

CHAPTER 7. NUISANCES AND OFFENSES

SECTION 700 - NUISANCES

700.01 Public Nuisances Defined. Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public Nuisance:

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

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

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

700.02 Public Nuisances Affecting Health. The following are declared to be nuisances affecting health:

Subd. 1 Exposed Accumulation. Exposed accumulation of decayed or unwholesome food or vegetable matter.

Subd. 2 Diseased Animals. All diseased animals running at large.

Subd. 3 Stagnant Water. All ponds or pools of stagnant water.

Subd. 4 Carcasses of Animals. Carcasses of animals not buried or destroyed within 24 hours after death.

Subd. 5 Accumulation of Manure, et al. Accumulation of manure, refuse or other debris.

Subd. 6 Privy Vaults and Garbage Cans. 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 or disagreeable odors.

Subd. 7 Pollution of Water. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances.

Subd. 8 Noxious Weeds and Other Rank Growths. All noxious weeds and other rank growths of vegetation upon public or private property.

Subd. 9 Dense Smoke, et al. Dense smoke, noxious fumes, gas and soot, or cinder in unreasonable quantities.

Subd. 10 Contagious Disease Exposure. All public exposure of persons having a contagious disease.

Subd. 11 Offensive Trade or Business. Any offensive trade or business as defined by statute not operating under local license.

Subd. 12 Waterfowl Feeding. No person shall place feed for waterfowl on public or private property anywhere within the City of Circle Pines. Any feed or food placed for birds or other animals, must be placed in a feeder inaccessible to waterfowl.

700.03 Morals and Decency Nuisances. The following are declared to be nuisances affecting public morals and decency:

Subd. 1 Gambling. All illegal gambling devices, slot machines and punch boards.

Subd. 2 Betting, et al. Betting, bookmaking, and all apparatus used in such occupations.

Subd. 3 Houses Kept for Illegal Purposes. All houses kept for purposes of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses.

Subd. 4 Places Where Intoxicating Liquor is Manufactured or Disposed of. All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purposes of drinking intoxicating liquor, or wherein intoxicating liquor is kept for sale or other disposition in violation of law, and all

liquor and other property used for maintaining such a place.

Subd. 5 Vehicles Used for Improper Purposes. Any vehicle used for the illegal transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

Subd 6 Consumption of Liquor and Beer in Public Places. No person shall consume or possess opened for consumption, liquor or non-intoxicating malt beverages on a public place, but for public parks.

700.04 Public Nuisances Affecting Peace and Safety. The following are declared to be nuisances affecting public peace and safety:

Subd. 1 Non-removal of Snow and Ice. All snow and ice not removed from public sidewalks 12 hours after the snow or other precipitation causing the condition has ceased to fall.

Subd. 2 Obstructions which Prevent View of Intersection. All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection.

Subd. 3 Dangerous Wires and Tree limbs. All limbs of trees which are less than eight feet above the surface of any public sidewalk, or nine feet above the surface of any street as to constitute a danger to pedestrians or vehicles. All wires which are strung less than fifteen feet above the surface of the ground.

Subd. 4 Public Grounds Obstructions and Excavations. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under conditions permitted by this Code or other applicable law.

Subd. 5 Dangerous Aerials or Antenna. Radio aerials or television. Antennae erected or maintained in a dangerous manner.

Subd. 6 Use of Public Ways Which Obstruct Traffic. 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.

Subd. 7 Dangerous Signs. 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 this Code.

Subd. 8 Precipitation Falling from Building. Permitting rainwater, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.

Subd. 9 Barbed Wire Fence. Any barbed wire fence less than seven feet above the ground and within three feet of a public sidewalk or way.

Subd. 10 Dangerous, Unguarded Machinery. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.

Subd. 11 Improper Waste Water Flowage. Waste water cast upon or permitted to flow upon streets or other public property.

Subd. 12 Hazardous Accumulations. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other material in a manner conducive to the harboring of rats, mice, snakes or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or safety hazards from such accumulation.

Subd. 13 Uncovered Wells or Holes. 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.

Subd. 14 Free Flow of Water Obstruction. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials.

Subd. 15 Dangerous Littering of Public Places. The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other

substance which may injure any person or animal or damage any pneumatic tire when passing over such substance.

Subd. 16 Improper Refuse Deposits. The depositing of garbage or refuse on a public right-of-way or on adjacent private property.

Subd. 17 Other Dangerous Conditions or Things. All other conditions or things, which are likely to cause injury to the person or property of anyone.

700.05 Duties of City Officers. The Police Department shall enforce the provisions of this Section relating to nuisances affecting public safety. The Police Department shall enforce provisions relating to other nuisances and shall assist the other designated officer(s) in the enforcement of provisions relating to nuisances affecting public safety. The officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

700.06 Abatement. Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the city, the officer shall notify in writing the owner or occupant of the premises of such fact and order that such nuisance be terminated and abated. The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding 30 days, within which the nuisance is to be abated. If the notice is not complied with within the time specified, the enforcing officer shall report that fact to the Council. Thereafter, the Council may, after notice to the owner or occupant and an opportunity to be heard, provide for abating the nuisance by the notice by the City. The notice shall served in the same manner as the notice by the enforcing office is served and shall be given at least 10 days before the date stated in notice when the Council will consider the matter. If notice is given by posting, at least 30 days shall elapse between the day of posting and the hearing.

