

# **Ordinance # 2018-1**

**City of Le Center  
Le Sueur County, Minnesota**

**An Ordinance Repealing Ordinance #2006-1, and Sections 46-519 to and including 46-522 of the City of Le Center Zoning Code and An Ordinance Thereby Amending Chapter 22 --Environment-- Defining, Regulating, and Providing Specific Abatement Procedures for Nuisance Conditions and Establishing Penalties for Violation of the Nuisance Code.**

The Le Center City Council hereby Repeals Ordinance #2006-1 and Sections 46-519 to and including 46-522 of the Zoning Code Relating to Nuisances and Herein and Hereby Amends Chapter 22 of the City's Code by providing that Chapter 22 shall read as follows:

## **ARTICLE 1. IN GENERAL**

**Sec. 22-31.-22-30. Reserved.**

## **ARTICLE II-NUISANCES**

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

The following terms, as used in this Section, shall have the meanings stated:

(1) "Abandoned Building" means any building or portion of a building which has stood with an incomplete exterior shell for longer than one (1) year or any building or portion thereof which has stood unoccupied for longer than one year which meets one or more of the following criteria: (a) unsecured; or (b) boarded; or (c) having multiple exterior Housing Code or Building Code violations; or (d) placarded as "Unfit for Human Habitation".

(2) "Animals" means cattle, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, guinea hens, and feathered fowl.

(3) "Abatement Deadline" means the date before which the nuisance must be abated as specified in a written order.

(4) "Dangerous Structure" means any structure which is potentially dangerous to persons or property including but not limited to: (a) a structure which is in danger of partial or complete collapse; or (b) a structure which has any exterior parts such as chimneys, eaves, porches, siding, railings, or trim which are loose or in danger of falling; or (c) a structure which has any parts such as porches,

stairs, ramps, rails, balconies, or roofs which are accessible and which are either collapsed, in danger of collapsing, or unable to support a person.

(5) "Deteriorated structure" means any structure or part of any structure which because of fire, wind or other natural disaster, or physical deterioration is no longer habitable or useful.

(6) "Enforcement Officer" means the Director of the Department of Public Works, the Building Inspector, the Chief of Police, the Fire Chief, the City Clerk or their duly authorized representative.

(7) "Extermination" means the eradication of rodents or other vermin by any or all approved methods such as poisoning, fumigation, or trapping.

(8) "Hazardous Waste" means any waste material so defined by Minnesota Statutes, Section 116.06, or described or listed as hazardous waste in Minnesota Rules, Chapter 7045.

(9) "High grass" means any grass or weeds allowed to attain a height in excess of six inches.

(10) "Interested Party" means any owner of record, occupying tenant, or lien holder of record.

(11) "Junk cars" means any unlicensed, unregistered, or inoperable vehicle stored in the open in a residential area.

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

(13) "Last Known Address" means the address known on the records of the Le Sueur County department of property taxation or a more recent address known to the enforcement officer. In the case of parties not listed in these records, the last known address shall be that address obtained by the officer after a reasonable search.

(14) "Mail" means service by mail by depositing the item with the United States Postal Service addressed to the intended recipient at his or her last known address with first class postage prepaid thereon.

(15) "Noxious Substances" means substances, solid or fluid, which are offensive, detrimental to health, hurtful, or dangerous. Noxious substances shall include but not be limited to any dead animal, or portion thereof, putrid carcass, decayed animal matter, green hides, or any putrid, spoiled, foul, or stinking meat, poultry, fish, offal, hides, skins, fat, grease, liquors, human or animal excrement, or manure.

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

(17) "Owner" means those shown to be owner or owners on the records of the Le Sueur County Recorder or Le Sueur County Registrar of Titles.

(18) "Personal Service" means service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence or place of business with a person of suitable age and discretion.

(19) "Privy" means any type of no-flush fixture for the receipt and storage of human waste including fixed units with vaults as well as portable units.

