

CHAPTER 8

PUBLIC PROTECTION, CRIMES AND OFFENSES

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

1. “Abandon” – A motor vehicle as defined in Minnesota State Statute 169.01 and has remained illegally on public or private property for more than 48 hours, is in an inoperable condition, lacking vital components.
2. “Commercial Establishment” – Any premises, where a commercial or industrial enterprise of any kind is carried on, and shall include restaurants, clubs, churches, and schools where food is prepared or served.
3. “Inoperable” – Any motor vehicle as defined in Minnesota Statutes, Chapter 169.
4. “Junk Vehicle”
 - a. Any unlicensed or unregistered motor vehicle or any inoperable vehicle.
 - b. Is extensively damaged, with the damage including but not limited to things as broken or missing wheels, motor, drive train or transmission;
5. “Motor Vehicle” – A vehicle as defined in Minnesota Statutes, Chapter 169. "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires. Motor vehicle does not include an electric personal assistive mobility device or a vehicle moved solely by human power.
6. “Multiple Dwelling” – Any building used for residential purposes consisting of more than four dwelling units with individual kitchen facilities in each.
7. “Lawfully Erected Building”, Shall follow the Minnesota State Building Code which provides for the Application, Administration, and Enforcement of the Minnesota State Building Code by regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings and or structures in the City; provides for the issuance of permits and collection of fees thereof; provides penalties for violation thereof; repeals all ordinances and parts of ordinances that conflict therewith.
8. “Recycle materials or recyclables” – Materials that are separated from the mixed municipal solid waste for the purpose of recycling.

9. “Recycling” - The process of collecting and preparing recyclable materials and useable materials in the original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.
10. “Recycling Collection” – The collection of recyclable materials from the residence or commercial dwelling in a manner specified by the City.
11. “Refuse” – All waste, garbage, rubbish, trash or debris of all kinds that accumulate, organic and inorganic, including but not limited to, food, food products, bottles, cans, glassware, paper or paper products, rags, discarded clothing and other household waste, tires, scrap metal, ash, trees, lawn clippings, animal waste and waste resulting from building construction or demolition. It does not include industrial waste, hazardous wastes, human waste or other waste managed as waste streams separate from mixed municipal solid waste. However, nothing herein shall prevent a homeowner from having a compost pile in his or her back yard if it is properly maintained so that it does not become a public nuisance, cause objectionable odors, or harbor rodents or vermin.
12. “Residential Dwelling” – Any single building consisting of one to four dwelling units with individual facilities for each unit.
13. “Vehicle” – Any motor vehicle or recreational vehicle or farm implement.

Subdivision 2. Storage and Deposit of Refuse.

1. It is unlawful for any person to store refuse on residential dwelling premises for more than one week. All such storage shall be in five- to thirty- gallon metal or plastic containers with tight-fitting covers, or in bags or containers authorized by the City’s garbage contractor, which shall be maintained in a clean and sanitary condition; provided, however, that tree leaves weeds and grass clippings may be store in plastic bags and tree limbs must be stored in bundles weighing no more than seventy-five pounds and no longer than four feet.
2. It is unlawful for any person to store refuse on multiple dwelling premises for more than one week. Such storage shall be in containers as for residential dwelling premises, except that so-called “dumpsters” with close-fitting covers may be substituted.
3. It is unlawful for any person to store refuse on commercial establishment premises for more than one week or at more frequent intervals if the City orders that it is necessary to protect the public health. Such storage shall be in containers as for residential dwelling premises, except that so-called “dumpsters” with close-fitting covers may be substituted.
4. Unless the collector agrees to another location on the premises, waste must be deposited for collection adjacent to the street or alley that the collector will use. It must be in one place at ground level and off the traveled roadway. Waste may not remain adjacent to a

street or alley for a period longer than twenty-four (24) hours if not collected and must be removed by the tenant, lessee, owner or occupant.

5. It is unlawful to store organic refuse unless it is drained and wrapped.
6. A person must not deposit waste into a waster container owned by another without the other person's prior permission.
7. A person must not permit waste to accumulate on property under that person's control if it constitutes a nuisance by reason of appearance, odor, sanitation, or is a fire hazard.
8. It is unlawful for any person to deposit refuse from any source, rubbish, offal or the body of a dead animal, in any place other than a site approved by the City or other governmental agency with regulatory authority.
9. It is unlawful for any person to store, deposit or dispose of any refuse, which is in flames or heated to the point where it could cause the danger of fire in other refuse.
10. Operation of Sanitary Landfill or other Disposal Sites. The Council may, by resolution, adopt, and from time to time amend, adjust and revise such rules, regulations, rates and charges as it deems necessary or proper for the proper disposal of refuse at a sanitary landfill or other disposal sites. It may give notice of any such action, as it deems necessary.

Subdivision 3. Storage of Motor Vehicles and/or Junk Vehicles.

1. It is unlawful to park or store any unlicensed, unregistered or inoperable motor vehicle, or parts or components thereof on any property, public or private, unless housed within a lawfully erected building.
2. Required off street automobile parking space shall not be utilized for open storage or for the storage of vehicles which are inoperable, for sale or for rent.
3. It is unlawful to park or store any junk vehicle or parts or components thereof on any property, public or private, unless housed within a lawfully erected building. This section shall not apply to premises on which a junk dealer lawfully carries on such business.

Subdivision 4. Household Furnishings and Appliances.

1. It is unlawful to store any household furnishings, appliances or parts or components thereof on any property, public or private, unless housed within a lawfully erected building.

2. It is unlawful for any person being the owner or in possession or control thereof, to store or dispose of an unused refrigerator, ice box, or other container, sufficiently large to retain any child and with doors which fasten automatically when closed, on his property in a manner accessible to children, without removing the doors, lids hinges, or latches.

Subdivision 5. Construction Materials.

It is unlawful to store any lumber and construction materials, shingles, lawn pavers, decking materials or components thereof, on any property, public or private, unless housed within a lawfully erected building. This section shall not apply to lumber and construction materials if the occupant of the premises has a valid building permit.

Subdivision 6. Miscellaneous Waste.

1. Waste Oil. A person may not place used oil in mixed solid waste or place used oil in or on the land unless approved by the MPCA.
2. Household Waste. All household hazardous wastes shall be disposed of through the Cottonwood County Household Hazardous Waste Program, or a facility designated by the Cottonwood County Board.
3. Lead Acid Batteries. A person may not place a lead acid batter in mixed municipal solid waste or dispose of a lead acid battery. Lead acid batteries are to be taken to a lead acid battery recycling facility.

Subdivision 7. Violation.

Any violation of this section is declared to be a nuisance and upon ten (10) days written notice to the owner of private premises on which such material is found, the City may remove the same and certify the cost of such removal as any other special assessment.

Subdivision 8. Duties of City Officers.

The police department shall enforce the provisions of the ordinance and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

Subdivision 9. Penalty.

Violation of any provisions of this ordinance is declared to be public nuisance and is a misdemeanor punishable as provided by Minnesota Law.

SECTION 8.02. ABANDONED MOTOR VEHICLES, UNCLAIMED AND EXCESS PROPERTY.

Subdivision 1. Definitions.

1. "Abandoned motor vehicle"
 - A. 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
 - B. 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
 - C. Lacks vital component parts or is 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.
 - D. 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.
 - E. A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ or court order is in effect.
 - F. A motor vehicle voluntarily surrendered by its owner to and accepted by the City.
 - G. Vehicles on the premises of junk yards or automobile graveyards that are defined, maintained, and licensed in accordance with Minnesota State Statute Chapter 161, or which are licensed and maintained in accordance with the City Code and zoning regulations, are not considered abandoned.
2. "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, transmission and wheels.
3. "Impound". To take and hold a vehicle in legal custody. There are two types of impounds: public and nonpublic.
4. "Impound Lot/Operator". A person who engages in impounding or storing, usually temporarily, unauthorized or abandon vehicles. It includes an operator of a public or nonpublic impound lot, regardless of whether tow truck service is provided.

Subdivision 2. 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.

Subdivision 3. Custody.

The City may take into custody and impound any abandoned motor vehicle.

Subdivision 4. Immediate Sale.

When an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in Minnesota or any other state or foreign country, it shall immediately be eligible for sale at public auction, and shall not be subject to the notification, reclamation, or title provisions of this Subdivision.

Subdivision 5. Notice.

1. When an abandoned motor vehicle does not fall within the provisions of Subdivision 4 of this Section, the City shall give notice of the taking within ten 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 Subdivision 6 of this Section, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents shall be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the sale of the vehicle and contents at a public auction pursuant to Subdivision 7 of this Section.
2. The notice shall be sent by registered mail to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lien holders of record. 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. Published notices may be grouped together for convenience and economy.