700.07 Recovery of Cost.

Subd. 1 Personal Liability. The owner of the premises on which a nuisance has been abated by the City shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the Clerk or other official designated by the Council shall prepare a bill for the cost and mail it to the owner. Thereupon, the amount shall be immediately due and payable at the office of the Clerk.

Subd. 2 Assessment. If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infested trees, the Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minn. Stat., §429.101 against each separate lot or parcel to which the charges are attributable. The Council may then spread the charges against such property under that statute and other pertinent statute for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the Council may determine in each case.

SECTION:700.08 Abatement; Disposition of property

Upon the declaration of certain conditions and acts to be a public nuisance in violation of City Code and, if the City Council requires such conditions to be abated, the Council may order the property constituting the nuisance to be removed, destroyed or disposed of, to ensure the termination of the nuisance. Upon seizure of the property constituting the nuisance, the City will inventory the property, and the City Administrator or the City Administrator's designee will determine whether the items seized have any reasonable value in excess of City costs to store and dispose of the property. After inventory and upon recommendation to the City Council, if the Council makes a determination that no reasonable value of the property exists or that destruction of the property is necessary to abate the nuisance, the Council may order the

property destroyed. If the Council, however, determines such destruction is not necessary and there is reasonable value remaining in the property, it shall order it sold. The amount of money received as a result of any sale, if any, shall be applied against the cost of abatement, including all costs incurred by the City in the abatement, including without limitation the cost of the removal, storage, handling, destruction and disposal thereof, all staff time, legal and other consulting fees. Any balance remaining after such reimbursement to the City, if any, shall be remitted to the property owner.

SECTION 703 - PUBLIC PARKS AND GROUNDS

703.01 Public Parks and Grounds. "Public parks and grounds" means any area owned or operated by the City of Circle Pines as a public park, beach, recreational trail, athletic field, skating rink, or other recreational facility.

703.02 Hours. No person, except authorized City employees, police, and fire personnel shall enter or remain in any public park or grounds between sunset and sunrise. Participants in approved, organized recreational activities may be in City parks until 10:00 p.m. Pedestrians may traverse park property during restricted hours, as long as they stay on maintained pathways and not loiter.

703.03 Park Rules.

Subd. 1 Removing, Defacing, or Destroying Property. No person shall remove, deface, destroy, diminish, or impair the value of public property located on or within any public park or public grounds, including buildings, structures, trees, shrubs, grass, vegetation, signs, tables, benches, fireplaces, trash receptacles, notices, or placards, boundary markers or fences, or any other public property either real or personal.

Subd. 2 Erection of Structures. No person shall construct or erect any tent, building, or structure of any kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across any public park or public grounds, except by written permit issued by the City Administrator after prior Council approval.

Subd. 3 Glass Containers. Glass containers are prohibited in public parks and public grounds.

Subd. 4 Refuse and Trash. It is unlawful for a person to dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans dirt, rubbish, waste, garbage or snow, refuse, or trash in a park except in proper receptacles as permitted by this subdivision. No refuse or trash shall be placed in any waters in or contiguous to any park, nor left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

Subd. 5 Pollution of Waters. It is unlawful for a person to throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, or other body of water in or adjacent to any park or any stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

Subd. 6 Climbing Buildings. No person shall climb on any building and/or any non-play structure in any public park or public grounds.

Subd. 7 Maintenance of Vehicles. No person shall wash or perform maintenance on any vehicle on public park or public grounds.

Subd. 8 Posting Signs and Placards. No person shall paste, glue, tack, or otherwise post any sign, placard, advertisement, or inscription, on any public park or public grounds, except by written permit issued by the City Administrator, after prior approval by the Council.

703.04 Alcoholic Beverages.

Subd. 1 Prohibition. *Except as provided in this Section, the possession of alcoholic beverages and the drinking of alcoholic beverages is prohibited in any park or public grounds. The term alcoholic beverage has the meaning given by M.S. §340A.101, Subd.2, as it may be amended from time to time.*

Subd. 2 Exception. Upon issuance of a permit by the City, alcoholic beverages may be consumed within the shelters of Golden Lake and the shelter of Inner Park, and within fifty (50) feet of the shelters.

Subd. 3 Intoxication. No person shall enter or be upon any public park or public grounds while under the influence of any alcoholic beverages.

703.05 Traffic and Parking.

Subd. 1 Vehicle Traffic. Vehicles shall be driven or parked only in designated areas on any park or public grounds and shall be driven therein at a maximum speed of five (5) miles per hour. Parking in designated areas shall be allowed only by vehicles whose owners and/or occupants are currently using City public parks and grounds. City vehicles, police, and fire are authorized to drive vehicles in parks as part of their normal duties.

Subd. 2 Overnight Parking or Occupancy. Overnight parking or occupancy within any public park or public grounds is prohibited.

703.06 Open Fires Prohibited. No person shall build a fire in any place in any public park or public grounds, at any time, except in fireplaces or receptacles provided therein by the City.

703.07 Loitering and Boisterousness. No person in any public park or ground shall engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct, or behavior tending to a breach of the public peace.

703.08 Fireworks. No person shall possess or discharge any fireworks in any public Park or public grounds.

703.09 Posting of Areas. The Council may by resolution determine from time to time, the areas of any public park and public grounds, in which other activities and conduct not amenable to efficient operation of such park or public grounds, shall be prohibited and shall post appropriate signs to notify persons thereof.