(20) "Property" means any parcel of land whether vacant or not, whether any structure thereon is occupied or not, or whether submerged or not.

(21) "Refuse" means putrescible or non-putrescible and combustible or non-combustible waste, including paper, garbage, material resulting from the handling, processing, preparation, cooking, storage, serving and consumption of food, vegetable or animal matter, offal, rubbish, plant wastes such as tree trimmings or grass cuttings, ashes, incinerator residue, street cleanings, construction debris, detached vehicle parts, and solid industrial and market wastes.

(22) "Responsible Party" means any one or more of the following: (2) agent, (b) assignee or collector of rents, (c) holder of a contract for deed, (d) a mortgagee or vendee in possession, (e) receiver or executor or trustee, (f) lessee, (g) those listed as owners on a vacant building registration form submitted to the Building Inspector under the City Code, (h) other person, firm, or corporation exercising apparent control over a property.

(23) "Unoccupied" means a building which is not being used for a legal occupancy or a building which has been ordered vacated by the City.

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

(25) "Unsecured" means open to entry by unauthorized persons without the use of tools or ladders.

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

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

### **Sec. 22-33 Public Nuisance Generally.**

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

- (1) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public.
- (2) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way or waters used by the public.
- (3) Is guilty of any other act or omission declared by law or this section to be a public nuisance and for which no sentence is specifically provided.

### **Sec. 22-34 Public Nuisances Affecting Health.**

The following are nuisances affecting health:

- (1) Exposed accumulation of decayed or unwelcome food or vegetable matter.
- (2) All diseased animals running at large.
- (3) All ponds or pools of stagnant water.

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

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

The following are nuisances affecting public morals and decency:

- (1) All gambling devices, slot machines, and punchboards, except as authorized in this Code.
- (2) Betting, bookmaking and all apparatus used in such occupations.
- (3) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, houses where controlled substances are illegally possessed or sold, and bawdy houses.
- (4) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintains such a place.

- (5) Any vehicle used for the transportation of intoxicating liquor or illegal controlled substances, or for promiscuous sexual intercourse, or any other illegal purposes.

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

The following are nuisances affecting public safety and safety:

- (1) All snow and ice not removed from public sidewalks 12 hours after the snow or other precipitation causing the condition has ceased to fall.
- (2) All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection.
- (3) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles.
- (4) All unnecessary noises and annoying vibrations. Unnecessary noise shall include, but not necessarily be limited to the playing, or operation of any radio, tape, disc player, musical instrument, disk jockey system, other sound or speaker system, or any other machine or device installed for the purpose of emitting sound in such a manner as to be plainly audible at a distance of twenty-five (25) feet from such machine or device if said device is in an automobile and at a distance of fifty (50) feet from a property if said noise is plainly audible from a property and said noise is occurring between the hours of 11:00 p.m. and 7:00 a.m. When sound violating this section is produced or reproduced by any such device that is located in a motor vehicle or from property, the motor vehicle's owner or the property owner, if present when the violation occurs, is in violation of this section. If the motor vehicle's owner or property owner is not present at the time of the violation, the person in charge or control of the vehicle or property at the time of the violation is in violation of this section. In addition to an owner or a driver, any person who controls or assists with the production of sound violating this section is in violation of this section. Violation of this subsection is a misdemeanor. This section shall not apply to the annually held Le Sueur County Fair nor shall it apply to any duly sponsored City events. This section shall apply to any events hosted by the Le Sueur County Fair Board occurring outside the dates of the annual County Fair. (Amending Ordinance No. 2022-2 passed the 11<sup>th</sup> day of October 2022)