Subdivision 6. Right to Reclaim.

The owner or any lien holder of an abandoned motor vehicle shall have a right to reclaim such vehicle from the City upon payment of all towing and storage charges, resulting from taking the vehicle into custody within fifteen days after the date of the notice required by this Section.

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 Subdivision 6 "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.

Subdivision 7. Public Sale.

An abandoned motor vehicle and contents taken into custody and not reclaimed under Subdivision 6 of this Section shall be sold to the highest bidder at public auction or sale, following one notice published at least seven days prior to such auction or sale. 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.

From the proceeds of the sale of an abandoned motor vehicle, 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 shall be deposited in the General Fund of the City.

Subdivision 8. Disposal of Vehicles Not Sold.

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

1. Contracts and Disposal.

- A. 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.
- B. 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.

- C. 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.

Subdivision 9. Disposal of Unclaimed Property.

1. Definition.

- A. "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.

2. Preliminary Notice. If the City Clerk-Treasurer Clerk knows the identity and whereabouts of the owner, he shall serve written notice upon him 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 who are known by the City Clerk-Treasurer Clerk notice shall also be served upon him. 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.

3. Notice and Sale. Upon adoption of a resolution declaring certain property to be abandoned property, the City Clerk-Treasurer Clerk 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 negotiable. Such notice shall be published once at least three weeks prior to sale. Sale shall be made to the highest bidder at public auction or sale conducted in the manner directed by the Council in its resolution declaring property abandoned and stated in the notice.

4. Fund and Claims Thereon. All proceeds from such sale shall be paid into the General Fund of the City and expenses thereof paid there from. The former owner, if he makes claim within 90 days 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 negotiable 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. Such payment shall be also made from the General Fund.

Subdivision 10. Disposal of Excess Property.

1. Declaration of Surplus and Authorizing Sale of Property. The City Clerk-Treasurer Clerk may, from time to time, recommend to the Council that certain personal property (chattels) owned by the City is no longer needed for a municipal purpose and should be sold. By action of the Council, said property shall be declared surplus, the value estimated and the City Clerk-Treasurer Clerk authorized to dispose of said property in the manner stated herein.
2. Surplus Property With a Total Estimated Value of Less than \$100.00. The City Clerk-Treasurer Clerk may sell surplus property with a total value of less than \$100.00 through negotiated sale.
3. Surplus Property With a Total Estimated Value Between \$100.00 and \$500.00. The City Clerk-Treasurer Clerk shall offer for public sale, to the highest bidder, surplus property with a total estimated value of from \$100.00 to \$500.00. Notice of such public sale shall be given stating time and place of sale and generally describing the property to be sold at least ten days prior to the date of sale either by publication once in the official newspaper, or by posting in a conspicuous place in the City Hall at the City Clerk-Treasurer's Clerk's option. Such sale shall be by auction.
4. Surplus Property With a Total Estimated Value Over \$500.00. The City Clerk-Treasurer Clerk shall offer for public sale, to the highest bidder, surplus property with a total estimated value over \$500.00. Notice of such public sale shall be given stating time and place of sale and generally describing property to be sold at least ten days prior to the date of sale by publication once in the official newspaper. Such sale shall be to the person submitting the highest bid.
5. Receipts From Sales of Surplus Property. All receipts from sales of surplus property under this Section shall be placed in the General Fund.

Subdivision 11. Persons Who May Not Purchase - Exception.

1. No employee of the City, who is a member of the administrative staff, department head, a member of the Council, or an advisor serving the City in a professional capacity, may be a purchaser of property under this Section. Other City employees may be purchasers if they are not directly involved in the sale, if they are the highest responsible bidder, and if at least one week's published or posted notice of sale is given.
2. It is unlawful for any person to be a purchaser of property under this Section if such purchase is prohibited by the terms of this Section.

SECTION 8.03. PUBLIC NUISANCE ORDINANCE.

Subdivision 1. Purpose.

The purpose of this ordinance is to protect the Health, Welfare, and Safety of the citizens of Westbrook. It shall be unlawful to create a nuisance affecting the health, peace, or safety of any person.

Subdivision 2. Definitions.

1. “Nuisance”
 - A. Maintains or permits a condition, a thing, act, failure to act, occupation, or use of property which annoys, injures or endangers the safety, health or comfort of the public; or
 - B. In any way renders the public insecure in life or in use of property; or
 - C. Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public.

Subdivision 3. Public Nuisances Affecting Health.

1. Accumulation of Rubbish, Garbage, and Trash or any combination thereof that exceeds that which ordinarily occurs in one week and is not containerized to prevent odor or spillage;
2. Infestations of insects, vermin or rodents;
3. Any violation of Section 8.01 of the Westbrook City Code;
4. The presence in the outdoor atmosphere of any offensive dust, fumes, smoke, soot, mist, vapor, gas, fluid or particulate substance, differing in composition from, or exceeding in concentration the natural components of the atmosphere in sufficient quantities to make the occupancy of property uncomfortable to a person of ordinary sensibilities;
5. Exposed accumulation of decayed or unwholesome food or vegetable matter;
6. Accumulation of manure, refuse, or other debris;
7. All noxious weeds and other rank growths of vegetation upon public and private property;
8. All ponds or pools of stagnant water creating insect infestation;

9. Carcasses of animals not buried or destroyed within 24 hours after death;
10. Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
11. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substance;
12. All unnecessary noises and annoying vibrations;
13. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this Code or other applicable law;
14. Accumulations in the open of discarded or disused machinery, household appliance, automobile bodies, or other material, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or safety hazards from such accumulation;
15. Any well, hole, or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;
16. Obstruction to the free flow of water in a natural waterway or a public street, drain, gutter, or ditch with trash or other materials;
17. 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 passing over such substance;
18. Effluent from any cesspool, septic tank, drain field or sewage disposal system discharging upon the surface of the ground; and
19. All other conditions or things, which are likely to cause injury to the person or property of anyone.

Subdivision 4. Nuisances Affecting Public Peace and Safety:

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

1. All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;
2. All trees, hedges, billboards or other obstructions which prevent people 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. 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.
5. Radio aerials or television antennae erected or maintained in a dangerous manner.
6. 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.
7. All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated as to endanger public safety, or not constructed and maintained as provided by ordinance.
8. 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.
9. Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way.
10. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.
11. Wastewater cast upon or permitted to flow upon streets or other public properties.
12. 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 other rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation.

13. Domestic Power Equipment. No person shall operate a power lawn mower, power edge 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 9:00 P.M. on any weekday or between the hours of 9:00 A.M. and 9:00 P.M. on any weekend or holiday. Snow removal equipment is exempt from this provision.
14. 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 9:00 P.M. on any weekday or between the hours of 9:00 A.M. and 9:00 P.M. on any weekend or holiday.

Subdivision 5. Enforcement.

It shall be the duty of the City Council or its designated agent to enforce the provisions of this Ordinance. Existing law enforcement agencies shall assist the designated officer or officers in the enforcement of provisions relating to nuisances affecting public safety. Such officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commissions and maintenance of public nuisances.

Subdivision 6. Abatement.

1. Notice. Whenever in the judgment of the City Council or its agent, it is determined upon investigation that a nuisance is being maintained or exists within the City, the designated agent:
 - A. Shall notify in writing the person committing or maintaining such nuisance and the owner of such property and require the person to terminate and abate said nuisance and to remove such conditions or remedy such defects. Said written notice shall be served upon such persons in person or by certified mail. If the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice on the premises. Such notice shall require the owner or occupant of the premises, or both, to take reasonable steps within ten (10) calendar days to abate and remove said nuisance. The maximum time for the removal of said nuisance after service of said notice shall not exceed ten days, unless extended by the City Council in writing. Service of notice may be proved by an affidavit of service.
 - B. Law Enforcement may issue a citation for the violation of this ordinance, which violation shall be a misdemeanor punishable in accordance with misdemeanors under Minnesota Statute; however, the City Council has the authority to issue an administrative citation in lieu of a criminal citation.

C. If after service of notice, the person fails to abate the nuisance or make the necessary repairs, alternations or changes in accordance with the order of the City Council or its agent, the City Council shall provide written notice of an opportunity for a hearing informing the responsible party that the Council may vote to abate such nuisance. Said written notice shall be served upon the person committing or maintaining said nuisance and the owner of such property in person or by certified mail. If the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the hearing notice on the premises; however, thirty days must elapse between the time of posting and the hearing.