703.10 City Personnel. 703.01 through 703.09 shall not be construed to prohibit the normal care, operations, or functions of the City or its authorized agents in any public park or public grounds.

**SECTION 705 - CONTROL AND PREVENTION OF
SHADE TREE DISEASE**

705.01 Purpose. The purpose of this Section is to establish a shade tree program, providing regulation for the control of certain diseases affecting trees, incorporating agency rules and regulations and providing for penalty for violation thereof.

705.02 Regulations Adoption by Reference. Sections 1505.0010 through 1505.0380 of Minnesota Rules 1989, Shade Tree Disease Program, together with amendments thereof to date, are hereby adopted by reference and made a part of this Section as if fully set out herein, except as modified or amended in this Section. One copy of the Rules is on file and available for public examination in the office of the City Clerk.

705.03 Stockpiling. The stockpiling of bark bearing elm wood within the City is permitted during the period from September 15 through April 1 of any given year. Any such wood not used by April 1 of any year must then be removed and disposed of as provided by this Section and state regulations.

705.04 Declaration of Policy. The Council finds that the health of elm and oak trees within the City limits is threatened by fatal tree diseases commonly known as Dutch Elm and Oak Wilt. It also believes that the loss of elm and oak trees growing upon public and private property would substantially depreciate the value of property within the City and impair the safety, good order, general welfare and convenience of the public. The regulations contained in this Section are intended to control and prevent the spread of these diseases and other epidemic diseases of shade trees.

705.05 Forester.

Subd. 1 Position Created. The position, including the

powers and duties of the City Forester as set forth in this Section, is created within the Maintenance Department of the City.

Subd. 2 Duties of Forester. Under the direction and control of the Council, the Forester is responsible for coordinating all activities of the City relating to the control and prevention of Dutch Elm disease, Oak Wilt disease and other epidemic diseases of shade trees. The Forester shall recommend to the Council the details of a program for the control of the diseases and shall perform the duties incident of such a program adopted by the Council.

705.06 Epidemic Disease Program.

Subd. 1 Intent. The Council intends to conduct a program of plant pest control pursuant to the authority granted by Minn. Stat. S18.022. This program is directed specifically at the control and elimination of the Dutch Elm disease fungus, and is undertaken at the recommendation of the Commissioner of Agriculture for the State. The City Forester shall act as coordinator between the Commissioner of Agriculture and the Council in conducting this program.

705.07 Nuisances Declared.

Subd. 1 Public Nuisances. The following conditions are declared to be public nuisances, and it is unlawful for any person to allow them to exist on property owned or controlled by the person:

a. Any living or standing elm tree or part thereof infected to any degree with Dutch Elm disease fungus, *Ceratocystis ulmi*, (Buisman) Moreau, or which harbors any of the elm bark beetles *scolytus Multistriatus* (Eichh.) or *Hulurgopinus rufines* (Marsh).

b. Any dead elm tree or part thereof, including, but not limited to, logs, branches, stumps, roots, firewood or other elm material, which has not been stripped of its bark and burned or sprayed with an effective elm bark beetle insecticide.

c. Any living or standing oak tree or part thereof infected to any degree with Oak Wilt fungus *Ceratocystis fagacearum*.

d. Any dead oak tree or part thereof, which in the opinion of the Forester constitutes a hazard, including, but not limited to, logs, branches, stumps, roots, firewood or other oak material, which has not been stripped of its bark and burned or sprayed with an effective fungicide.

e. Any other shade trees with epidemic diseases.

Subd. 2 Abatement. It is unlawful for any person to permit any public nuisances as defined in Subd. 1 to remain on any premises owned or controlled by such person within the City. Such nuisances may be abated in the manner prescribed by Subsections 705.09 and 705.10.

705.08 Inspection and Investigation.

Subd. 1 Annual Inspection. The Forester shall inspect all public and private places within the City, which might harbor plant pests, as defined in Minn. Stat. §18.46, Subd. 13, as often as practicable to determine whether any condition described in Subsection 705.07 of this Section exists thereon. The Forester shall investigate all reported incidents of infection or infestation by the Dutch Elm fungus, elm bark beetles, Oak Wilt fungus, or any other epidemic diseases of shade trees. The term "private place" means every place except the private home.

Subd. 2 Entry on Public and Private Places. The Forester, or duly authorized agents, may enter upon public and private property at reasonable times for the purpose of carrying out the duties assigned under this Section.

Subd. 3 Diagnosis. If the Forester finds conditions indicating Dutch Elm or Oak Wilt infestation or other epidemic diseases of shade trees, he/she shall immediately send appropriate specimens or samples to the Commissioner of Agriculture or to any qualified laboratory for analysis, or shall take any other steps for diagnosis as may be recommended by the Commissioner. Except as provided in Subsection 705.10, no action to remove infected trees or wood shall be taken until there is a positive diagnosis.

705.09 Abatement of Epidemic Tree Disease Nuisances.

In abating the nuisances defined in Subsection 705.07, the Forester shall cause the infected tree or wood to be sprayed, removed, burned, or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of epidemic diseases of shade trees, including, but not limited to, the Dutch Elm disease and the associated elm bark beetles, and Oak Wilt disease. The Forester shall also take such steps as are necessary to prevent root graft transmission of the diseases. Abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the Commissioner of Agriculture.

