

**CHAPTER 92: HEALTH AND SAFETY; NUISANCES**

Section

**GENERAL PROVISIONS**

- 92.01 Assessable current services
- 92.02 Tree diseases

**NUISANCES**

- 92.15 Public nuisance
- 92.16 Public nuisances affecting health
- 92.17 Public nuisances affecting morals and decency
- 92.18 Public nuisances affecting peace and safety
- 92.19 Building Maintenance and Appearance
- 92.20 Duties of city officers
- 92.21 Abatement
- 92.22 Recovery of cost

**WEEDS**

- 92.35 Short title
- 92.36 Jurisdiction
- 92.37 Definitions; exclusions
- 92.38 Owners responsible for trimming, removal and the like
- 92.39 Filing complaint
- 92.40 Notice of violations
- 92.41 Abatement by city
- 92.42 Liability

**OPEN BURNING**

- 92.60 Definitions
- 92.61 Prohibited materials
- 92.62 Open burning not allowed
- 92.63 Burning ban or air quality alert
- 92.64 Rules and laws adopted by reference

**FREE-STANDING FURNACES**

- 92.70 Definitions
- 92.71 Intent and Purpose
- 92.72 Requirements
- 92.73 Nonconforming Use
- 92.74 Enforcement

## GENERAL PROVISIONS

### §92.01 ASSESSABLE CURRENT SERVICES.

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

**CURRENT SERVICE.** Shall mean one or more of the following: snow, ice, or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S. §463.15 through 463.26 as they may amended from time to time; installation or repair of water service lines; street sprinkling, street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

**BUSINESS DISTRICT.** This term, which replaces the previously used term, “Commercial Area”, shall mean the area on Main Avenue from First Street SE to the parking lot facing the Visitor Information Center (formerly 2<sup>nd</sup> St NW), the area on Center Street from 1<sup>st</sup> AV SW to 1<sup>st</sup> AV SE, the area on 1st Street NW from First AV NW to Main AV, and the area on 1st Street NE from 1<sup>st</sup> AV NE to Main AV.

**BUSINESS PROPERTY.** Shall mean any property that has commercial activity as an intended use either in whole or partially. A property is considered to be a business property even though it may not be occupied.

- (B) *Snow, ice, dirt and rubbish.*

(1) *Duty of owners and occupants.* The owner and/or the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than 24 hours after its deposit thereon. Failure to comply with this section shall constitute a violation. The owner or occupant of property located in the business district shall remove snow and/or ice by 9:00 AM from any sidewalk located on or adjacent to said property.

(2) *Removal by city.* The City Administrator/Clerk-Treasurer or other person designated by the City Council may cause removal from all public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning 24 hours after any matter has been deposited thereon or after the snow has ceased to fall. The City Administrator/Clerk-Treasurer or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel. In the business district, snow or ice, that has not been removed from a sidewalk by 9:00 AM shall be removed by the City, and the occupant of the property shall pay the cost of removal and shall also pay a \$10.00 charge for the required administrative costs. Failure to pay any charges incurred by an occupant for failure to comply with these requirements shall constitute a violation.

- (C) *Public health and safety hazards.* When the city removes or eliminates public health or safety hazards from private property under the following provisions of this chapter, the city employee responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and promptly deliver that information to the City Administrator/Clerk-Treasurer.

- (D) *Installation and repair of water service lines.* Whenever the city installs or repairs water service lines serving private property under Chapter 52 of this code, the City Administrator/Clerk-Treasurer shall keep a record of the total cost of the installation or repair against the property.
- (E) *Repair of sidewalks.* It is the responsibility of any property owner to keep any sidewalk on his/her property in repair and safe for pedestrians. Damaged sidewalks may be removed by the property owner unless they are located in the business district or along either side of MN Highway 139 from Selvig Park to Harmony Healthcare. If a property owner chooses to repair or replace a damaged sidewalk, the City will pay one-half of the concrete costs, but not the cost of removing the old sidewalk
- (F) *Personal liability.* The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of the service. As soon as the service has been completed and the cost determined, the City Administrator/Clerk-Treasurer, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the City Administrator/Clerk-Treasurer.
- (G) *Damage to public property.* Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment, object or contrivance, but is operating, driving or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. §514.67, as it may be amended from time to time.
- (H) *Assessment.* On or before December 1 of each year, the City Administrator/Clerk-Treasurer shall list the total unpaid charges for each type of current service and charges under this section against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges against property benefited as a special assessment under the authority of M.S. § 429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.  
Penalty, see §10.99