- (5) Obstructions and excavation affecting the ordinary use of the public streets, alleys, sidewalks or public grounds except under such conditions as are permitted by the Code of other applicable law.
- (6) Radio aerials or television antennas erected or maintained in a dangerous manner.
- (7) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the streets or sidewalks.
- (8) All hanging signs, awnings, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance.
- (9) The allowing of rainwater, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.
- (10) Any barbed wire fences less than six feet above the ground and within three feet of a public sidewalk or way.
- (11) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.
- (12) Wastewater cast upon or permitted to flow upon streets or other public property.
- (13) Accumulations in the open of discarded and disused machinery, household appliances, automobile bodies or other material. The rank growth of vegetation.
- (14) Any well, hole or similar excavation which is left uncovered or in such other conditions as to constitute a hazard to any child coming on the premises where it is located.
- (15) Obstruction to the free flow of water in a natural waterway or public street drain, gutter, or ditch with trash or other materials.
- (16) The placing or throwing on any street, sidewalk or other public property of any glass, tack, nails, bottles or other substances which may injure any person or animal or damage any pneumatic tire when passing over such substance.

- (17)The depositing of garbage or refuse on a public right-of-way or on adjacent private property.
- (18)Any junk or junk cars.
- (19)Any high grass.
- (20)Any deteriorated or unsafe building or structure.
- (21)The keeping of any animals not in transit.
- (22)All other conditions or things which are likely to cause injury to the person or property of anyone.
- (23)A nuisance shall mean any substance, matter, emission or thing which creates a dangerous or unhealthy condition or which threatens the public peace, health, safety, or sanitary condition of the City or which is offensive or has an aesthetically negative influence on the community and which is found upon, in, being discharged or flowing from any street, alley, highway, railroad right-of-way, vehicle, railroad car, water, excavation, building, erection, lot, grounds, or other property located within the City. Nuisances shall include but not be limited to those set forth in this Section.
- (24)Refuse, Noxious Substances, Hazardous Wastes. Refuse, noxious substances, or hazardous wastes laying, pooled, accumulated, piled, left, deposited, buried, or discharged upon, in, being discharged or flowing from any property, structure, or vehicle; except for:
- A. Refuse deposited at places designated and provided for that purpose by the City Code; or
  - B. Refuse stored in accordance with provisions of the City Code or vehicle parts stored in an enclosed structure.
- (25)Firewood. Stacks of firewood in excess of six cords, stacks of firewood higher than six feet from ground level to the highest point of elevation, or stacks of firewood stored within the required setback.
- (26)Stagnant Water. Stagnant waster standing on any property. Any property, container, or material kept in such a condition that water can accumulate and stagnate.
- (27)Vermin Harborage. Conditions which in the opinion of the enforcement officer are conducive to the harborage or breeding of vermin.



(28)Vermin Infestations. Infestations of vermin such as rats, mice, skunks, snakes, bats, grackles, starlings, pigeons, bees, wasps, cockroaches, or flies; except for bees or pigeons kept with written permission from, and in accordance with the regulations of the Division of Public Health.

(29)Sanitary Structures. Structures for sanitation such as privies, vaults, sewers, private drains, septic tanks, cesspools, drain fields which have failed or do not function properly or which are overflowing, leaking, or emanating odors. Septic tanks, cesspools, cisterns which are abandoned or no longer in use unless they are empties and filled with clean fill. Any vault, cesspool, or septic tank which does not meet the following criteria:

- A. The bottom and sides are cemented to make impervious to water;
- B. The bottom is at least six feet below grade;
- C. Proper ventilating pipes and covers are provided;
- D. It is located at least 20 feet from any house, residence, building, or public street;
- E. It is cleaned at least once a year; and
- F. The property served is located such that connection to the public sewer is impractical.

(30)Unsecured Unoccupied Buildings. Unoccupied buildings or unoccupied portions of buildings which are unsecured.

(31)Dangerous Structures. Dangerous structures whether or not registered pursuant to the City Code.

(32)Abandoned Buildings. Abandoned buildings whether or not registered pursuant to the City Code.

(33)Hazards. Any thing or condition on the property which in the opinion of the enforcement officer may contribute to injury of any person present on the property. Hazards shall include but not be limited to open holes, open foundations, open wells, dangerous trees or limbs, abandoned refrigerators, or trapping devices.