705.10 Procedure for Removal of Infected Trees and Wood.

Subd. 1 Action by Forester. If the Forester finds with reasonable certainty that the infestation defined in Subsection 705.04 exists in any tree or wood in any public or private place in the City, he/she shall make a written report of these findings to the Council which shall either (1) abate the nuisance as a public improvement under Minn. Stat. §429.101 or (2) abate the nuisance as provided in Subsection 705.09.

If the Forester finds that danger of infestation of other elm or oak trees is imminent, he shall notify the abutting property owner by certified mail that the nuisance must be abated within a specified time, not less than 5 days from the date of mailing of such notice. The Forester shall immediately report such action to the Council, and if the nuisance is not abated in the time limit provided in the notice he may abate the nuisance.

Subd. 2 Record. The Forester shall keep a record of the costs of abatements done under this Section and shall report monthly all work done to the Clerk or other appropriate officer for which assessments are to be made, stating and certifying the description of the land, lots, parcels involved and the amount assessable to each.

Subd. 3 Assessment. On or before September 1 of each year, the Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which the charges are attributable under this Section. The Council may then spread the charges or any portion thereof

against the property involved as a special assessment under Minn. Stat. S429.101, and other pertinent statutes, for certification to the County Auditor and collection the following year along with current taxes. The assessment shall be payable in a single installment, pursuant to Minn. Stat. §429.101, Subd. 2.

705.11 Spraying Elm Trees. Whenever the Forester determines that any elm tree or elm wood within the City is infected with the-Dutch Elm fungus, he/she may spray all nearby high value elm trees, with an effective elm bark beetle insecticide. Spraying activities authorized by this Section shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the Commissioner and his/her agents whenever possible.

705.12 Transporting Elm Wood Prohibited. It is unlawful for any person to transport within the City any bark-bearing elm or oak wood without having obtained a permit from the Forester. The Forester shall grant such permits only when the purpose of this Section will be served thereby.

705.13 Interference Prohibited. It is unlawful for any person to prevent, delay or interfere with the Forester or his/her agents while they are engaged in the performance of duties set forth in this Section.

SECTION 710 - WEEDS

710.01 Definition. The word "weeds" as used in this Section shall be construed to mean and include not only such noxious weeds as are enumerated in Minn. Stat. Chap. 18.171, but also such useless and troublesome plants as are commonly known as weeds to the general public. The word "weeds" shall also be construed to mean all rank vegetative growth which exhales unpleasant or noxious odors, and also high and rank vegetative growth that may conceal filthy deposits.

710.02 Nuisance Declared.

(a) Any weed or grass growing on any lot or parcel of land in the City to a greater height than six inches which have gone, or are about to go to seed are hereby declared to be a nuisance

and dangerous to the health and safety and good order of the City, except in those places which fall within areas described in (b) or which are granted an exemption as approved natural areas pursuant to (c).

(b) Privately owned real property which adjoins public land, which are in natural state from the rear lot line of the property to any portion of the property which is both (i) not less 70 feet from the nearest point of the front lot line of the property; and (ii) not less than 20 feet towards the rear lot line of the property from the nearest point of the principal structure on the property.

(c) Those individuals who wish to naturalize portions of their property which are not within the above-defined zone, must submit a Landscaping Management Plan for approval. Such plan will require a public hearing before the Park Board, which will make recommendations as to approval or disapproval of the plan to the City Council for its final action. As part of the hearing process, adjacent property owners in all directions will be notified by certified mail of the hearing on the proposed Landscaping Management Plan, said notice to be mailed at least seven days before the hearing. Applications for Landscaping Management Plans shall be accompanied by a fee as set forth in Chapter 350.

(d) In the event that a notice of a possible violation of this Section has been sent and the individual wishes to submit a request to naturalize the area that is designated in the notice, the individual may, within the required time frame for correction of the violation, submit a Landscaping Management Plan Pursuant to Section 710.02(c). No enforcement action will be taken until a final determination has been made on the plan.

(e) Landscaping Management means a written plan relating to the management of the natural area, which contains a plot plan of the area upon which grass and other growth will exceed 6 inches in

length, a statement of intent and purpose for the lawn, a general description of the vegetation types, plants and plant succession involved and specific management and maintenance techniques to be employed. Each application for a Landscaping Management Plan shall be on a form provided by the City.

(f) Notwithstanding the fact that approval has been given for a Landscaping Management Plan the fire chief of the Centennial Fire District may order the cutting of such natural lawn any time when in the exercise of the chief's official duties the chief determines that the growth has become so hazardous as to cause a danger to the safety of the inhabitants of any residential structure on said property, or to the citizens and residents of the neighborhood within which the Landscaping Management Plan has been approved.

(g) Notwithstanding any provision to the contrary in this Section, noxious weeds must be eliminated as required by state law.

710.03 **Owner Responsibility.** When any conditions exist on any lot or parcel of land in the City in violation of the provisions hereof, it shall be the duty of the City weed inspector or his/her designee to serve a notice on the owner, occupant or agent of such lot or parcel of land, ordering such owner or agent to have such weeds or grass cut and removed within three days after the service thereof, and also stating that in case of non-compliance, the same will be done by the City weed inspector at the owner's expense. Any repeat violations shall not require a new notice during the growing season.