## **§92.02 TREE DISEASES AND CONDITIONS CONSTITUTING A NUISANCE**

- (A) *Trees constituting nuisance declared.* Pursuant to determination and order of the City Tree Board, the following are public nuisances whenever they may be found within the city:
  - (1) 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 *Hylungopinus Rufipes* (*Marsh*);
  - (2) Any dead elm tree or part thereof, including branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide;
  - (3) Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt fungus *Ceratocystis fagacearum*;

- (4) Any dead oak tree or part thereof which in the opinion of the designated officer constitutes a hazard, including but not limited to logs, branches, stumps, roots, firewood or other oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide;
  - (5) Any other shade tree with an epidemic disease.
  - (6) The roots of any tree or shrub, located on private property, which cause the surface of the public street, curb or sidewalk to be heaved up or otherwise disturbed;
  - (7) Any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewer, electric power lines, gas lines, water lines or other public improvement, or any tree or shrub situated upon private property, but so situated as to extend its branches over the improved portion of a public street or highway easement at a height of at less than 8 feet over that portion of such easement that is used for vehicular traffic and over that portion of such easement used for pedestrian travel, or any tree obstructing traffic control signs or devices from the view of the pedestrian or motorist.
  - (8) Any tree, shrub or portion thereof located on private property which, by reason of location or condition, constitutes an imminent danger to the health, safety or will-being of the general public on city property.
- (B) *Abatement of nuisance.* It is unlawful for any person to permit any public nuisance as defined in division (A) of this section to remain on any premises the person owns or controls within the city. The city may serve a notice in writing upon the owner, occupant or agent of any lot, building or premises in or upon which a nuisance may be found, or upon the person who may be the cause of such nuisance, which notice shall require the person to abate the nuisance within a period of not less than thirty (30) days. The notice shall include the street affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. Failure to give a notice as provided herein shall not relieve the author of any nuisance from the obligation to abate such nuisance, or from the penalty provided for the maintenance thereof. The City Council may hear any property owner with reference to the scope and desirability of the proposed project and shall make a final decision, with any modifications it considers desirable, and provide for the doing of the work by city employees, day labor or contract.
- (C) *Record of costs.* The City Administrator/Clerk-Treasurer shall keep a record of the costs of abatement done under this section for all work done for which assessments are to be made, stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.
- (D) *Unpaid charges.* On or before September 1 of each year, the City Administrator/Clerk-Treasurer shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges or any portion thereof against the property involved as a special assessment as authorized by M.S. §429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes.  
Penalty, see §10.99 ( *See also* Ch. 3, §33.175-185, City Tree Board.)

## NUISANCES

### §92.15 PUBLIC NUISANCE.

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

- (A) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;
- (B) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or
- (C) Is guilty of any other act or omission declared by law or §92.16, 92.17 or 92.18, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.  
Penalty, see §10.99

### §92.16 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

- (A) Exposed accumulation of decayed or unwholesome food or vegetable matter;
- (B) All diseased animals running at large;
- (C) All ponds or pools of stagnant water;
- (D) Carcasses of animals not buried or destroyed within 24 hours after death, except for deer taken during the deer-hunting season and in no event shall deer be allowed for more than 72 hours.
- (E) Accumulations of manure, other than in an agricultural zoned area, refuse or other debris;
- (F) Trash and garbage cans which are not rodent-free or fly-tight, or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- (G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;
- (H) All weeds or growing grass upon any lot or parcel of land within the City of Harmony growing to a height greater than 8 inches, or which have gone or are about to go to seed. The word “weeds” as used in this section shall be construed to mean and include all noxious weeds as defined by the statutes of the State of Minnesota. (*See also* §92.35 – 92.43).
- (I) Dense smoke, noxious fumes, gas and soot, dust, chaff, or cinders, in unreasonable quantities;
- (J) All public exposure of people having a contagious disease; and
- (K) Any offensive trade or business as defined by statute not operating under local license.  
Penalty, see §10.99