D. Abatement:

1) The City may order such nuisance to be abated at the expense of the City. The owner of the premises of 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 and the cost determined, the City Clerk shall prepare a bill for the cost and mail it to the owner. Thereupon, the amount shall be immediately due and payable at the office of the City Clerk. The City may recover such expenditure by assessing the cost of the enforcement action against the real property upon which the nuisance existed and to certify the same to the County Auditor for collection in the same manner as taxes and special assessments are certified and collected. In the alternative, the City can seek money against the responsible party.

E. Emergency procedure; Summary enforcement. In cases of emergency, where delay in abatement due to the above notice procedures 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 charged with enforcement shall determine that a public nuisance exists or is being maintained on the premises in the City and that delay in abatement of the nuisance will unreasonably endanger public health, safety, or welfare. The enforcement officer shall notify the occupant or owner of the premises in person or by certified mail of the nature of the nuisance and of the City's intention to seek summary enforcement and the time and place of the council meeting to consider the question of summary enforcement. The City Council, at such meeting, may then order that such 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.

F. Immediate Abatement: Nothing in this Ordinance shall prevent the City without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

SECTION 8.04. OBSTRUCTIONS ON PUBLIC PROPERTY.

Subdivision 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 Council, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.

Subdivision 2. Fires.

It is unlawful for any person to build or maintain a fire upon public property. With the exceptions of the City of Westbrook campsites. Fires at the campsites are limited to the provided fire rings.

Subdivision 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 chemicals thereon. It is a violation of this Section to place or store any building materials or waste resulting from building construction or demolition on public property without first having obtained a written permit from the Council.

Subdivision 4. Signs and Other Structures.

It is unlawful for any person to place or maintain a sign, advertisement, or other structure on public property without first having obtained a written permit from the Council.

Subdivision 5. 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.

Subdivision 6. Continuing Violation.

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

Subdivision 7. Condition.

Before granting any permit under any of the provisions of this Section, the Council may impose such insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding such persons and property. Such insurance or bond shall also protect the City from any suit, action or cause of action arising by reason of such obstruction.

SECTION 8.05. DANGEROUS WEAPONS AND ARTICLES.

Subdivision 1. Acts Prohibited.

It is unlawful for any person to:

1. Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another; or,
2. Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another; or,
3. Manufacture or sell for any unlawful purpose any weapon known as a slung-shot or sand club; or,
4. Manufacture, transfer or possess metal knuckles or a switch blade knife opening automatically; or,
5. Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or,
6. Possess, sell, transfer, or have in possession for sale or transfer, any weapon commonly known as a throwing star or nun chuck. For the purposes of this Subparagraph, (1) a "throwing star" means a circular metallic device with any number of points projecting from the edge, and (2) a "nun chuck" means a pair of wood sticks or metallic rods separated by chain links attached to one end of each such stick or rod.

Subdivision 2. Exception.

Nothing in Subdivision 1 of this Section shall prohibit the possession of the articles therein mentioned if the purpose of such possession is for public exhibition by museums or collectors of art.

Subdivision 3. Discharge of Firearms, Explosives, and Dangerous Weapons.

1. It is unlawful for any person to fire or discharge any cannon, gun, pistol or other firearm, air gun, air rifle, or other similar device commonly referred to as a B-B gun, except as follows:
 - A. A peace officer in the discharge of duty;
 - B. A person in the lawful defense of his person or family;
 - C. Discharge of firearms in a range authorized in writing by the Council.
2. Bow and Arrow

It is unlawful for any person to shoot a bow and arrow except in the Physical Education Program in a school supervised by a member of its faculty, a community-wide supervised class or event specifically authorized by the Chief of Police, or a bow and arrow range authorized by the Council.

Subdivision 4. Possession and Discharge of Fireworks.

1. A person may possess or discharge “legal” fireworks as permitted pursuant to Minn. Stat. Sec. 624.20 through 624.25, which are hereby adopted by reference under the following conditions:
 - A. A person using, possessing or discharging a “legal” firework must be an adult or a child under direct supervision and in the presence of a parent or legal guardian;
 - B. The use or discharge of legal fireworks must be on one’s own property or with the written permission of the property’s owner.
 - C. It is unlawful to use, fire or discharge any fireworks along the route of and during any parade or at any place of public assembly without a city permit.
 - D. It is unlawful at any time to throw, toss, or aim fireworks at any person, animal, vehicle, or other thing or object as used in any manner that may threaten or cause possible harm to life or property.
 - E. The discharge of fireworks shall be prohibited inside a building within fifteen (15) feet of any building.
 - F. The Fire Chief may ban the use of fireworks if dry or windy conditions occur.
 - G. Fireworks may not be discharged in such a manner that may create a nuisance or between the hours of 10:00 p.m. and 10:00 a.m.
2. Discharge of fireworks other than those permitted under Minn. Stat. Sec. 624.20 through 624.25 shall be allowed only upon written authorization of the City Council.

Subdivision 5. Sale of Fireworks.

It is unlawful to sell fire works in the City of Westbrook in violation of Minn. Stat. 624.20 through 624.25, inclusive, which are adopted by reference. “Legal fireworks” as defined in this Section may, however, be sold upon issuance of a license issued by the city

1. Definition. For the purpose of this Section “legal fireworks” is defined within:

Minn. State statute 624.20 FIREWORK Subdivision 1

2. Application

The application for a license shall contain the following information: name, address, and telephone number of applicant; the address of the location where fireworks will be sold; the type of legal fireworks to be sold; the estimated quantity of legal fireworks that will be stored on the licensed premises.

3. Processing Application

The application must be filed with the City Clerk together with the license fee. Following an inspection of the premises proposed to be licensed, the council shall make a recommendation. The Council shall approve or deny the application. If the City Council denies the license application, the applicant may, within ten (10) days, request a hearing before the City Council.

4. Condition of License. The license shall be issued subject to the following conditions:

- A. The license is non-transferable, either to a different person or location;
- B. The licensed premises must be a permanent building equipped with an automatic sprinkler system;
- C. The license must be publicly displayed on the licensed premises.
- D. The premises are subject to inspection by City employees, including police officers, during normal business hours.
- E. The sale of legal fireworks is only permitted in industrial zoned districts.
- F. The premise must be in compliance with the State Building Code and State Fire Code.
- G. The sale of legal fireworks must be made to persons eighteen (18) years of age or older and such age must be identified by photo identification.
- H. Smoking is not permitted in areas used for retail sale or storage of fireworks.

- I. The applicant must produce a Certificate of Insurance indicating the applicant has liability coverage. The Certificate must demonstrate the insurer has been notified of the type and quantity of consumer fireworks kept on the premises.

5. License Period and License Fee

Licenses shall be issued for a calendar year. The license fee shall be established by the City Council.

6. Revocation of License.

Following written notice and an opportunity for a hearing, the City Council may revoke a license for violation of the Subdivision or state law concerning the sale, use or possession of fireworks. If a license is revoked, neither the applicant nor the licensed premises may obtain a license for twelve (12) months.

SECTION 8.06. DANGEROUS TRESPASSES AND OTHER ACTS.

Subdivision 1. It is unlawful for any person to:

1. Smoke in the presence of explosives, °F inflammable materials, or in a building, or area, in which "No Smoking" notices have been prominently posted; or,
2. Interfere with or obstruct the prevention or extinguishing of any fire, or disobey the lawful orders of a law enforcement officer or fireman present at the fire; or,
3. Show a false light or signal or interfere with any light, signal or sign controlling or guiding traffic upon a highway, railway track, or navigable water; or,
4. Expose another or his property to an obnoxious or harmful gas, fluid or substance, with intent to injure, molest or coerce; or,
5. Permit domestic animals or fowls under his control to go upon the lands of another within the City; or,
6. Interfere unlawfully with any monument, sign or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or a tract of land; or,
7. Trespass upon the premises of another, and without claim of right refuse to depart there from on demand of the lawful possessor; or,
8. Occupy or enter the dwelling of another, without claim of right, or consent of the owner, or the consent of one who has the right to give consent, except in an emergency situation; or,

9. Enter the premises of another with intent to take or injure any fruit, fruit trees or vegetables growing thereon without the permission of the owner or occupant; or,
10. Without the permission of the owner tamper with or get into or upon a motor vehicle, or ride in or upon such motor vehicle knowing it was taken and is being driven by another without the permission of the owner.

SECTION 8.08. DISORDERLY CONDUCT.

Subdivision 1.