- (34) Fire Hazards. Any thing or condition on the property which in the opinion of the enforcement officer creates a fire hazard or which is a violation of the Fire Code.
- (35) Health Hazards. Any thing or condition on the property which in the opinion of the enforcement officer creates a health hazard or which is a violation of any health or sanitation law.
- (36) Statute and Common Law Nuisances. Any thing or condition on property which is known to the common law of the land, Minnesota Statutes, or the City Code as a nuisance.

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

- (1) It is unlawful for any person to maintain a public nuisance by his/her act or failure to perform a legal duty, and for purposes of this Section, a public nuisance.
- (2) It is unlawful for any person to permit real property under his/her control to be used to maintain a public nuisance, or let the same to another knowing it is to be so used.
- (3) It is unlawful for any owner of any truck, trailer, railroad car or flat, or other vehicle to leave the vehicle standing on or along any street, highway, freeway, or railroad track, or other property within the City carrying or containing any refuse, noxious substance, or hazardous waste, except as otherwise permitted in the City Code.
- (4) Notice required prior to prosecuting for creating, maintaining nuisance; method of service.
  - (a) Before any person is prosecuted for creating, harboring, or maintaining a nuisance in the City, the authorized officer shall give such person a ten days' written notice ordering such person to abate such nuisance and to comply with applicable city regulations.
  - (b) Such notice shall be sent via U.S. Mail to the person's last known address and to the address where the violation has occurred.
  - (c) Such notice shall describe the property involved sufficiently to identify it and shall describe the violation which exists and the remedial actions required.

(d) Upon receiving such notice, if an individual is unable to abate a nuisance with the allotted ten-day period, he may establish the fact to the satisfaction of the administrator of this ordinance. The individual may then receive a reasonable extension to accomplish compliance by abating the nuisance.

(e) Where a nuisance has occurred and has either been abated by the violator or by the city, and where such nuisance reoccurs at any time within three years of the last violation, no notice to abate is required and the city may immediately prosecute the nuisance case or abate the nuisance at cost to the violator.

**Sec. 22-38. Disclosure of Responsible Party.**

Upon the request of the enforcement officer or the City Clerk, a responsible party or owner shall disclose the name of any other responsible party or owner known to him or her. This shall include but not be limited to the persons for whom he or she is acting, from whom he or she is leasing the property, to whom he or she is leasing the property, with whom he or she shares joint ownership, or with whom he or she has any conveyanceing contract.

**Sec. 22-39. Inspection of Unoccupied Buildings.**

An owner or responsible party shall, upon the request of the enforcement officer, provide the office with access to all interior portions of an unoccupied building in order to permit the officer to make a complete inspection.

**Sec. 22-40. Order to Cease.**

In the event that an enforcement officer (including code official) observes a person creating a nuisance, the officer may, after presenting proper identification, order that the person cease creating a nuisance.

**Sec. 22-41. Enforcement Officer Authorized to Enter.**

The enforcement officer (including code official) shall be authorized to enter any property or structure in the City for the purpose of enforcing and assuring compliance with the provisions of this Section.

**Sec. 22-42. Authority to Abate.**

(1)The City is authorized to abate nuisances in accordance with the procedures set forth in this Section and shall be remedied administratively or by criminal prosecution. Remedial measures are not mutually exclusive

and the City may pursue both remedy options simultaneously, or may pursue just one option, against the owner of the premises on which the nuisance is located. Any abatement costs incurred shall be charged against the property as a special assessment to be collected in the manner provided for in Minnesota Statutes, Section 429.

(2) Abatement may include but shall not be limited to removal, cleaning, extermination, cutting, mowing, grading sewer repairs, draining, securing, boarding unoccupied structures, barricading or fencing, removing dangerous portion of structures, and demolition of dangerous structures or abandoned buildings.

