except one motor of ten (10) or less horsepower. Authorized resource management, emergency and enforcement personnel are exempt from this provision when acting in the performance of their assigned duties. A temporary exemption permit may be granted upon the approval of the Board of Adjustments and Appeals.

SECTION 9.66. REGULATION OF USE OF RED ROCK LAKE.

It is unlawful to operate any watercraft, vessel, or boat on Red Rock Lake with a motor except one motor of ten (10) or less horsepower. Authorized resource management, emergency and enforcement personnel are exempt from this

provision when acting in the performance of their assigned duties.

Source: Ordinance No. 12-92
Effective Date: 6-5-92

SECTION 9.67. USE OF MOTORIZED VEHICLES AND WATERCRAFT ON DUCK LAKE.

It is unlawful to operate any motorized watercraft, vessel, boat, snowmobile or vehicle on or across Duck Lake. Authorized resource management, emergency and enforcement personnel are exempt from this provision when acting in the performance of their assigned duties.

Source: Ordinance No. 33-96
Effective Date: 8-30-96

SECTION 9.68 REGULATION OF USE OF SMETANA LAKE.

Subd. 1. It is unlawful to launch or operate a motorboat on Smetana Lake except for (1) boats powered by electric motors; (2) boats operated by enforcement, emergency and resource management personnel acting in the performance of their duties; and (3) excursion boats owned and operated by the City of Eden Prairie.

Source: Ordinance No. 32-2001
Effective Date: 9-13-01

(Section 9.69, inclusive, reserved for future expansion.)

SECTION 9.70. SHADE TREE DISEASE CONTROL.

Source: Ordinance No. 6-89
Effective Date: 4-6-89

Subd. 1. Declaration of Policy. The Council has determined that the health of the trees is threatened by tree diseases. It is further determined that the loss of trees growing upon public and private property would substantially depreciate the value of property within the City and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the Council to attempt to control and attempt to prevent the spread of these diseases and this Section is enacted for that purpose.

Subd. 2. Public Nuisances Declared. The following are public nuisances whenever they may be found within the City:

- A. Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus *Ceratocystis ulmi* (Buisman) Moreau or which harbors any of the elm bark beetles *Scolytus multistriatus* (Eichh) or *Hylurgopinus rufipes* (Marsh).
- B. Any dead elm tree or part thereof including logs, branches, stumps, firewood or other elm material, the bark of which has not been removed.
- C. Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt disease fungus *Ceratocystis fagacearum*.

It is unlawful for any person to permit any public nuisance as defined in this Subdivision on any premises owned or controlled by him within the City. Such nuisances shall be abated in the manner prescribed by this Section.

Subd. 3. Forester. The position of Forester is hereby created within the City. The Forester shall be certified by the Commissioner of Agriculture of the State of Minnesota. It is the duty of the Forester to coordinate under the direction and control of the City Manager all activities of the City relating to the control and prevention of Dutch Elm and Oak Wilt diseases. The City Manager shall recommend to the Council the details of any program for the control and

prevention of said diseases and enforce or cause to be enforced the duties incident to such a program adopted by the Council.

Source: City Code
Effective Date: 9-17-82

Subd. 4. Notice of Inspection, Inspection, Investigation and Testing. Each year, prior to any inspection of diseased trees on private property, published notice shall be given to residents that tree inspections will take place on private property within the City on an intermittent basis throughout the season. The Forester shall cause all premises and places within the City, except those situated south of County Road 1 or south of State Highway 5 and west of County Road 4, to be inspected as often as practicable to determine whether any condition described in Subdivision 2 of this Section exists thereon and to have investigated and tested all reported incidents of such public nuisances.

Source: Ordinance No. 11-85
Effective Date: 9-26-85

Subd. 5. Abatement of Tree Disease Nuisances. In abating the nuisance defined in Subdivision 2, the infected tree or wood shall be removed and burned or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of the disease. Such abatement procedures shall be carried out in accordance with current technical and expert methods and plans as may be designated by the Commissioner of Agriculture of the State of Minnesota and with the approval of appropriate City officials.