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 the following:

1. Engage in brawling or fighting;
2. Disturb an assembly or meeting, not unlawful in its character;
3. Engage in offensive, obscene or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others;
4. Willfully and lewdly expose their person or the private parts thereof, or procure another to so expose himself; and any open or gross lewdness or lascivious behavior, or any act of public indecency;
5. Whether or not posted with signs so prohibiting, voluntarily enter the waters of any river or public swimming pool at any time when said waters are not properly supervised by trained life-saving personnel in attendance for that purpose, or enter such waters without being garbed in a bathing suit sufficient to cover his person and equal to the standards generally adopted and accepted by the public;
6. Urinate or defecate in a place other than
 - A. If on public property then in a plumbing fixture provided for that purpose, or
 - B. If on the private property of another then in a plumbing fixture provided for that purpose, or
 - C. If on private property not owned or controlled by another, then within a building;
7. Cause the making or production of an unnecessary noise by shouting or by any other means or mechanism including the blowing of any automobile or other vehicle horn;

8. Use a sound amplifier upon streets and public property without prior written permission from the City;
9. Use a flash or spotlight in a manner so as to annoy or endanger others;
10. Cause defacement, destruction, or otherwise damage to any premises or any property located thereon;
11. Strew, scatter, litter, throw, dispose of or deposit any refuse, garbage, or rubbish unto any premises except into receptacles provided for such purpose;
12. Enter any motor vehicle of another without the consent of the owner or operator;
13. Fail or refuse to vacate or leave any premises after being 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 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 spouse, children, employee or tenant of such owner or occupier.

SECTION 8.09. DISORDERLY CONDUCT-NOISE

Subdivision 1. General Provisions

It is unlawful to engage in acts or activities, which are defined to be loud, disturbing and unnecessary noises in violation of this Section. The following enumeration of acts deemed and declared to be loud, disturbing and unnecessary noises in violation of this Section is intended to constitute a listing of examples of such loud, disturbing and unnecessary noises, which listing shall not be deemed to be exclusive.

Subdivision 2. Gathering, Party/Noise

1. Prohibition. It is unlawful for any person to, between the hours of 10:00 P.M. and 7:00 A.M., congregate at, or participate in any party or gathering of two or more people from which noise emanates of a sufficient volume so as to disturb the peace, quiet, or repose of another person. It is also unlawful for any person to knowingly remain at such a noisy party or gathering.
2. A person shall not permit or participate in any party or other gathering of people on public or private property which causes unreasonably loud noise that it disturbs the peace, quiet and comfort of others and interferes with the right of another to use peacefully his/her property or public property without disturbance.

3. It is unlawful to yell, shout, hooting, whistle or sing at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel, motel, or other place of residence, or of any person in the vicinity.
4. 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 the landowner or other person in lawful possession of such private lands. 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.
5. Evidence. It shall be presumed that a violation of this Section has occurred when any noise from a gathering is plainly audible at a distance of 50 feet or more between the hours of 10:00 p.m. and 8:00 a.m.
6. Duty to Disperse. When a police officer has probable cause that a violation of this Section is occurring, the officer may order all persons present, other than the owner or tenant of the premises, to disperse and leave the premises immediately. It shall be a violation of this Section for any person to refuse to leave after being so ordered by the police officer.
7. Exceptions. The following are exempt from violation of this Section:
 - A. Activities which are duly authorized, sponsored or licensed by the City, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity.
 - B. Church bells or chimes.
 - C. Persons who have gone to the party for the sole purpose of abating the violation.

Subdivision 3. Sound Equipment

No person shall use or operate any electronic sound system or audio equipment, including but not limited to any compact disc player, cassette tape player, AM-FM radio, citizens band radio, paging system, phonographs or any other device designed to produce or reproduce audio sound, in such a manner that it disturbs the peace, quiet and comfort of others in the neighborhood or interferes with the right of another to use peacefully his/her property or public property without disturbance.

- A. It shall be presumed that a violation of the Section has occurred when any electronic sound system or audio equipment is operated in a manner in which it is plainly audible at a distance of 50 feet or more between the hours of 10:00 p.m. and 8:00 a.m. It shall be presumed that a violation of this Section has occurred when any electronic sound system or audio equipment is operated in a manner in which it is plainly audible at a distance of 100 feet or more between the hours of 8:00 a.m. and 10:00 p.m.
- B. When sound violating this section is produced by an electronic sound system or audio equipment that is located in or on a vehicle, the vehicle's owner is guilty of the violation, provided that if the vehicle's owner is not present, the person in charge of the vehicle at the time of the violation is guilty of the violation.
- C. This section shall not apply to sound produced by the following:
 - 1. Amplifying equipment used in connection with activities for which a permit has been granted or in connection with any organized school, church, or other event or activity open to the public;
 - 2. Anti-theft device;
 - 3. Church bells, chimes or carillons, school bells or emergency civil defense warning signals; and
 - 4. Authorized emergency vehicles or other vehicles required by law to be equipped with sound devices.

Subdivision 4. Excessive Vehicle Noise.

- 1. Definitions. The following terms shall have the meaning stated:
 - A. “Engine Retarding Brake” means a Dynamic Brake, Jake Brake, and Jacob Brake, C-Brake, Paccar Brake, Transmission Brake or other similar engine retarding brake system, which alters the normal compression of the engine and subsequently releases that compression.
 - B. “Abnormal or Excessive Noise”
 - 1) Means distinct and loudly audible noise that unreasonably annoys, disturbs, injures or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value;
 - 2) Noise in excess of that permitted by Minnesota Statute 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order; or
 - 3) Noise in excess of that permitted by Minnesota Statute 169.693 and Minnesota Rules Parts 7030.1000 through 7030.1050, as this statute and these rules may be amended from time to time, which establish motor vehicle noise standards.

2. Mufflers/Exhaust. It is unlawful for any person to discharge the exhaust or permit the discharge of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicles, snowmobile or any recreational device except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.
3. Engine Retarding Brake. It is unlawful for any operator of any truck to intentionally use an engine retarding brake on any public highway, street, parking lot or alley within the City, which causes abnormal or excessive noise except in an emergency.
4. Sign Posting. Signs Stating “VEHICLE NOISE LAWS ENFORCED” may be installed at locations deemed appropriate by the Council to advise motorists of the prohibitions contained in these sections and signs prohibiting Jake braking may be installed at locations deemed appropriated by the City Council, except no signs shall be installed on any State Highway without the permission of the Minnesota Department of Transportation. The provisions are in full force and effect even if no such signage is installed.

Subdivision 5. Construction Noise.

The erection (including excavating), demolition, alteration or repair of any building between the hours of 9:00 P.M. and 6:00 A.M. on weekdays and all day Sunday except where single individuals or families work on single family residences for their own occupancy owned by them, except that the Building Inspector may, in cases of emergency, grant permission to repair at any time when it finds that such repair work will not affect the health and safety of the person in the vicinity.

Subdivision 6. Exemptions.

Upon special request made by contractors, the Council may exempt contractors performing public works operations from time prohibitions set forth in this Section.

Subdivision 7. Filing.

The City Clerk shall file a copy of this ordinance in the office, which copy shall be available for inspection by any person during regular office hours.

Subdivision 8. 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.

SECTION 8.10 TOBACCO

Subdivision 1. Minor Defined.

“Minor” means any natural person who has not yet reached the age of eighteen (18) years.

Subdivision 2. Possession by Minor.

It is unlawful for any minor to have in his or her possession any tobacco, tobacco products, or tobacco related devices. This subdivision shall not apply to a minor lawfully involved in a compliance check.

Subdivision 3. Use by Minor.

It is unlawful for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco products, or tobacco related devices.

Subdivision 4. Procurement by or for a Minor.

It is unlawful:

1. For any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco products, or tobacco related devices;
2. For any person to purchase or otherwise obtain such items on behalf of a minor;
3. For any person to sell or otherwise provide any tobacco, tobacco products, or tobacco related devices to any minor;
4. For any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco products, or tobacco related devices;
5. This subdivision shall not apply to minors lawfully involved in a compliance check.

Subdivision 5. Use of False Identification.

It is a violation of this Section for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

Subdivision 6. Exceptions and Defenses.

Nothing in this Section shall prevent the providing of tobacco, tobacco products, or tobacco related devices to a minor as part of a lawfully recognized religious spiritual or cultural ceremony. It shall be an affirmative defense to the violation of this Section for a person to have reasonably relied on proof of age as described by State law.

Subdivision 7. Minors.

Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be charged under the appropriate provisions of Minnesota Law.

SECTION 8.11. CURFEW

Subdivision 1. Definition.

As used in this Section "minor" means a person under the age of Eighteen (18) years.

Subdivision 2. Unlawful Acts.