(3) Abatement costs shall include the cost of the abatement, including but not limited to personnel costs and equipment costs and depreciation; the cost of investigation, such as title searches, inspection, and testing; the cost of notification; filing costs; legal costs, including attorney fees; and administrative costs, including fees for Council meetings.

#### **Sec. 22-43. Summary Abatement Procedure.**

The City may choose to abate the nuisance by the procedure described below.

(1) Order. The enforcement officer shall serve a written order upon the owner. The written order shall also be served upon any responsible party known to the officer and may be served upon any party known to have caused the nuisance. The order shall contain the following:

- A. A description of the real estate sufficient for identification;
- B. A description, location, and digital photograph of the nuisance and the remedial action required to abate the nuisance;
- C. The abatement deadline, to be determined by the enforcement officer allowing a reasonable time for the abatement of the nuisance;
- D. A statement that the order may be appealed and a hearing before the Council obtained by filing a written request with the City Clerk prior to the appeal deadline, being the same as the abatement deadline; and
- E. A statement that if the remedial action is not taken nor a request for a public hearing filed with the City Clerk within the time specified, the City will abate the nuisance and charge all

costs incurred therein against the real estate as a special assessment to be collected in the same manner as property taxes.

(2)Hearing Date. In the event that an appeal is filed with the City Clerk, the Council shall within three (3) weeks confirm a date for a public hearing.

(3)Notice. The City Clerk shall mail a notice of the date, time, place, and subject of the hearing to the owner and known responsible parties. The City Clerk shall also notify the enforcement officer issuing the order.

(4)Hearing. At the time of the public hearing, the Council shall hear from the enforcement officer, and any other interested parties who wish to be heard. After the hearing, the Council may confirm or modify the order of the enforcement officer. In either case, if the Council's determination requires abatement, the Council shall, in the resolution, fix a time within which the nuisance must be abated and shall provide that if corrective action is not taken within the time specified, the City may abate the nuisances. The City Clerk shall mail a copy of this resolution to same parties required to be notified in Subparagraph 1, above.

#### **Sec. 22-44. Substantial Abatement Procedure.**

Except in the case of an emergency as provided for in the following Subdivisions, when the enforcement officer determines that a nuisance exists on a property and the cost of abatement of the nuisance is estimated to exceed \$2,000.00 or the abatement involves demolition of a building other than a structure accessory to a residential building or the abatement substantially diminishes the value of the property, the City shall abate the nuisance by the procedure described below. A good faith estimate of the abatement costs, not the actual cost calculated after the abatement is completed, or the property value diminution, shall be the basis which determines whether this abatement procedure shall be used.

(1)Order. The enforcement officer shall serve a written order upon the owner, all interested parties, and any responsible party known to the officer. The order shall contain the following:

- A. A description of the real estate which is sufficient for identification;
- B. The location of the nuisance on the property;

- C. A description, including digital photograph of the nuisance and the basis upon which it is declared to be a nuisance;
- D. The remedial action required to abate the nuisance;
- E. The abatement deadline, to be determined by the enforcement officer allowing a reasonable time for the completion of any act required;
- F. A statement that if the remedial action is not taken before the abatement deadline, the matter will be referred to the Council which, after a public hearing, may order the City to abate the nuisance and charge all costs incurred against the real estate as a special assessment to be collected in the same manner as property taxes.

(2)Notice to Public. When an order requires, exclusively or as an option, the demolition of a building, the public shall be put on notice as follows:

- A. A copy of the order shall be placed on file in the office of the City Clerk.
- B. The enforcement officer shall notify the Council of each property subject to a demolition order as follows: Each month the enforcement officer shall send to the Council a list of the properties that have become subject to a demolition order. The list shall be in the form of a resolution declaring that an enforcement action has been commenced and that as a result of the nuisance status of a building on the property an order has been issued detailing the violations and requiring, exclusively or as an option, that the building be demolished and that a copy of this order is on file in the office of the City Clerk. This resolution shall include the legal description of each property and shall authorize and direct the City Clerk to file a copy of the resolution with the Le Sueur County Recorder and/or Registrar of Titles.