Source: City Code
Effective Date: 9-17-82

Subd. 6. Procedure for Removal of Infected Trees and Wood. Whenever the Forester finds that any of the infestations defined in Subdivision 2 exist in any tree or wood in any public or private place, he shall proceed as follows:

- A. Dutch Elm Disease. When a tree is infected with Dutch Elm disease, the Forester shall determine whether the infected elm is a high-risk tree or a low-risk tree. High-risk elm trees shall be those trees that are dead, barren, or have extensive wilt (thirty percent (30%) or more). Low-risk trees shall be those trees showing less than thirty percent (30%) infection.
 - 1. High-Risk Elm Trees. High-risk elm trees shall be identified and marked in a distinctive manner to indicate their high-risk status. High-risk elm trees located on public property shall be removed within twenty (20) days of identification. High-risk trees located on private property shall be removed within twenty (20) days of notification of the property owners pursuant to Subdivision 6.D.
 - 2. Low-Risk Elm Trees. Low-risk elm trees located on public property shall be identified, marked, and removed within twenty (20) days of identification, if reasonably possible, but no later than February 28. Low-risk elm trees located on private property shall be identified, marked, and removed by the November 30 first occurring after notice is given to the property owner pursuant to Subdivision 6.D. of this Section.
- B. Oak Wilt. Those trees in the red oak group infected with oak wilt disease shall be identified, marked, and/or girdled and removed by the November 30 first occurring after notice is given to the property owner pursuant to Subdivision 6.D. The trees in this group are the northern red oak (*Quercus rubra*); northern pin oak (*Quercus ellipsoidalis*); black oak (*Quercus velutina*); and scarlet oak (*Quercus coccinea*).
- C. Removal by City. All dead or diseased trees, including any above ground parts thereof on private property, which are not removed within the time limits provided for herein, shall be removed or caused to be removed by the City. All costs of such removal shall be paid by the owner of the property within thirty (30) days of the date of submission of a bill; and if not paid within such time, the costs of removal shall be assessed against the property pursuant to and in accordance with Minnesota Statutes S429.101 or any similar provision hereafter enacted.

- D. Notice. Once a diseased tree has been identified and marked on private property, notice shall be given by the City to the affected property owner. The notice shall state and describe the property affected; order and set forth the date by which the tree must be removed; state that if removal has not taken place the City as a remedial action will remove or cause removal of the diseased tree; that all costs thereof will be billed to the property owner payable within thirty (30) days; that if payment is not received, the costs will be assessed against the property from which such diseased tree is removed pursuant to and in accordance with Minn. Stat. § 429.101 or any similar provision hereinafter enacted; inform the property owner of the right to a hearing before the Council to appeal the notice in accordance with Subd. 6 (F); and inform the property owner that upon filing of a timely appeal the time to comply with the notice is stayed pending a decision by the Council on the appeal.

Source: Ordinance No. 16-2008
Effective Date: 6-26-2008

- E. Service of Notice. The notice required in Subparagraph D above shall be given by one of the following methods:

1. By mail to the last known address of the owner of the property as determined by the tax records of the County of Hennepin; or
2. By personal delivery of the notice to the affected property owner as determined by the tax records of the County of Hennepin or by leaving the notice with a person of suitable age and discretion upon the premises; or
3. By publishing in the official paper once a week for two successive weeks, the last publication occurring not more than fourteen (14) days and not less than seven (7) days before the removal date; or
4. By service of a copy in a manner provided for service of a Summons for District Courts in the State of Minnesota.

- F. The person served with the notice set forth in Section 9.70, Subd. 6 (D) is entitled to a full hearing before the Council to appeal the notice upon serving a written request therefore upon the City Clerk prior to expiration of the date by which the tree must be removed as set forth in the notice. At such hearing the person may present any evidence he deems pertinent to the appeal, but the City shall not be required to keep a verbatim record of the proceedings. The Mayor, or other officer presiding at the hearing, may, in the interest of justice or to comply with time requirements and on his own motion or the motion of the party appealing, the City Manager, or a member of the Council, adjourn the hearing to a more convenient time or place; but such time or place shall be fixed and determined before adjournment so as to avoid the necessity for formal notice of reconvening. The Council may affirm, amend or reverse all or any portion of the notice and shall set a new deadline for compliance if the order to remove the tree is affirmed.

Source: Ordinance No. 16-2008
Effective Date: 6-26-2008

Subd. 7. Assessments. In all cases in which trees are removed or caused to be removed from private property by the City, the costs thereof, if not paid by the owner as provided herein, shall be assessed against the property from which such trees have been removed pursuant to and in accordance with Minnesota Statutes §429.101 or any similar provision hereafter enacted. Such assessments shall be paid with interest, in installments, and within a period not to exceed five (5) years from the date of the assessment.

Subd. 8. Spraying and Pruning Trees. Whenever it is determined that any tree or wood within the City is infested by any disease or insects as described in Subdivision 2, the Forester may order the owners (as determined by the tax records of the County of Hennepin) of all nearby high value trees to prune and to spray the same with an effective preventive concentrate in a manner approved by the City Manager. Upon failure to comply with such an order, the City may proceed forthwith to take appropriate action. Spraying activities authorized by this Subdivision shall be conducted in

accordance with technical and expert methods and plans of the Commissioner of Agriculture, with the approval of appropriate City officials, and under the supervision of the Commissioner and his agents whenever possible. Notice shall be given as provided in Subdivision 6, Subparagraph E.