1. It is unlawful for any minor person to be or loiter upon the streets or public places between the hours of 11:00 o'clock P.M. and 5:00 o'clock A.M. Sunday thru Thursday nights, and between the hours of 1:00 o'clock A.M. and 5:00 o'clock A.M. Friday and Saturday nights.
2. It is unlawful for any parent, guardian, or other person having the legal care or custody of any minor 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 parent or guardian.
3. 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 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 in charge. This Subparagraph shall not be construed to permit the presence, at any time, of any person under age in any place where their presence is otherwise prohibited by law.

Subdivision 3. Exceptions.

Such curfew shall not apply to any minor student who is lawfully attending, going to or returning from school, church or community sponsored athletic, musical or social activities or events.

SECTION 8.12. ANIMAL LICENSING AND REGULATION.

Subdivision 1. Definition.

For the purpose of this Section:

1. "Animal" means a dog, cat, or ferret.
2. "Dangerous Animal" means an animal which has caused damage to property or injury to a person, or which animal, by its actions, exhibits a propensity for causing imminent danger to persons.
3. "Dog" means both male and female and includes any animal of the dog kind.
4. "Cat" means both male and female and includes any animal of the feline kind.
5. "City" shall mean the City of Westbrook.
6. "Non-Domestic Animal" shall mean those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people.
7. "Own" means to have a property interest in, or to, harbor, feed, board, keep or possess.
8. "Owner" means a person who owns an animal hereby regulated.
9. "Running at Large" means off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

Subdivision 2. Exceptions, Police Dogs and Service Animals.

The provisions of this subchapter shall not apply to the ownership or use of seeing-eye dogs by blind persons, or dogs used in police activities of the city, such as canine corps or tracking dogs used by or with the permission of the Police Department. If the animal owned is a service animal which is capable of being properly identified as from a recognized school for seeing eye, hearing ear, service or guide animals, and the owner is a blind or deaf person, or a person with physical or sensory disabilities, then no license shall be required.

Subdivision 3. Running at Large Prohibited.

It is unlawful for any person who owns, harbors, or keeps a dog or cat to permit that animal to run at large. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading “Dogs or Cats Prohibited.”

Subdivision 4. License Required.

It is unlawful for the owner of any animal, six months of age or more, to fail to obtain a license therefore from the City.

Subdivision 5. Number of Animals Permitted.

It is unlawful for an owner of animals to own more than a combination of four (4) animals, except that a fresh litter of animals may be kept for a period of six (6) months.

Subdivision 6. License Issuance, Term and Renewal.

All animal licenses shall be issued only upon presentation of a certificate issued by a veterinarian, licensed to practice veterinary medicine in the State of Minnesota, showing rabies immunization of the animal for at least the term of the license. All animal licenses shall expire on May 31 every year, licenses being issued annually. Application for license renewal, accompanied by a veterinarian's certificate, shall be made at least thirty (30) days prior to expiration of the license. Licensing shall not apply to the ownership or use of Seeing Eye dogs by blind persons, dogs used in police activities of the City, dogs whose owners are non-residents temporarily within the city, or dogs brought to into the city for the purpose of participating in any dog show.

Subdivision 7. Adoption of Fees.

All fees for the licensing, impounding and maintenance of animals, including penalties for late application, may 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.

Subdivision 8. Tag Required.

All licensed animals shall wear a collar and have a tag firmly affixed thereto evidencing a current license. A duplicate for a lost tag may be issued by the City upon presentation of the receipt showing the payment of the duplicate license fee. Tags shall not be transferable, and no refund shall be made on any license fee because of leaving the City or death of the animal before the expiration of the license. This provision shall not apply to animals that never leave the home.

Subdivision 9. Animal Pound.

1. Any animal found in the City without a license tag, running at large, or otherwise in violation of this Section, shall be placed in the Animal Pound, and an accurate record of the time of such placement shall be kept on each animal.
2. Every animal so placed in the Animal Pound shall be held for redemption by the owner for a period of at least five regular business days. A "regular business day" is one during which the Pound is open for business to the public for at least four hours between 8:00 o'clock A.M. and 7:00 o'clock P.M.
3. Impoundment records shall be preserved for at least six months and shall show:
 - A. The description of the animal by specie, breed, sex, approximate age, and other distinguishing traits;
 - B. The location at which the animal was seized;
 - C. The date of seizure;
 - D. The name and address of the person from whom any animal three months of age or over was received; and,
 - E. The name and address of the person to whom any animal three months of age or over was transferred. If unclaimed, such animal shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under authority of Minnesota Statutes, Section 35.71. Provided, however, that if a tag affixed to the animal, or a statement by the animal's owner after seizure specifies that the animal should 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 five-day period.

Subdivision 10. Notice of Impounding.

Upon the impounding of any animal, the owner shall be notified by the most expedient means, or if the owner is unknown, written notice shall be posted for five days at the City Hall describing the animal and the place and time of taking.

Subdivision 11. Release From Animal Pound.

Animals shall be released to their owners, as follows:

- A. If such animal is owned by a resident of the City, after purchase of a license, if unlicensed, and payment of the impounding fee and maintenance.
- B. If such animal is owned by a person not a resident of the City, after immunization of any such animal for rabies, and payment of the impounding fee and maintenance.

Subdivision 12. Seizure by a Citizen.

- 1. It is lawful for any person to seize and impound an animal so found running at large and shall within six hours thereafter notify the Police Department of said seizure.
- 2. It shall be the duty of the Police Department to place said animal in the City Pound. If the name of the owner of such animal so seized is known to the person who first takes such animal into custody, he or she shall inform the Police Department of the name of the owner, and the address if known.

Subdivision 13. Immobilization of Animals.

For the purpose of enforcement of this Section any peace officer, or person whose duty is animal controls, may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing and catching an animal.

Subdivision 14. Other Unlawful Acts.

It is unlawful for the owner of any animal to:

- 1. Own a dangerous animal, or
- 2. Interfere with any police officer, or other City employee, in the performance of duty to enforce this Section.

If the Chief of Police of the City determines that a potentially dangerous dog is in, has been in, or may enter, the City, he/she may cause a “Notice of Potentially Dangerous Dog” to be issued to an owner of such dog. Such notice shall be in writing and be dated, shall be accompanied by a copy of this ordinance, and shall include at least the following:

- i) The name and address of the owner to whom the notice is being sent.
- ii) A description of the dog, containing such information as may be reasonable available.
- iii) The behaviors or information which led to the determination that the dog was potentially dangerous.

- iv) Notification that the corrective action specified in the next paragraph of this section must be taken in regards to the dog.
- v) An advisory that future aggressive behavior by the dog could result in it being found to be a dangerous dog.

When a dog has been determined to be potentially dangerous, the following corrective action must be implemented by the owner no later than 14 days from the date of the notice:

- i) A microchip must be implanted in the dog for identification,, and the name of the Microchip manufacturer, identification number of the microchip and written proof of implantation must be provided to the City Clerk. All implantation costs shall be borne by the owner.
- ii) At all times, except when inside a kennel in the City or inside a building, the dog Shall be muzzled with a muzzle that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.
- iii) Owner shall pay a fee of \$200 to the City Clerk to assist in covering the additional expense of administration incurred in dealing with the potentially dangerous dog.

In reaching a determination that a dog is potentially dangerous, the Chief of Police may use any reliable evidence pertaining to the circumstances involved, including but not limited to reports from the other law enforcement agencies. It shall not be necessary that the acts of the dog which resulted in the determination that the dog potentially dangerous occurred within the City.

Subdivision 15. Non-Domestic Animals.

It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within city limits. An exception shall be made for animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

Subdivision 16. Summary Destruction.

If an animal is diseased, vicious, dangerous, rabid or exposed to rabies and such animal cannot be impounded after a reasonable effort or cannot be impounded without serious risk to the person attempting to impound, such animal may be destroyed in a humane manner.

Subdivision 17. Rabies Control - Generally.

1. Every animal which bites a person shall be promptly reported to the Police Department and shall thereupon be securely quarantined at the direction of the duty officer for a period of fourteen (14) days, and shall not be released from such quarantine except by written permission of the City. In the discretion of the duty officer, such quarantine may be on the premises of the owner or at the veterinary hospital of duty officer's choice. If the animal is quarantined on the premises of the owner, the City shall have access to the animal at any reasonable time for study and observation of rabies symptoms. In the case of a stray animal or in the case of an animal whose ownership is not known, such quarantine shall be at the animal pound, or at the discretion and designation of the Chief of Police the animal may be confined in a veterinary hospital.
2. The owners, upon demand made by the Police Department or its designee, shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for the purpose of supervised quarantine. The expenses of the quarantine shall be borne by the owner and the animal may be reclaimed by the owner if adjudged free of rabies upon payment of fees set forth in this Section and upon compliance with licensing provisions set forth in this Section.
3. When an animal under quarantine and diagnosed as being rabid or suspected by a licensed veterinarian as being rabid dies or is killed, the City shall immediately send the head of such animal and rabies data report to the State Health Department for pathological examination and shall notify all persons concerned of the results of such examination.
4. The City shall issue such proclamation and take such action when rabies is suspected or exists as is required by Minnesota Statutes.