710.04 **Costs Assessed.** Upon failure of the owner, occupant or agent to comply with the provisions of said notice, and after the expiration of three days, the City weed inspector shall proceed to cut and remove such weeds or grass, and determine the cost thereof and charge such to the owner of the premises. Not later than the first day of October of each year, the City Clerk shall certify to the County Auditor, the amount so charged against said premises, lots or parcels of land, together with a description of the premises and the name of the supposed

owner, and such charge shall be collected and collection enforced in the same manner as taxes against said premises. Such charge shall be a perpetual lien on said premises until paid; provided, further, that where no owner, occupant or agent can be found, or when unknown, then said Inspector may proceed without the personal service of said notice.

SECTION 715 - OPEN BURNING

715.01 **Purpose.** The purpose of this section is to establish permitted categories of open burning events within the City of Circle Pines and provide for a permitting process for open burning, except when such open burning is defined as a Recreational Fire as defined in this section.

715.02 **Definitions and Regulations.** For the purpose of this Section, the terms in this Section are defined as follows:

Subd. 1 Definitions.

A. Open Burning. "Open Burning" means the burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a Recreational Fire as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane gas devices are not included in the definition of open burning.

B. Combustible. "Combustible" means a substance or material that is able or likely to catch fire and burn.

C. Recreational Fire. "Recreational Fire" means an outdoor fire set with approved starting fuel on a recreational fire site to burn wood and has a total fuel area of three (3) feet or less in diameter and three (3) feet or less in height. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane gas devices are not recreational fires.

D. Wood. "Wood" means dry, clean fuel only such as twigs, branches, limbs, synthetic logs designed for burning, charcoal, cord wood, or untreated dimensional lumber. "Wood" does not include wood that is green, with leaves or needles, rotten, wet, oil-soaked or treated with paint, glue, or preservatives.

E. Responsible Person. A "Responsible Person" means a person over the age of 18 who is knowledgeable in use of fire extinguishing equipment, including shovels, garden hoses, or fire extinguishers with a minimum 4-A rating.

F. Recreational Fire Site. A "Recreational Fire Site" means an area of no more than a three (3) foot diameter circle, measured from the inside of the fire ring or border, completely surrounded by non-combustible and non-smoke or odor producing material either of natural rock, cement, brick, tile or blocks or ferrous metal only and which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor woodburning fireplaces. Burning barrels are not a Recreational Fire Site as defined herein.

G. Starter Fuels. "Starter Fuels" means dry, untreated and unpainted kindling, branches, or cardboard, or charcoal fire starter. Starter fuels also include paraffin candles and alcohols, and are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas-burning devices causing minimal pollution must be used to start an open burn.

H. Fire Chief, Fire Marshal and Assistant Fire Marshals. The Fire Chief, Fire Marshal and Assistant Fire Marshals of the Centennial Fire District, who have been appointed as fire wardens by the Commissioner of Natural Resources for Minnesota.

Subd. 2 Regulations. Every person starting, engaging in, conducting or hosting a recreational fire shall observe and comply to the following regulations:

A. Recreational Fires. Recreational Fires shall only be conducted between the hours of 4:00 p.m. and 1:00 a.m.

B. Attendance. Recreational fires shall be constantly attended by a responsible person until completely extinguished.

C. Fire Extinguishing Equipment. Buckets, shovels, garden hoses or a fire extinguisher with a minimum of 4-A rating shall be readily available for use at recreational fires.

D. Location. Recreational fires shall only be on private property and shall not be conducted within twenty-five (25) feet of a structure or a combustible material.

E. Weather Conditions. Recreational fires shall not be conducted if prevailing wind conditions exceed ten (10) miles per hour.

F. Flames. Flames from a recreational fire shall not exceed three (3) feet in height as measured from the base of the fire.

G. Prohibitions. When prohibited by action of any state or federal agency, recreational fires shall not be permitted.

Subd. 3 Discontinuance. The fire chief, police chief or any authorized member of the fire department or officer of the police department may order the immediate extinguishment or may themselves immediately extinguish any recreational fire which falls into any one of the following categories:

A. Creates a hazardous or unsafe condition.

B. Creates a nuisance or reasonably objectionable situation for any nearby resident.

C. Violates any provisions of this section or of any other chapters of the Circle Pines City Code.

D. Violates any provision of the Minnesota State Fire Code.

715.03 Prohibited Materials. No person shall conduct, cause or permit any of the following materials to be used in recreational fires or for open burning:

A. Oils, petrol fuels, rubber, plastics, chemically treated materials or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint or paint filters.

B. Hazardous waste or salvage operations, or open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition or commercial or institutional structures.

C. Discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.

D. Leaves or grass clippings.

715.04 Statute Adopted by Reference. Minnesota Statutes Sections 88.16 through 88.22 are hereby incorporated by reference in this Section 715 as if fully set forth herein. In the event of any inconsistency between this Section 715 and said sections of Minnesota Statutes, the provision that places the greater restriction or the higher standard shall apply.

715.05 Open Burning Permits.

Subd. 1 Permits Required. No person shall start or allow any open burning anywhere within the City without first having obtained a permit, except that a permit is not required or any fire which is a Recreational Fire as defined herein.

Subd. 2 Purposes Allowed for Open Burning. Open burn permits may be issued only for the following purposes:

(a) Elimination of fire or health hazard that cannot be abated by other practical means.

(b) Ground thawing for utility repair and construction.

(c) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading or other alternative methods are not practical.

(d) Disposal of diseased trees generated on site, diseased or infected nursery stock, or diseased bee hives.