Source: Ordinance No. 11-85
Effective Date: 9-26-85

Subd. 9. Transporting Certain Types of Wood Prohibited. It is unlawful for any person to transport within the City any bark-bearing elm wood or wood infested by disease or insects without having obtained a permit from the City Manager, who shall grant such permits when the purposes of this Section will be satisfied.

Subd. 10. Reporting Discovery of Tree Disease. Any owner or occupier of land or any person engaged in tree trimming or removal who becomes aware of the existence of a tree disease as defined in Subdivision 2 shall report the same to the City.

Subd. 11. Interference Prohibited. City personnel may enter upon private premises at any reasonable time to carry out the purposes of this Section. It is unlawful for any person to prevent, delay or interfere with City personnel while they are engaged in the performance of duties imposed by this Section.

Source: City Code
Effective Date: 9-17-82

SECTION 9.71. MAINTENANCE OF VEGETATION.

Subd. 1. For the purposes of this section, the following terms shall have the following meanings:

- A. “Garden” means a cultivated area dedicated to growing vegetables, fruits, flowers, ornamental grasses, groundcovers, shrubs and similar plants that were planted in a well defined location.
- B. “Native plants” are those grasses (including prairie grasses), sedges (solid, triangular-stemmed plants resembling grasses), forbs (flowering broadleaf plants), trees and shrubs that are plant species native to or naturalized to the state of Minnesota, excluding prohibited exotic species, as defined by Minnesota Statutes Chapter 84D. Native plants do not include weeds.
- C. “Native Plant Landscape Area” means an area where native plants are being or have been planted in a designated area. A Native Plant Landscape Area does not include gardens.
- D. “Natural Area” means a natural area is an area that was purposely left to grow in a natural state and can maintain itself in a stable condition without human intervention and contains trees, shrubs, and native plants, excluding weeds and turfgrass areas that contain more than 50% turfgrass.
- E. “Ornamental Grasses” means grasses that are not indigenous to the state of Minnesota that are intended to add beauty to a garden. Ornamental grasses do not include turfgrasses or weeds.
- F. “Turfgrass” means commercially available cultured turfgrass varieties, including bluegrass, fescue and ryegrass blends, commonly used in regularly cut lawn areas.
- G. “Weeds” are (i) noxious weeds as defined and designated pursuant to the “Minnesota noxious weed law”, Minnesota Statutes, Sections 18.76-18.88, as amended from time to time, or (ii) any volunteer plants, such as but not limited to garlic mustard (*Alliaria petiolata*), spotted knapweed (*Centaurea maculosa*), or burdock (*Arctium minus*). For the purposes of this definition, weeds do not include dandelions or clover. The City Weed Inspector shall maintain a current list of volunteer plants that are prohibited.

Subd. 2. An owner or occupant of any lot or parcel of land in the City, other than land in the rural district, or agent of any such owner or occupant, shall not allow any herbaceous vegetation growing upon such lot or parcel of land or

growing upon City right-of-way which abuts the lot or parcel of land, including the area between any sidewalk or trail and the curb of the street to grow to a height greater than ten (10) inches or to allow such vegetation to go to seed.

Subd. 3. The provisions of Subd. 2 shall not apply on private property:

A. To vegetation that is located:

1. On slopes equal to or steeper than three feet horizontal to one foot vertical (3:1);
2. In Natural Areas;
3. Within fifty feet of a Natural Area;
4. In a scenic or conservation easement;
5. In a garden;
6. In City park lands;
7. In a floodplain area designated on the official zoning map; or
8. Within a drainage pond or ditch which stores or conveys stormwater.

B. To Native Plant Landscape Areas provided that:

1. They are set back not less than twenty feet from the front lot line. For the purposes of this ordinance, corner lots shall be deemed to have two front yards;
2. They are set back not less than five feet from the side and/or rear lot lines to provide a transition zone. No set back is required on the side or rear lot lines if (1) there is a fully opaque fence at least five feet in height installed between the native plants and the side or rear lot lines or (2) the native plants abut a neighboring Native Plant Landscape Area;
3. The Native Plant Landscape Area is cut at least once annually between April 15 and July 15 to a height no greater than ten (10) inches;
4. Turfgrass is eliminated and the native plants, trees and shrubs are planted through transplanting or seed by human or mechanical means. Soil erosion should be controlled while the ground is bare of plant growth that is sufficient to inhibit erosion and is the sole responsibility of the owner or occupant;
5. Written authorization from the City Manager or his/her designee is obtained for work within conservation or scenic easement areas, including planting, mowing or cutting.