Subdivision 18. Reports of Bite Cases.

It is the duty of every physician, or other practitioner, to report to the Police Department the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control.

Subdivision 19. Responsibility of Veterinarians.

It is the duty of every licensed veterinarian to report to the Police Department the diagnosis of an animal observed by the licensed veterinarian as a rabies suspect.

Subdivision 20. Animals in Heat.

Except for controlled breeding purposes, every female animal in heat shall be kept confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel, in such manner that such female animal cannot come in contact with other animals.

Subdivision 21. Animal Waste.

It is unlawful for any owner to:

1. Suffer or permit an animal to defecate upon public property, or the private property of another, without immediately removing the excrement and disposing of it in a sanitary manner;
2. Suffer or permit an animal to be upon public property, or the private property of another, unless such animal is in the custody of a person of suitable age and discretion having in his possession equipment and supplies for excrement removal;
3. Permit animal excrement to accumulate for a period in excess of seven (7) days on premises occupied by the owner without removal and sanitary disposal.

Subdivision 22. Habitual Barking.

It shall be unlawful for any person to keep or harbor a dog, which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least three (3) minutes with less than one (1) minute of interruption. Such barking must also be audible off of the owner or caretaker's premises.

Subdivision 23. Damage to Property.

It shall be unlawful for any person's animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage. Any animal covered by this subdivision may be impounded as provided in this Section or a complaint may be issued by anyone aggrieved by an animal under this Section, against the owner of the animal for prosecution under this Section.

Subdivision 24. Staking of Animals.

Any owner who chooses to restrain or control an animal by affixing a leash to a stake, picket, or other immobile object must do so in a manner that restrains the animal as follows:

1. 10 feet from any property line;
2. 10 feet from any sidewalk;
3. Length of time allowed.

Subdivision 25. Kenneling.

Any owner who chooses to retrain an animal in a fenced or caged area, also known as a kennel, must do so in a manner as follows:

1. Locate such kennel 10 feet from any property line;
2. Such kennel may not be located in the front yard;

3. The minimum floor size of such kennel must be 32 square feet;
4. The side walls of the kennel shall have a minimum height of 5 feet and be constructed of 11 gauge or heavier wire;
5. The kennel area shall provide for some coverage to protect the animal from the elements;
6. The entrance or gate shall be equipped with a device capable of being secured in a fashion suitable to prevent the animal from escaping.

Subdivision 26. Sale or Transfer of Potentially Dangerous Dog

If an owner of a dog determined to be potentially dangerous, having been sent a notice as provided in Subdivision 14, above shall sell or give away the dog involved, such owner shall obtain and provide the City Clerk within 7 days of the date of selling or giving away the dog, a written receipt, signed and acknowledged before a notary public by the new owner, stating that the new owner has come into ownership of the dog, has been advised that the dog has been determined to be potentially dangerous dog by the City, and that the new owner understands that, should the dog be kept in or brought into the City, the corrective action specified in Subdivision 14 above, to the extent not completed by the previous owner, must be undertaken as to the dog within 10 days, or prior to the dog being brought into the City, whichever shall occur later. Such receipt shall clearly state the name and residence address of the new owner. A new owner obtaining a dog previously determined to be a potentially dangerous do shall also obtain such a receipt and provide same to the City Clerk within 7 days if the new owner shall thereafter sell or give away the dog. If any dog previously determined to be a potentially dangerous dog shall die, the owner of the dog shall, within 14 days of the date of death, provide to the City Clerk a written affidavit stating the circumstances of and date of death, and details as to the disposal of the dog's remains. If an owner of a dog previously determined to be a potentially dangerous dog by any governmental entity other than the City shall bring such dog into the City, such owner shall, within 14 days, provide to the City Clerk proof of microchip implantation as provided for in subdivision14 and shall pay the \$200 fee provided for in said subdivision; such owner shall also be required to comply with the muzzling requirements set forth in said subdivision. A party becoming an owner of a dog previously determined to be potentially dangerous, shall within 14 days of becoming such an owner, provide to the City Clerk a description of the dog involved and the owner's name and address, and shall be required to re-license the dog with the City.

Subdivision 27. Exemptions.

A dog may not be declared potentially dangerous if the threat, injury or damage was suffered by a person or domestic animal where:

- A. Such person, the time, was committing a willful trespass or other tort upon the Premises occupied by the owner of the dog.
- B. Such domestic animal was at large illegally upon the premises occupies by the owner of the dog.
- C. Such person was provoking or abusing the dog, or was a person who can be shown to have repeatedly, in the past, provoked or abused the dog.
- D. Such person was committing or attempting to commit a crime.

A dog may also not be declared potentially dangerous where the dog is used by law enforcement officials for police work.

Subdivision 28. Review.

Any owner who is sent a notice of potentially dangerous dog may request in writing stating the reasons therefore, filed with the City Clerk, that the City Council set aside such determination. The request must be made within 14 days of the date if said notice. The City Council, at its next regular meeting occurring at least 10 days thereafter, shall review the determination and either affirm or set aside same. Beginning six months after a dog has been determined to be a potentially dangerous dog, an owner may request, not more frequently than every six months , that the City Council review the determination; the owner shall provide evidence that the dog’s behavior has changed due to the dog’s age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors in order to support the requested review. If the City Council finds sufficient evidence that the dog’s behavior has materially changed, the determination that the dog is potentially dangerous may be rescinded.

Subdivision 29. Review.

In addition to any regular dog licensing fees, an owner shall pay a fee of \$500 to the City to obtain any certificate of registration for a dangerous dog to be issued under Minnesota Statutes 347.51

Subdivision 30. Penalty.

Any violation of this section is punishable as a petty misdemeanor.

SECTION 8.13. ANIMALS AND FOWL - KEEPING, TRANSPORTING, TREATMENT, HOUSING.

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

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

Subdivision 2. Keeping.

It is unlawful for any person to keep or harbor any animal or farm animals, not in transit, except:

1. Farm animals (except swine) kept on premises where farm animals are kept on the effective date of this Section;
2. Farm animals kept in that portion of the City zoned for agricultural purposes,
3. Horses being used to transport persons or property, used in a parade or for other draft purposes;
4. Animals kept in a laboratory for scientific or experimental purposes,
5. Animals kept in an animal hospital or clinic for treatment by a licensed veterinarian.

Subdivision 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.

Subdivision 4. Treatment.

It is unlawful for any person to treat any animal as herein defined, or any other animal, in a cruel or inhumane manner.

Subdivision 5. Housing.

It is unlawful for any person to keep any animal as herein defined, or any other animal, in any structure infested by rodents, vermin, flies or insects, or inadequate for protection against the elements.

Subdivision 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 therefore from the owner.

Subdivision 7. Animal Waste.

It is unlawful for any person to:

1. Suffer or permit an animal to defecate upon public property, or the private property of another, without immediately removing the excrement and disposing of it in a sanitary manner.
2. Suffer or permit an animal to be upon public property, or the private property of another, unless such animal is in the custody of a person of suitable age and discretion having in his possession equipment and supplies for excrement removal.
3. Permit animal excrement to accumulate for a period in excess of 7 days on premises occupied by him without removal and sanitary disposal.

SECTION 8.14. MINNESOTA UNIFORM FIRE CODE.

Subdivision 1. Adoption.

The 1982 Edition of the Minnesota Uniform Fire Code is hereby adopted as though set forth verbatim herein. One copy of said Code shall be marked CITY OF WESTBROOK-OFFICIAL COPY and kept on file in the office of the City Clerk-Treasurer and open to inspection and use by the public.

Subdivision 2. Storage of Flammable and Explosives Material.

No bulk plants for storage of flammable or combustible liquids, or bulk storage of liquefied petroleum gas, not established on the effective date of this Section, shall be permitted. No storage of explosives or blasting agents shall be permitted.

SECTION 8.15. OPEN BURNING AND REGULATIONS OF FIRES

Subdivision 1. Open Burning of Leaves.

1. Subject to the provisions of Minnesota Statutes, Sections 88.16, 88.17 and 88.22, the open burning of dried leaves during the months of April and May; and between September 15 and December 1 is hereby permitted.
2. Such burning shall be limited to the areas of the City zoned for residential purposes only.