(3)Setting Hearing Date. If the remedial action is not taken within the time specified in the written order, the enforcement officer may notify the Council that substantial abatement is necessary and appropriate. Upon being notified by the enforcement officer, the Council shall, within three (3) weeks, confirm a date for an abatement hearing.

(4)Notice. Written notice of the time, date, place and subject of the hearing shall be given as set forth herein:

- A. The City Clerk shall immediately notify the enforcement officer;
- B. At least ten (10) days prior to the hearing, the enforcement officer shall notify the owner, all interested parties and any known responsible parties. Any one of the following methods of notice shall be considered adequate:
- C. Personal service with Affidavit prepared and filed by the City; or Confirmed mail service which is either certified mail with signed receipt returned or first class mail confirmed by written response;
- D. Mailing the notice to the last known address and publishing the notice once a week for two (2) weeks in a newspaper of general circulation in the City and posting the notice in a conspicuous place on the building or property.

(5)Hearing. At the time of the public hearing, the Council shall hear from the enforcement officer and any other parties who wish to be heard. After the hearing, the Council shall adopt a resolution, describing what abatement action, if any, it deems appropriate. If the resolution calls for abatement action it may either order the City to take the abatement action or fix a time within which the nuisance must be abated and provide that if corrective action is not taken within the specified time, the City shall abate the nuisance. The City Clerk shall give a copy of this resolution to the enforcement officer issuing the order and shall mail copies to any of the parties required to be notified in Subparagraph D above, for whom the City Clerk has a current mailing address.

#### **Sec. 22-45. Emergency Abatement Procedure.**

When the enforcement officer determines that a nuisance exists on a property and the nuisance constitutes an immediate danger or hazard which if not immediately abated will endanger the health or safety of the public and there does not exist sufficient time to follow the procedures described herein, the City may abate the nuisance by the procedure described below.

(1)Order by City Clerk. The City shall order emergency abatement by an administrative order to be signed by the City Clerk. A good faith effort shall be made to inform the owner that the action is being taken.

(2)Notice of the Abatement. Following an emergency abatement, as soon as the costs incurred are known to the City Clerk, the City Clerk shall serve written notice upon the owner. The notice shall contain:

- A. A description of the real estate sufficient for identification
- B. The location, description, and digital photograph of the nuisance;
- C. The remedial action taken by the City;
- D. The reasons for immediate action;
- E. The costs incurred in abating the nuisance; and
- F. A statement that the owner may request, by writing to the City Clerk within thirty (30) calendar days of the date of the notice, a hearing at which the Council shall review the actions taken by the City.

(3)Setting Hearing Date. In the event that the owner files a request for a review of the action with the City Clerk, the Council shall within three (3) weeks confirm a date for a public hearing.

(4)Notice. The City Clerk shall notify the enforcement officer and the owner of the date, time, place and subject of the hearing.

(5)Hearing. At the time of the hearing, the Council shall hear from the enforcement officer and any other parties who wish to be heard. After the hearing, the Council may adopt a resolution levying an assessment for all or a portion of the costs incurred by the City in abating the nuisance. The City Clerk shall give a copy of the resolution to the enforcement officer and shall mail a copy to the owner.

## **SEC. 22-46. DISPOSAL OF ABANDONED MOTOR VEHICLES AND UNCLAIMED PROPERTY.**

### **Disposal of Abandoned Motor Vehicles.**

A. Definitions.

1. The term "abandoned motor vehicle" means a motor vehicle as defined in Minnesota Statutes, Chapter 169, that has remained for a period of more than forty-eight hours on public property illegally or lacking vital



component parts, or has remained for a period of more than forty-eight hours on private property without the consent of the person in control of such property, or on any property in an inoperable condition such that it has no substantial potential further use consistent with its usual function unless it is kept in an enclosed garage or storage building. It shall also mean a motor vehicle voluntarily surrendered by its owner to and accepted by the City. A classic car or pioneer car, as defined in Minnesota Statutes, Chapter 168, shall not be considered an abandoned motor vehicle within the meaning of this Section. Vehicles on the premises of junk yards or automobile graveyards, which are licensed and maintained in accordance with the City Code, shall not be considered abandoned motor vehicles within the meaning of this Section.