Subd. 4. The setback area required by Subd. 3 of this Section shall be composed of regularly mowed turfgrass, garden beds, trees, shrubs, mulch, wood chips, rock and/or gravel.

Subd. 5. The Native Plant Landscape Area, Garden or Natural Area shall not obscure, block or impede visual sight lines; regulatory, warning or street identification signs; or street light illumination required to ensure the safe and efficient circulation of vehicles and pedestrians on streets, intersections, trail, pathways and sidewalks.

Subd. 6. The City may require the owner or occupant who has planted, or has allowed to be planted, native plants or other vegetation within a drainage or utility easement or a right-of-way of a City street to remove the native plants or other vegetation from the right-of-way or drainage and utility easement at no expense to the City. The City will not be responsible for damage to turfgrass and/or any landscaped areas resulting from public works improvements or snow removal activities within rights-of-ways or drainage and utility easements.

Subd. 7. Notice.

A. Notice. Once a failure to comply with the height, setback, maintenance, weed, and annual cutting requirements as required by this Section is identified, notice of such failure shall be given by the City to the affected property owner. The notice shall state and describe the property affected; order and allow seven (7) days for the property owner to cause such vegetation to be cut, removed and/or treated for weeds; that if such vegetation is not cut, removed and/or treated for weeds the City as a remedial action will cause such vegetation to be cut, removed and/or treated for weeds; that all costs thereof will be billed to the property owner payable within thirty (30) days; that if payment is not received within thirty (30) days, the costs will be assessed against the property from which such vegetation has been removed pursuant to and in accordance with Minn. Stat. § 429.101 or any similar provision hereinafter enacted; inform the property owner of the right to a hearing before the Council to appeal the notice in accordance with Subd. (C); and inform the property owner that upon filing of a timely appeal the time to comply with the notice is stayed pending a decision by the Council on the appeal. The notice shall be served in the same manner as set forth in Section 9.70, Subd. 6 (E).

Source: Ordinance No. 16-2008

Effective Date: 6-26-2008

B. Assessment. In all cases in which vegetation is cut, removed and/or treated for weeds or caused to be by the City, the costs, if not paid by the owner as provided herein, shall be assessed against the property from which such vegetation is cut, removed and/or treated for weeds pursuant to and in accordance with Minnesota Statutes Section 429.101 or any similar provision hereafter enacted. Such assessments shall be paid with interest, in installments, and within a period not to exceed one (1) year from the date of assessment. The City will not be responsible for damage to turfgrass and/or any landscaped areas resulting from enforcement of this ordinance.

Source: Ordinance No. 29-2002

Effective Date: 11-21-02

C. The person served with the notice set forth in Section 9.71, Subd. 7 (A) is entitled to a full hearing before the Council to appeal the notice upon serving a written request therefore upon the City Clerk prior to expiration of the date by which the vegetation is to be cut, removed and/or treated for weeds as set forth in the notice. At such hearing the person may present any evidence he deems pertinent to the appeal, but the City shall not be required to keep a verbatim record of the proceedings. The Mayor, or other officer presiding at the hearing, may, in the interest of justice or to comply with time requirements and on his own motion or the motion of the party appealing, the City Manager, or a member of the Council, adjourn the hearing to a more convenient time or place; but such time or place shall be fixed and determined before adjournment so as to avoid the necessity for formal notice of reconvening. The Council may affirm, amend or reverse the all or any portion of the notice and shall set a new deadline for compliance if the order that the vegetation be cut, removed and/or treated for weeds is affirmed.

Source: Ordinance No. 16-2008

Effective Date: 6-24-2008

SECTION 9.72. EMERGENCY SECURING OF BUILDINGS.

Subd. 1. ‘Secure’ may include, but is not limited to, installing locks, repairing windows and doors, boarding windows and doors, posting ‘no-trespassing signs’, installing exterior lighting or motion-detecting lights, fencing the property, installing a monitored alarm or other security system.

Subd. 2. Upon a determination by the City's building official that a building presents an immediate danger to the health and safety of persons in the City such that the emergency securing of the building is appropriate to eliminate or reduce the immediate danger the City may secure the building as authorized by Minnesota Statutes, 1994, Section 463,251, Subd. 4 and this Section.

Source: Ordinance No. 32-96
Effective Date: 8-30-96

(Sections 9.73 through 9.98, inclusive, reserved for future expansion.)

SECTION 9.99. VIOLATION A MISDEMEANOR.

Every person violates a section, subdivision, paragraph or provision of this Chapter when he 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.

Source: City Code
Effective Date: 9-17-82