3. Burning will only be allowed between the hours of 8:00 o'clock A.M. and 8:00 o'clock P.M. All fires are to be extinguished by 8:00 o'clock P.M.
4. Such fires shall be a minimum of 25 feet from any structure, wood fence, hedge or bush and no less than 5 feet from any property line.
5. The burning of leaves is prohibited on City streets, boulevards, lakeshores or any public property by private citizens.
6. All such fires shall be attended, at all times, by a person of suitable age and discretion.
7. No burning shall take place during air pollution alert, warning or emergency declared by the Pollution Control Agency.

Subdivision 2. Open Burning Restrictions

1. Definitions. The following words and terms, when used in this Article, shall have the following meanings unless the context clearly indicates otherwise:
 - A. “Bonfire”, a large, controlled fire built in an open area for specific events.
 - B. “Open fire/Open Burning”, a fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed fire box, structure, or vehicle, and from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct, or chimney.
 - C. “Recreational Fire”, a fire set for cooking, warming, or ceremonial purposes, which is not more than three (3) feet in diameter by three (3) feet high.
 - D. “Starter Fuels”, dry, untreated, unpainted wood, or charcoal fire starter.
 - E. “Wood”, dry clean fuel only such as twigs, branches, limbs, “Presto Logs” charcoal, cordwood, or untreated dimensional lumber. The word “wood” does not include wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or other preservatives.
2. Open burning Prohibited. No person shall cause, allow, or permit open burning within the City of Westbrook.
3. Exceptions to Open Burning.

Open burning of the types and subject to the conditions, as hereinafter stated, shall be exempt from the prohibition in Chapter 8 Section 15, subdivision 2.2:

- A. Bonfire, if a city permit is obtained.

- B. Fires under managed supervision for which a burning permit has been obtained from the City Council and Where required by state law, from the Department of Natural Resources, but limited to the following:
 - 1) Fires purposely set for the instruction and training of public and industrial fire fighting personnel.
 - 2) Fires set for the elimination of a fire hazard, which cannot be abated by any other practicable means.
 - 3) Fires purposely set for forest, prairie, and game management purposes.
- C. Exceptions to conduct fires under this Section does not excuse a person from the consequences, damage, or injuries which may result there from nor does it exempt any person from regulations promulgated by the Minnesota Pollution Control Agency or any other governmental unit exercising jurisdiction in matters of pollution or fire hazard regulation.
- D. Minnesota Statutes Adopted by Reference. Minnesota Statutes, Sections 88.02-88.22, 88.75 and 88.76 are hereby adopted by reference and made a part of this ordinance as is set forth fully herein.

Subdivision 3. Firewood Storage.

- 1. Findings. The City Council finds that the use of wood for home heating is increasing and that to protect the public health and safety, woodpiles on residential properties must be erected, located, and maintained in a safe and orderly fashion.
- 2. Definitions. The following words and terms when used in this Section shall have the following meanings unless the context clearly indicates otherwise.
 - A. Approved accessory structure- a structure accessory to a residence which is imperative to the elements and is inaccessible to rodents and other pests, and which has obtained all permits, variances and other approvals required by the City Code for its construction.
 - B. Fireplace Cord- A stack of wood 16 inches wide by eight (8) feet long by four (4) feet high.
 - C. Firewood- Any wood or wood product usually used or intended for use as heating fuel in a residence.
 - D. Neat secure Stack- a stack of firewood that is piled in a regular, orderly arrangement that is stable and reasonably resistant to collapse.
- 3. Storage.
 - A. Except for firewood and construction materials necessary for on-site work, no wood or wood product shall be kept or stored on residential premises.

- B. Firewood may be stored on residential premises solely for use on the premises and not for resale.
- C. Except as provided below, all firewood located upon a residential premises shall be stored as follows:
 - 1) The firewood shall be stored in neat, secure stacks;
 - 2) The height of a woodpile over three feet shall be no more than twice its width, but in no event shall the height exceed six (6) feet;
 - 3) No firewood shall be stored within 10 feet of any side or rear property line; except that if the wood is stored in an accessory structure which meets all zoning setback requirements;
 - 4) No firewood shall be stored in the front yard.
- 4. Exceptions. None of the above storage specifications shall apply to firewood stored within a home, garage, or other approved accessory structure.

Subdivision 4. Careless Fires.

Every person who shall negligently or carelessly set on fire, or cause to be set on fire, any combustible material, whether on his own land or not, by means whereof the property of another shall be endangered, or who shall negligently suffer any fire upon his own lands to extend beyond the limits thereof, shall be guilty of a misdemeanor.

Subdivision 5-Solid Fuel-fired Heating Devices and Solid Fuel

A. Outdoor container requirements:

- 1. Storage container must be painted and designed to blend with the structure it serves.
- 2. Screening may be required if the characteristics of the container, property and neighborhood of the lot and surrounding houses.
- 3. The height of the container must be at least 1 foot less than the sidewall of the structure it serves.
- 4. The container must be permanently attached to the ground.
- 5. The container must be of sturdy leak-proof construction, and constructed with adequate wall thickness, weld, hinge, and seam strength and sufficient strength to withstand damage to container when filled.
- 6. All lids, caps, hinges or other closure devices must be of sufficient strength and construction to remain closed between uses, shall not leak and shall be installed in a manner that does not damage the container.
- 7. All piping must be tightly closed when not in use.

B. Other requirements:

- 1. All solid fuel-fired heating devices shall meet emission standards currently required by the Environmental Protection Agency (EPA) and Underwriters Laboratories (UL) listing.

2. A mechanical permit/building permit shall be required to install any solid fuel-fired heating device within the city.
3. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities is not allowed.
4. The following materials shall not be used or burned in solid fuel-fired heating devices: grass, leaves, oils, rubber, The following materials shall not be used or burned in solid fuel-fired heating devices: grass, leaves, oils, rubber, plastics, tires, railroad ties, construction debris and painted or chemically treated materials such as treated lumber, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint, and hazardous and industrial solid waste. No garbage.
5. Fuel must not be left on ground in a manner that attracts vermin.

C. Enforcement:

Violations of this section shall be punishable as a public nuisance as provided in Section 8.03 Public Nuisance.

Subdivision 6.

A copy of this section, or any amendment thereof, shall be submitted to the Minnesota Pollution Control Agency and the Minnesota Department of Natural Resources.

SECTION 8.16 **REGULATION OF TREES**

Purpose: The City of Westbrook (herein called the “City”) believes that it is in the best interest of the general public for the City to regulate boulevard landscaping and treatments as well as the planting, pruning and removal of trees located upon City boulevards, rights-of-way and easements. The City encourages the proper planting and care of trees within the City. The City Tree Inspector or designee shall have the authority to enforce the City Code and implement related policy.

Subdivision 1. **Definitions**

A. Right-of-way – City, County or State owned or controlled property designated to be used for streets, sidewalks, alleys, and boulevards.

B. Boulevard – The portion of a right-of-way that is located between the concrete curb and property line of adjacent private property (approximately fifteen feet), including the sidewalk or area reserved for sidewalk.

C. Easement – Permission granted by a property owner authorizing the City to enter a strip of land for the purpose of constructing and maintaining streets, public utilities, storm drainage ways, or ponding areas.

D. Tree Inspector - A person retained by the City responsible for inspecting trees within city limits and implementing this ordinance. The tree inspector may appoint a designee and retain a tree care service to carry out the provisions of this ordinance. Any tree care service retained by the City must show proof of insurance in an amount as deemed appropriate by the City.

Subdivision 2. Boulevards

A. General standards: Boulevard sections of public rights-of-way throughout the City can be planted with grass, or a combination of grass and deciduous trees. Any trees planted within or near boulevards shall be of a species acceptable to the City and planted and pruned in such a manner to insure that foliage does not obstruct pedestrians, vehicles, utility lines or regulatory signage. It is the responsibility of the adjoining property owners to properly maintain boulevard grass and trees, to keep the area free of weeds and debris, and to remove any substance or material that may be hazardous to pedestrians.

Subdivision 3. Tree Planting

A. Varieties of trees: Only those trees identified on the attached list may be planted on the City's rights-of-way, boulevards and/or easements.

B. Suitable planting conditions: Generally, trees planted on boulevards shall adhere to the specifications as described in the attached "Westbrook Acceptable Shade and Boulevard Trees." This information refers to the space from the tree to the back of concrete curb and to the sidewalk (or area reserved for sidewalk if none exists). It also specifies which trees are acceptable for planting under power lines.