**§92.17 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.**

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

- (A) All gambling devices, slot machines and punch boards, except as otherwise authorized by federal, state or local law;
- (B) Betting, bookmaking and all apparatus used in those occupations;
- (C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;
- (D) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place;
- (E) Any and all laboratory equipment and ingredients which are or may be used to produce methamphetamine, also called methedrine, to be used as a stimulant in violation of the law. Fillmore County has passed Ordinance #2004-002 regarding the production of illicit drugs, and the provisions of that ordinance, as it may be amended from time to time, are referenced in this code, specifically in Ch. 15, Zoning.
- (F) Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.  
Penalty, see §10.99

**§92.18 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.**

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

- (A) All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall, except in the business district (*see* §92.01(B) 1 and 2);
- (B) All trees, hedges, billboards or other obstructions that prevent people from having a clear view of all traffic approaching an intersection;
- (C) All wires and limbs of trees, which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles (*see also* § 92.02);
- (D) All obnoxious noises and annoying vibrations in violation of Minn. Rules Ch. 7030, as they may be amended from time to time, which are hereby incorporated by reference into this code;
- (E) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle, snowmobile or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises there from and complies with all applicable state laws and regulations. This section also includes defective or loaded vehicles which cause loud and unnecessary noise;
- (F) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any

person nearby, unless duly authorized by permit terms determined by City Council resolution as provided in this section. Operation without a permit of any device referred to above between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section;

- (1) Issuance of Permit. The Council must consider each application for a sound amplification permit in light of all of the following criteria:
  - (a) The volume, frequency and type of sound to be generated;
  - (b) The day of the week, time of day and duration of the sound to be generated;
  - (c) The character and nature of land uses underlying and adjacent to the event generating the noise;
  - (d) The proximity and compatibility of the event generating the noise to residential, religious or medical facilities, or the general public;
  - (e) The sufficiency of the arrangements made to provide adequate security, garbage disposal, crowd control and parking control;
  - (f) The imposition of conditions upon its issuance of any permit that are reasonably related to addressing concerns regarding any of these criteria.
- (G) The participation in a party or gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property;
- (H) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under conditions as are permitted by this code or other applicable law;
- (I) Radio aerials or television antennae erected or maintained in a dangerous manner;
- (J) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;
- (K) All hanging signs, awnings and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
- (L) The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- (M) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;
- (N) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- (O) Waste water cast upon or permitted to flow upon streets or other public properties;
- (P) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material in a manner conducive to the harboring of rats, mice, snakes or vermin, or

the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation;

- (Q) Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- (R) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials;
- (S) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;
- (T) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- (U) All other conditions or things that are likely to cause injury to the person or property of anyone.  
Penalty, see §10.99



**§92.19 BUILDING MAINTENANCE AND APPEARANCE.**

- (A) *Declaration of nuisance.* Buildings, fences and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they (a) are unsightly, (b) decrease adjoining landowners and occupants' enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhood patterns.
- (B) *Standards.* A building, fence or other structure is a public nuisance if it does not comply with the following requirements:
- (1) No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.
  - (2) Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:
    - (a) Any one wall or other flat surface; or
    - (b) All door and window moldings, eaves, gutters, and similar projections on any one side or surface.
  - (3) No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.
  - (4) Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.
  - (5) Cornices, moldings, lintels, sills, bay or dormer windows and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.
  - (6) Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.
  - (7) Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.
  - (8) Foundations must be structurally sound and in good repair.

Penalty, see ' 92.99

**§92.20 DUTIES OF CITY OFFICERS.**

The Police Department shall enforce the provisions relating to nuisances. Any peace officer shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

**§92.21 ABATEMENT.**

- (A) *Notice.* Written notice of violation; notice of the time, date, place and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this section.
- (1) *Notice of violation.* Written notice of violation shall be served by a peace officer on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.
  - (2) *Notice of City Council hearing.* Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises are not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.
  - (3) *Notice of City Council order.* Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be made as provided in M.S. §463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.
  - (4) *Notice of motion for summary enforcement.* Written notice of any motion for summary enforcement shall be made as provided for in M.S. §463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.
- (B) *Procedure.* Whenever a peace officer determines that a public nuisance is being maintained or exists on the premises in the city, the officer shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement.
- (C) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) of this section, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

- (D) *Immediate abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.  
Penalty, see §10.99

**§92.22 RECOVERY OF COST.**

- (A) *Personal liability.* The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Administrator/Clerk-Treasurer or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Administrator/Clerk-Treasurer.
- (B) *Assessment.* If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Administrator/Clerk-Treasurer shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other the charges as well as other charges for current services to be assessed under M.S §429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.  
Penalty, see §10.99

## WEEDS

### §92.35 SHORT TITLE.

This subchapter shall be cited as the “Weed Ordinance”.