(e) Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical.

Subd. 3 Permit Application for Open Burning and Permit Fees.

(a) Open Burning permits shall be obtained by making application on a form prescribed by the Department of Natural Resources (DNR) and adopted by the Centennial Fire District. The permit application shall be presented to the Fire Chief, Fire Marshal or an Assistant Fire Marshal. Each application shall be accompanied by a fee as set from time to time in Section 350 of this Code.

(b) Upon receipt of the completed Open Burning permit application and permit fee, the Fire Chief, Fire Marshal or Assistant Fire Marshal shall schedule a preliminary site inspection to locate the proposed burn site, note special conditions, set dates and times of permitted burn and review fire safety considerations. The official reviewing the application shall also

develop a burn event safety plan for the requested burn.

(c) If established criteria for the issuance of an open burning permit are not met, or, during review of said application, it is determined that a practical alternative method for disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the official reviewing the application, the official may deny the application for the open burn permit.

Subd. 4 Notice of Burn Event. If the permit application is approved, the City shall mail a written notice to each owner of affected property and property situated wholly or partly within 350 feet of the site of the Open Burn. The notice shall set forth pertinent details regarding the Open Burn, and shall be mailed at least ten (10) days prior to the Open Burn.

Subd. 5 Permit Holder Responsibilities.

(a) Prior to starting an Open Burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every Open Burn event shall be constantly attended by the permit holder. The Open Burn site shall have available, appropriate communication and fire suppression equipment as set out in the burn event safety plan.

(b) The Open Burn shall be completely extinguished before the permit holder leaves the site. No fire may be allowed to smolder with no flame present. It is the responsibility of the permit holder to have a valid permit, as required by this section, available for inspection on the site.

(c) The permit holder is responsible for the compliance and implementation of all general conditions, special conditions, and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn,

including, but not limited to, fire suppression and administrative fees.

Subd. 6 Revocation of Open Burning Permit. The Open Burning Permit is subject To revocation at the discretion of a DNR forest officer, or the Fire Chief, Fire Marshal or Assistant, Fire Marshal. Reasons for revocation include, but are not limited to: A fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.

715.06 Burning Ban or Air Quality Alert. No Recreational Fire or Open Burn will be permitted when the City or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert.

715.07 Violation. Any violation of the provisions of this section 715, or of the terms of any permit issued pursuant to this section, shall be a misdemeanor. Each day a violation exists shall be a separate violation.

SECTION 717 - REGULATING THE USE OF COAL TAR-BASED SEALER PRODUCTS

717.01 DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

A. ASPHALT-BASED SEALER. A petroleum-based sealer material that is commonly used on driveways, parking lots, and other surfaces and which does not contain coal tar.

B. COAL TAR. A byproduct of the process used to refine coal.

C. UNDILUTED COAL TAR-BASED SEALER. A sealer material containing coal tar that has not been mixed with asphalt and which is commonly used on driveways, parking lots and other surfaces.

D. **MPCA.** The Minnesota Pollution Control Agency.

E. **PAHs.** Polycyclic Aromatic Hydrocarbons. A group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances. Present in coal tar and believed harmful to humans, fish, and other aquatic life.

717.02 PROHIBITIONS.

A. No person shall apply any undiluted coal tar-based sealer to any driveway, parking lot, or other surface within the City of Circle Pines.

B. No person shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any undiluted coal tar-based sealer to any driveway, parking lot, or other surface within the City.

C. No commercial sealer product applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any undiluted coal tar-based sealer to any driveway, parking lot, or other surface within the City.

717.03 EXEMPTION.

Upon the express written approval from both the City and the MPCA, a person conducting bona fide research on the effects of undiluted coal tar-based sealer products or PAHs on the environment shall be exempt from the prohibitions provided in Section 3.

717.04 ASPHALT-BASED SEALCOAT PRODUCTS.

The provisions of this ordinance shall only apply to use of undiluted coal tar-based sealer in the City and shall not affect the use of asphalt-based sealer products within the City.

SECTION 720 - WEAPONS

720.01 Definitions.

Subd. 1 Dangerous Weapon. Dangerous weapon means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which in the manner it is used or intended to be used, is

calculated or likely to produce death or great bodily harm. The term dangerous weapon shall include, but not be limited to, the following:

1. All firearms;
2. All instruments used to expel at high velocity any pellets or single projectile of any kind, including, but not limited to B.B. guns, air guns and rifles;
3. Sling shots;
4. Bows and arrows;
5. Cross bows;
6. Sand clubs;
7. Metal knuckles;
8. Daggers, dirk knives, switchblades or spring blade or push knives, stilettos, or black jacks;
9. Chinese throwing stars;
10. Nunchakus
11. Sharp studs; and
12. Blow guns.

Subd. 2 Dangerous Instruments. Dangerous instruments shall be defined as any instrument or device designed to throw, hurl, shoot, project or toss any stone, missile, projectile, marble or any other objects including but not limited to: sling shots, sling bows, spear throwers or other devices that are manufactured and designed for that purpose or designed for some other purpose but put to such use.

720.02 Prohibited Actions. It is unlawful for any person to:

- a. Recklessly handle or use a dangerous weapon, dangerous instrument or explosive so as to endanger the safety of another.
- b. Aim or point any dangerous weapon or dangerous instrument, whether loaded or not, at or toward any human being.
- c. Use or set off in any fashion any dangerous instruments including such use or discharge as causes any projectile to be thrown, hurled passed in the city. Any dangerous instrument, which is strung or capable of use, shall be considered a violation of this ordinance.
- d. Manufacture or sell for any unlawful purpose any weapon known as a slingshot or sand club.