C. Spacing: No trees shall be planted closer than the following: large trees-thirty (30) feet and small trees-fifteen(15) feet of another tree and/or stop sign and fifteen (15) feet of a light standard, power pole, or hydrant without approval of the Tree Inspector or designee. Also, no tree shall be planted where it may interfere with sight lines to traffic signs, the clear view at intersections, the overhead power lines, street lighting or any other City infrastructure. **No street trees, other than those species accepted as small trees on the "Westbrook Acceptable Shade and Boulevard Trees" list may be planted under any overhead utility wire or within fifteen (15) feet of any other utility.**

1. Exceptions – If the green space does not meet the size requirements for planting or there are any other special circumstances, the Tree Inspector or designee shall review each proposed planting on an individual basis.

D. Wrong Choice of Planted Tree: The Tree Inspector or designee may require the replanting of a boulevard tree at least three (3) feet (minimum) behind the sidewalk or space reserved for sidewalk on either public or private property, if it is interfering with sight lines to traffic signs, the clear view at intersections, the overhead power lines, street lighting or any other City infrastructure.

Subdivision 4. Tree Removal on Public and Private Property

A. Reasons for Tree Removal (Exceptions considered on an individual basis.)

1. Disease
2. Dead or declining health
3. Structurally hazardous/obstructs views
4. Undesirable species
5. Insufficient growing space
6. Threat to the health and well being of the public and/or urban forest.

B. 1. City Action/Non-Utility: The Tree Inspector, as appointed by the City Council, may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature lacks the minimum clearance over streets, alleys and sidewalks, is dead or is affected with any injurious fungus, insect, or other pest which constitutes a potential threat to the trees within the city. The Tree Inspector will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owner's property tax assessment.

2. **City Action/Utility:** Any tree or part thereof which is unsafe or injurious to sewers, electric power lines, water lines, and other public improvements shall be removed or trimmed as set forth in Ordinance 3.05 Subd. 5.

C. Removal of Stumps: All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. The waste material shall be cleaned up and the hole filled with soil.

SECTION 8.17. GRASS, WEEDS, BRUSH AND OTHER VEGETATION ON PRIVATE PROPERTY.

Subdivision 1. Cutting and Removal of Grass, Weeds and Other Rank, Poisonous or Harmful Vegetation.

1. It is unlawful for any person having control of any occupied or unoccupied lot or land or any part thereof in the City to permit or maintain on any such lot or land, or on or along the sidewalk, street or alley adjacent to the same between the property line and the curb or middle of the alley or for ten feet outside the property line if there be no curb, any growth of weeds, grass, brush or other rank vegetation to a greater height than six (6) inches on the average, or any accumulation of dead weeds, grass or brush.

2. It is also unlawful to any such person to cause, suffer or allow poison ivy, ragweed or other poisonous plants, or plants detrimental to health to grow on any such lot or land in such manner that any part of such ivy, ragweed, or other poisonous or harmful weed shall extend upon, overhang or border any public place or allow to seed, pollen or other poisonous particles or emanations there from to be carried through the air into any such public place.

Subdivision 2. Duty of Owner, Lessee or Occupant.

It is the duty of any owner, lessee or occupant of any lot or land to cut and remove or cause to be cut and removed all such weeds, grass, brush or other rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of Subdivision 1; provided that cutting and removing such weeds, grass and vegetation at least once every three weeks, between May 15 and September 15 shall be deemed to be a compliance with this Section.

Subdivision 3. When City to do Work.

If the provisions of the foregoing Subdivisions are not complied with:

1. The City Clerk-Treasurer shall serve written notice upon the owner, lessee or occupant or any person having the care or control of any such lot or land to comply with the provisions of this Section.
2. If the person upon whom the notice is served fails, neglects or refuses to cut and remove or to cause to be cut and removed such weeds, grass, brush or other vegetation within five (5) days after receipt of such notice, or
3. If no person can be found in the City who either is or claims to be the owner of such lot or land, or who either represents or claims to represent such owner, the City shall cause such weeds, grass, brush and other vegetation on such lot or land to be cut and removed and the actual cost of such cutting and removal, plus five per cent for inspection and other additional costs in connection therewith, shall thereupon become and be a lien upon the property on which such weeds, grass, brush, and other vegetation were located and shall be added to and become and form part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes.

SECTION 8.18 PARKS AND PLAYGROUNDS

Subdivision 1. Definitions.

The following word or term when used in this Section, shall have the following meanings, unless the context clearly indicates otherwise:

1. “Parks” – A park, conservation area, playground, beach, recreation center or other area in the City owned, leased or used, wholly or in part, by the City for such purposes or which is designated by the City Council as a park.

Subdivision 2. **Regulations.**

The following regulations shall apply to all City parks:

1. No person shall drive or operate a motor vehicle in any park except on roads or designated parking areas.
2. Parking. During the hours when parking is permitted, said vehicles must be parked only in designated parking areas. Any unoccupied vehicle found in violation of park regulations may be removed and impounded by any police officer or duly authorized person.
3. No fire shall be lighted in any park except in places provided for such purposes, or by city permit and except for fire lighted by City employees engaged in cleaning the area.
4. No person shall discharge any fireworks or firearms in any park without a permit.
5. No person shall litter the grounds with any form of waste material. No person shall carry upon park property any glass bottles or glass containers.
6. No person shall commit any nuisance or any offence against decency or public morals in a public park.
7. No person shall past or affix or inscribe any handbill or poster on any structure or property in any of such parks or any place or square or highway surrounding the same.
8. No person shall possess, display, consume or use alcohol or alcoholic beverages in any park without a permit.
9. No person shall disturb or interfere with any birds or animals kept or found in any park.
10. No person shall sell any article whatever in any park unless he shall have a permit, lease or concession granted by the City.
11. No dogs shall be allowed in any park.

12. No person shall write upon or mark or deface in any manner or use in any improper way any public property or thing pertaining to or in said parks.
13. No person shall break, cut, mutilate, injure, remove or carry away any tree, plant, flower, shrub, rock, soil, sand, fence, bench or any other property in the park.

Subdivision 3. Penalty

Any person violating any provision of this Chapter shall be guilty of a petty misdemeanor.

SECTION 8.19 THROUGH 8.96 RESERVED FOR FUTURE EXPANSION

SECTION 8.97. THEFT BY CHECK AND ISSUANCE OF DISHONORED CHECK

The City shall enforce violations of the Theft by Check and Dishonored Check state laws pursuant to Minnesota State Sections 609.52 Subd. 2(3) and 609.535. Checks in the amount of less than \$100.00 shall be treated as a civil administrative offenses as provided in section 8.98. In addition to a civil fine payable to the city, each offender shall be assessed a surcharge for dishonored checks to be paid to the business where the bad check was passed. The city shall also collect the amount of the original check as restitution and pay that amount to the business.

SECTION 8.98. ADMINISTRATIVE CITATION AND CIVIL PENALTIES

Subdivision 1. Purpose.

The City Council finds that there is a need for alternative methods of enforcing city code. While criminal fines penalties have been the most frequent enforcement mechanism, there are certain negative consequences for the City and the defendant. The delay inherent in such system does not ensure prompt resolution. Citizens resent being labeled a criminal for these relatively minor infractions. The higher burden of proof and the higher fines do not appear appropriate for most administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. The method of enforcement shall be used in addition to any other legal remedy currently available.

Subdivision 2. General Provisions.

1. The city council may designate that certain violations of the city code as administrative offenses, which may be subject to an administrative citation and civil penalties. Each day a violation exists constitutes a separate offense.
2. An administrative offense may be subject to a civil penalty not exceeding \$1,000

3. The City Council must adopt by resolution a schedule of fines for offenses, which may be initiated by administrative citation.
4. Any person authorized to enforce provisions of the city code may issue an administrative citation upon belief that that a code violation has occurred. The citation must be issued in person or by mail to the person responsible for the violation or attached to the motor vehicle in case of a vehicular offense.
5. The citation must state the date, time, and nature of the offense, the citation of the code provision violated, the name of the issuing officer, the amount of the scheduled fine and the manner for paying the fine.
6. The citation shall explain: (1) that it is a civil violation of law; (2) if the accused wishes to contest the citation, he must notify the police department and a criminal citation shall be issued instead; (3) such criminal citations shall be addressed District Court.
7. The person responsible for the violation must either pay the fine withing10 business days after issuance, or notify the police department that he will contest the matter as a criminal matter in District Court. The police department shall then issue a criminal citation.
8. If such fine is not paid within 10 business days after issuance, and the police department has not been notified that the accused is contesting the matter, the police department shall issue a criminal citation.

SECTION 8.99. VIOLATION A MISDEMEANER

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.