### §92.36 JURISDICTION.

This subchapter shall be in addition to any state statute or county ordinance presently in effect, subsequently added, amended or repealed.

### §92.37 DEFINITIONS; EXCLUSIONS.

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

**DESTRUCTION ORDER.** The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the ordinance violation.

**PROPERTY OWNER.** The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license or lease.

**WEEDS, GRASSES and RANK VEGETATION.** Includes but is not limited to the following:

- (1) Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip
- (2) Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years;
- (3) Bushes of the species of tall, common, or European barberry, further known as *berberis vulgaris* or its horticultural varieties;
- (4) Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding 8 inches.
- (5) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants.
- (6) The term **WEEDS** does not include shrubs, trees, cultivated plants or crops.

(B) In no event shall cultivated plants or crops include plants that have been defined by state statute or administrative rule as being noxious or detrimental plants.

**§92.38 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.**

All property owners shall be responsible for the removal, cutting, or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property, which at the time of notice, is in excess of 8 inches in height.

Penalty, see §10.99

**§92.39 FILING COMPLAINT.**

Any person, including the city, who believes there is property located within the corporate limits of the city which has growing plant matter in violation of this subchapter shall make a written complaint signed, dated and filed with the City Administrator/Clerk-Treasurer. If the city makes the complaint, an employee, officer or Council Member of the city shall file the complaint in all respects as set out above.

**§92.40 NOTICE OF VIOLATIONS.**

(A) Upon receiving notice of the probable existence of weeds in violation of this subchapter, the City Administrator/Clerk-Treasurer shall make an inspection and shall forward written notification in the form of a "Destruction Order" to the property owner or the person occupying the property as that information is contained within the records of the City Administrator/Clerk-Treasurer or any other city agency. The notice shall provide that within seven (7) regular business days after the receipt of the notice the designated violation shall be removed by the property owner or person occupying the property.

**§92.41 ABATEMENT BY CITY.**

In the event that the property owner shall fail to comply with the "Destruction Order" within seven regular business days, the City Administrator/Clerk-Treasurer may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means. The property owner shall be billed for all costs incurred during the abatement.

**§92.42 LIABILITY.**

- (A) The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subchapter.
- (B) The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorney's fees and interest on any unpaid amounts incurred by the city. If the city uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals that may be used.
- (C) All sums payable by the property owner are to be paid to the City Administrator/Clerk-Treasurer and to be deposited in a general fund as compensation for expenses and costs incurred by the city.
- (D) All sums payable by the property owner may be collected as a special assessment as provided by M.S. §429.101, as it may be amended from time to time.

## OPEN BURNING

### §92.60 DEFINITIONS.

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

***FIRE CHIEF*** and ***ASSISTANT FIRE CHIEFS***. The Fire Chief and Assistant Fire Chiefs of the Fire Department that provides fire protection services to the city.

***OPEN BURNING***. The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a “recreational fire” as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as “open burning”.

***RECREATIONAL FIRE***. A fire set with approved starter fuel no more than three feet in height, contained within the border of a “recreational fire site” using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created. No more than one recreational fire is allowed on any property at one time.

***RECREATIONAL FIRE SITE***. An area of no more than a three foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only, and which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a “recreational fire site” as defined herein.

***STARTER FUELS***. Dry, untreated, unpainted, kindling, branches, cardboard or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas-burning devices causing minimal pollution must be used to start an open burn.

***WOOD***. Dry, clean fuel only, such as twigs, branches, limbs, “presto logs”, charcoal, cordwood or untreated dimensional lumber. The term does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three-foot lengths.

### §92.61 PROHIBITED MATERIALS.

- (A) No person shall conduct, cause or permit open burning of oils, petrol fuels, rubber, plastics, chemically-treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint or paint fillers.
- (B) No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures.

- (C) No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.
- (D) No person shall conduct, cause or permit open burning of any leaves or grass clippings. The city maintains a licensed facility for deposit of tree waste, leaves and grass clippings.  
Penalty, see §10.99

**§92.62 OPEN BURNING NOT ALLOWED.**

No person shall start or allow any open burning on any property in the city, except for recreational fires as defined in §92.60.