- e. Manufacture, transfer, or possess metal knuckles or switchblade knives opening automatically.
- f. Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another.
- g. Sell or have in his/her possession any device designed to silence or muffle the discharge of a firearm.
- h. Permit a child under 18 years of age to handle or use, outside of the parent or guardian's presence, a dangerous weapon, dangerous instrument, or any ammunition or explosive.
- i. Furnish a minor under 18 years of age with a dangerous weapon, dangerous instrument, ammunition or explosive without the written consent of his/her parent or guardian or the police department.

720.03 Minors. No minor under the age of 18 years shall handle or have in his/her possession or under his/her control, except while accompanied by or under the immediate charge of his/her parent or guardian, any dangerous weapon or dangerous instrument.

720.04 Discharge of Dangerous Weapons or Dangerous Instruments. No person shall discharge any dangerous weapon or dangerous instrument within the City, except at a duly authorized shooting range while such range is supervised, subject to the exception provision in Section 720.06 hereof.

720.05 Defense. Nothing in this section shall be construed to prohibit the discharging of any dangerous weapon or dangerous instrument when done in the lawful defense of person, property, family or the necessary enforcement of the law.

720.06 Exception. The provisions of this section shall not apply to:

Subd. 1 Police. Any police or peace officer, sheriff or any officer of the United States, the State of Minnesota, or any of its counties who may discharge a fire arm or gun in the City in the course and scope of their duties.

Subd. 2 Controlled Hunting. Authorized individuals hunting waterfowl on Anoka County Park Reserve areas, by special permit issued by Anoka County Parks, may use shotguns in designated areas only when and where Anoka County Parks has determined it will be safe for the discharge of such weapons.

720.07 Penalty. A violation of any provision of this section shall be a misdemeanor.

SECTION 722 ULTIMATE FIGHTING PROHIBITED

Subd. 1. Purpose. The City Council finds that the practice of ultimate fighting is dangerous and puts the public health, safety, and welfare at great risk.

Subd. 2. Definition. Ultimate fighting shall mean any activity, regardless of how named or described, or any other form of entertainment, where the primary practice involves individuals engaged in physical contact by striking or touching an opponent with hands, head, feet, or body. This shall include, but not be limited to, any contest or event where kicking, punching, martial arts, or submission holds are permitted. Officially sanctioned matches regulated by the Minnesota Boxing Commission, wrestling and team sports in which physical contact is incidental to the primary purpose of the game, including, but not limited to, football, basketball, volleyball, soccer, baseball, and softball are not included among activities prohibited by this section. Martial arts training or contests governed and sponsored by schools of martial arts are also not included among activities prohibited by this section.

Subd. 3. Prohibited conduct. It shall be unlawful to promote, host, organize, stage, conduct, and/or participate in the practice of ultimate fighting as defined above in any public or private building or place.

Subd. 4. Penalty. A violation of this ordinance is a misdemeanor.

SECTION 724 DISORDERLY HOUSES

724.01 Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings

ascribed to them in this section, except where the context clearly indicates a different meaning:

Disorderly house means any building, dwelling, place, establishment or premises in which actions or conduct occurs in violation of any law or ordinance relating to the following:

- A. Sale or regulation of an intoxicating liquor or 3.2 percent malt liquor.
- B. Gambling.
- C. Prostitution, acts relating to prostitution, solicitation to vice, or lewd and indecent behavior.
- D. The sale, possession or use of drugs or controlled substances as defined by state law.
- E. Disorderly conduct as defined by state law.
- F. Assault as defined by state law.
- G. Public nuisance as defined by state law.
- H. Any other unlawful conduct or pattern of unlawful conduct pursuant to city ordinance or state law.

724.02 Process and Penalty for Violation of Chapter.

A. Process following violation:

1. First Strike - Upon a violation the police department will inform the property owner by sending a written notice of violation to the tenant and the property owner or their agent as appropriate. The property owner will be responsible to terminate the disorderly use immediately or within the timeframe required by the police department. Unless the violation is overturned, the property owner will receive a First Strike

2. Second Strike - If another violation takes place on the same property or in the same unit, within a twelve (12) month timeframe for which an incident was given as "First Strike" the police department will inform the property owner by sending a written notice of the

violation to the tenant and the property owner or their agent as appropriate. The property owner will be responsible to terminate the disorderly use immediately or within the timeframe required by the police department. Unless the second violation is overturned the property owner will receive a "Second Strike" and incur a \$300.00 police response charge which will be waived unless a third instance occurs within the twelve (12) month period.

3. Third Strike - If the third violation take place on the same property or in the same unit, within a twelve (12) month timeframe for which a property owner was given a "Second Strike" the police department will notify the property owner by mail of the violation and will require the property owner terminate the disorderly use immediately or within the timeframe required by the police department.

B. Upon the third violation being sustained, the property owners' violation constitutes a misdemeanor. In addition, the property owner will be charged the police response fee that has been waived plus an additional \$300.00 for each and every violation that occurs beyond the second strike. Each violation and every day in which a violation occurs or continues, shall constitute a separate violation.