2. The term "junk vehicle" means a vehicle that is three years old or older; is extensively damaged, with the damage including such things as broken or missing wheels, motor, drive train, or transmission, is apparently inoperable or not roadworthy; does not have a valid, current registration plate; and has an approximate fair market value equal only to the approximate value of the scrap in it.
3. The term "unauthorized vehicle" means a vehicle that is subject to removal and impoundment pursuant to Minnesota Statutes but is not a junk vehicle or abandoned vehicle.
4. The term "vital component parts" means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train and wheels.

B. Custody. The City may take into custody and impound any abandoned or junk motor vehicle, or any unauthorized vehicle as provided by statute.

C. Sale; Waiting Periods.

1. An impounded vehicle is eligible for disposal or sale 15 days after notice to the owner if the vehicle is determined to be a junk vehicle, except that it may have a valid, current registration plate and still be eligible for disposal or sale; or an abandoned motor vehicle.
2. An impounded vehicle is eligible for disposal or sale 45 days after notice to the owner if the vehicle is determined to be an unauthorized vehicle.

D. Notice.

1. When an impounded vehicle is taken into custody, the City or impound lot operator shall give notice of the taking within 10 days. The notice shall set forth the date and place of the taking, the year, make, model and serial number of the abandoned motor vehicle, if such information can be reasonably obtained, and the place where the vehicle is being held, shall inform the owner and any lien holders of their right to reclaim the vehicle under Subparagraph E of this Subdivision, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under statute shall be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to Subparagraph F of this Subdivision.
2. The notice shall be sent by mail to the registered owner, if any, of the impounded motor vehicle and to all readily identifiable lien holders of record. This information shall be made available to impound lot operators for notification purposes. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in the official newspaper where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy. If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent, a second notice shall be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lien holders of record.

#### E. Right to Reclaim.

1. The owner or any lien holder of an impounded motor vehicle shall have the right to reclaim such vehicle from the City or impound lot upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days as applicable under this Section after the date of the notice required by this Section.
2. Nothing in this Subdivision shall be construed to impair any lien of a garage keeper under the laws of this State, or the right of the lien holder to foreclose. For the purposes of this Subparagraph E "garage keeper" is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

## F. Auction or Sale.

1. An abandoned or unauthorized motor vehicle and contents taken into custody by the City or any impound lot and not reclaimed under Subparagraph E of this Subdivision may be disposed of or sold at auction or sale when eligible pursuant to Subparagraph E. The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.
2. From the proceeds of the sale of an abandoned or unauthorized motor vehicle by the City or public impound lot, the City shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred pursuant to this Subdivision. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in the General Fund of the City.
3. The operator of a nonpublic impound lot may retain any proceeds from a sale derived from a sale conducted under the authority of this Section. The operator may retain all proceeds from the sale of any personal belongings and contents in the vehicle that were not claimed by the owner or the owner's agent before the sale; except that any suspected contraband or other items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency.

G. Operator's Deficiency Claim. The nonpublic impound lot operator has a deficiency claim against the registered owner of the vehicle for the reasonable costs of services provided in the towing, storage and inspection of the vehicle minus the proceeds of the sale or auction. The claim for storage costs may not exceed the cost of 25 days' storage for an abandoned or junk vehicle and 55 days' storage for a vehicle determined to be an unauthorized vehicle.

H. Disposal of Vehicles. Where no bid has been received for an abandoned or junk motor vehicle, the City may dispose of it in accordance with this Subdivision.