Penalty, see §10.99

**§92.63 BURNING BAN OR AIR QUALITY ALERT.**

No recreational fire will be permitted when the city or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert.

Penalty, see §10.99

**§92.64 RULES AND LAWS ADOPTED BY REFERENCE.**

The provisions of M.S. §88.16 to 88.22 and the *Minnesota Uniform Fire Code*, Minn. Rules Ch. 1510, as these statutes and rules may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

## FREE-STANDING FURNACES

### §92.70 DEFINITIONS

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

**FREE STANDING FURNACE.** A furnace or burner designed and intended and/or used for the burning of wood or other fuel sources, which is free-standing and is located outside of the structure for which it is intended to provide heat.

### §92.71 INTENT AND PURPOSE

- (A) It is recognized and found that smoke is hazardous to an individual's health and may affect the health of the general public when they are involuntarily exposed to the presence of wood smoke.
- (B) Reliable scientific studies, including studies conducted by the Environmental Protection Agency (EPA), have shown that breathing wood smoke is a significant health hazard particularly to children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory functions, including asthmatics and those with obstructive airway disease.
- (C) It is recognized that free-standing furnaces are designed and intended to be a primary heat source and therefore burn, and emit smoke, on a continual basis. A distinction is drawn between free-standing furnaces and indoor wood stoves and fireplaces that, by nature, provide supplemental heat and are generally used on a less-frequent basis.
- (D) This ordinance is adopted for the purpose of protecting the public health, safety, comfort, and the general welfare of the people of the City of Harmony.

### §92.72 REQUIREMENTS

**PERMIT REQUIRED.** No person shall install a free-standing furnace on property within the city without the owner of said property first having obtained a permit from the City Administrator. Application for a permit shall be made on a form approved by the City Council and available from the office of the City Administrator/Clerk-Treasurer. All applications shall be signed by the applicant. All applications for a permit under this chapter shall be accompanied by the fee established in the Ordinance Establishing Fees and Charges, adopted pursuant to §30.11, as it may be amended from time to time.

**PROHIBITED FUELS.** The only fuel permitted to be burned is untreated fuel. Wood may not be treated, processed, stained, finished or painted – specifically prohibited woods include plywood, particle board and similar products. Other fuels, such as corn, shall not contain any additives, treatments or chemicals. No petroleum products or processed materials of any kind may be burned.

**EPA APPROVED.** Any free-standing furnace shall be EPA certified.

**PROPERTY LINE SETBACKS.** A free-standing furnace must be setback a minimum of 50 feet from all property lines.

**STRUCTURE SETBACK.** A free-standing furnace must be setback a minimum of 10 feet from any principal or accessory structure.



***CHIMNEY STACK HEIGHT.*** A free-standing furnace shall have a chimney height that extends at least 15 feet above ground level unless the furnace is within 500 feet of a dwelling unit or accessory structure located on an adjacent property, in which case the chimney terminus shall extend above ground level to height at least equal to that of the height of the adjacent dwelling unit or accessory structure.

***DATES OF USE.*** A free-standing furnace shall not be used between May 1 and October 1 of each year.

**§92.73 NONCONFORMING USE**

- (A) Continuation of Nonconforming Uses. The lawful use of any free-standing furnace existing at the time of the effective date of this ordinance may be continued, although such use may not conform to the provisions of this ordinance.
- (B) Extension or enlargement. No pre-existing, non-conforming free-standing furnace shall hereafter be extended, enlarged, expanded or replaced.
- (C) Abandonment and discontinuance. Any pre-existing, non-conforming free-standing furnace which is abandoned or not used for a period of twelve (12) consecutive months shall not be permitted to be re-established as a non-conforming use, cannot be used, and must be immediately removed by the property owner from the subject premises. If the property owner fails to remove the free-standing furnace by the end of said twelve months, the City of Harmony Zoning Administrator shall give written notice by certified mail, personal service, or posting to the property owner upon which the free-standing furnace is located that such person shall remove the same within fifteen (15) days of the notice.

**§92.74 ENFORCEMENT.**

Any person committing a violation of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction for a violation hereof shall be subject to the terms of § 10.99.