I. Contracts and Disposal.

1. The City may contract with any qualified person for collection, storage, incineration, volume reduction, transportation or other services necessary to prepare abandoned motor vehicles and other scrap metal for recycling or other methods of disposal.
2. Where the City enters into a contract with a person duly licensed by the Minnesota Pollution Control Agency, the Agency shall review the contract to determine whether it conforms to the Agency's plan for solid waste disposal. A contract that does so conform may be approved by the Agency. Where a contract has been approved, the Agency may reimburse the City for the costs incurred under the contract which have not been reimbursed.
3. If the City utilizes its own equipment and personnel for disposal of the abandoned motor vehicle, it shall be entitled to reimbursement for the cost thereof along with its other costs as herein provided.

### **Sec. 22-47. Disposal of Unclaimed Property**

A. Definition. The term "abandoned property" means tangible or intangible property that has lawfully come into the possession of the City in the course of municipal operations, remains unclaimed by the owner, and has been in the possession of the City for at least sixty days and has been declared such by a resolution of the Council.

B. Preliminary Notice. If the City Administrator knows the identity and whereabouts of the owner, s/he shall serve written notice upon him/her at least thirty days prior to a declaration of abandonment by the Council. If the City acquired possession from a prior holder, the identity and whereabouts of whom are known by the City Administrator notice shall also be served upon him/her. Such notice shall describe the property and state that unless it is claimed and proof of ownership, or entitlement to possession established, the matter of declaring it abandoned property will be brought to the attention of the Council after the expiration of thirty days from the date of such notice.

C. Notice and Sale. Upon adoption of a resolution declaring certain property to be abandoned property, the City Administrator shall publish a notice thereof describing the same, together with the names (if known) and addresses (if known) of prior owners and holders thereof, and including a brief description of such property. The text of such notice shall also state the time, place and manner of sale of all such property, except cash and negotiables. Such notice shall be published once in a legal newspaper at least 10 days prior to the sale. Sale shall be made to the highest bidder at public auction or sale or by a

nonprofit organization with a significant mission of community service in a private sale in the manner authorized by statute.

D. Funds and Claims Thereon. Expenses shall be paid from the proceeds of the sale; the balance of the proceeds shall be paid into the General Fund of the City if the property was disposed of by a public auction or sale; or in the case of a private sale, to the nonprofit organization authorized to conduct said sale. The former owner, if s/he makes claim within six months from the date of publication of the notice herein provided, and upon application and satisfactory proof of ownership, may be paid the amount of cash or negotiables or, in the case of property sold, the amount received therefore, less a pro rata share of the expenses of storage, publication of notice, and sale expenses, but without interest.

#### **SEC. 22-48. REGULATION OF GRASS, WEEDS AND TREES.**

##### A. Definition.

"Weeds" means useless and troublesome plants commonly known as weeds including but not limited to noxious weeds such as cocklebur, burdock, tumble mustard, wild mustard, wild oats, Canadian thistle, oxeye daisy, quack grass, Frenchweed, and Russian thistle.

##### B. City to Control Tree Planting (Standards).

The City shall have control and supervision of planting shrubs and trees upon, or overhanging, all the streets or other public property. The City may establish and enforce uniform standards relating to the kinds and types of trees to be planted and the placement thereof. Such standards shall be kept on file in the office of the Public Works Director and may be revised from time to time by action of the Council upon the recommendation of the Public Works Director.

##### C. Permit Required.

It is unlawful for any person to plant, spray, trim or remove trees or other plants which are upon City property, including rights-of-way or utility and/or drainage easements, without first procuring from the City a permit in writing to do so.

#### **Sec. 22-49. Duty of Property Owners to Cut Grass and Weeds and Maintain Trees and Shrubs.**

Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of such property nearest to such street to the center of such street. If the grass or weeds in such a place attain a height in excess of six (6) inches it shall be prima facie evidence of a failure to comply with this