724.03 Evidence.

Evidence of unlawful sales or free distribution of intoxicating liquor or 3.2 percent malt liquor or of gambling shall be prima facie evidence of the existence of a disorderly house. Evidence or possession, sales or use of drugs or controlled substances shall be prima facie evidence of the existence of disorderly house. Evidence or possession, sales or use of drugs and/or controlled substances may include, but is not limited to, the presence in the house of devices for smoking cocaine or marijuana, scales, sieves or sifters or any other drug paraphernalia, shall be prima facie evidence of the existence of a disorderly house. Evidence of the occurrence of any incident of disorderly conduct, assault, or public nuisance shall be prima facie evidence of the existence of a disorderly house. Evidence of a violation of this Code shall be prima facie evidence of the existence of a

disorderly house. Evidence of any weapon violation shall be prima facie evidence of the existence of a disorderly house. Evidence of a pattern of vandalism and/or theft by the occupants of a disorderly house shall constitute prima facie evidence that such occupants reside in a disorderly house.

724.04 Operation.

No person shall, lease, operate, manage, reside in, maintain or conduct a disorderly house, or invite or attempt to invite others to visit or remain in such disorderly house until the Police Chief determines and the City Administrator certifies that the property no longer contains a disorderly house.

724.05 Presence In, Leasing or Visiting.

No person shall be present in, visit, lease or remain in a disorderly house.

SECTION 725 GARAGE RUMMAGE SALE REGULATIONS

725.01 Definitions Garage or Rummage Sales. Any display and sale of personal property conducted on residential premises by the occupant. Estate sales conducted at a decedent's residence are not included in the definition of garage or rummage sales.

725.02 Restrictions.

- a. None of the items offered for sale have been obtained for resale or received on consignment for sale.
- b. Any garage or rummage sale shall be conducted solely within the boundaries of the property owned or occupied by the occupant who is conducting the sale.
- c. There shall be no more than four garage or rummage sales conducted at any one residence during any period of twelve calendar months.
- d. No garage or rummage sale shall be conducted during any part of more than three consecutive days.

e. No garage or rummage sale may be conducted before 8:00 a.m. or after 10:00 p.m.

725.03 Relationship to Zoning Code. In the event of any conflict between this Section and Chapter 13 regarding the subject of garage or rummage sales, the provisions of this Section shall govern.

725.04 Penalty. Any person violating any provision of this section shall be guilty of a misdemeanor.

SECTION 730 - NOISE

730.01 Noises Prohibited.

Subd. 1 General Prohibition. No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety and welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restriction of the following subdivisions.

Subd. 2 Horns, Audible Signaling Devices. No person shall sound any audible signaling device on any vehicle except as a warning of danger. This Subdivision and Subdivision 8 of this section 71.0.01 shall not apply to vehicles driven through residential districts from which ice cream or other treats are sold.

Subd. 3 Exhaust No person shall discharge the exhaust or permit the discharge of the exhaust of any steam engine, stationary internal combustion engine, motor boat, motor vehicle, or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.

Subd. 4 Defective Vehicles or Loads. No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling or other noise.

Subd. 5 Loading, Unloading, Unpacking. No person

shall create loud and excessive noise in loading, unloading or unpacking any vehicle.

Subd. 6 Radios, Phonographs, Paging Systems. No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for the production or reproduction of sound in such a manner as to unreasonably disturb the peace, quiet and comfort of any person nearby. Operation of any such set, instrument, phonograph, system, machine or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet from the source if the source is located outside a structure or building, shall be prima facie evidence of a violation of this Section.

Subd. 7 Participation in Noisy Parties or Gatherings. No person shall participate in any party or other gathering of people giving rise to noise which unreasonably disturbs the peace, quiet or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than any owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

Subd. 8. Loudspeakers, Amplifiers for Advertising. No person shall operate or permit the use or operation of any loudspeaker, sound amplifier or other device for the production or reproduction of sound on a street or other public place for the purpose of commercial advertisement or attracting the attention of the public to any commercial establishment or vehicle.

Subd. 9 Schools, Churches, Hospitals, Etc. No person shall create any excessive noise on a street, alley or public grounds adjacent to any school, institution of learning, church, hospital or senior housing facility when the noise unreasonably interferes with the

working of the institution or disturbs or unduly annoys its occupants or residents.

730.02 Hourly Restrictions on Certain Operations.

Subd. 1 Recreational Vehicles. No person shall, between the hours of 10:00 p.m. and 7:00 a.m., drive or operate any recreational motor vehicle, as defined in Minnesota Statutes §84.90, or any successor provisions, which are not licensed for travel on public highways. This provision shall not apply to snowmobiles, which are separately regulated by the City.

Subd. 2 Domestic Power Equipment. No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Equipment being used to remove snow is exempt from this provision.

Subd. 3 Refuse Handling. No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 6:00 a.m. and 9:00 p.m. on any weekend or holiday.

Subd. 4 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 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

730.03 Exceptions.

Subd. 1 Emergency Work. Noise created exclusively in the performance of emergency work to preserve the public health, safety or welfare, or in the performance of emergency work necessary to restore a public service or eliminate a public hazard shall be exempt from the provisions of this section for a period not to exceed 24 hours after the work is commenced. Persons responsible for such work shall inform the City of the need to initiate such work or, if the work is commenced during non-business hours of the City, at the beginning of business hours of

the first business day thereafter. Any person responsible for such emergency work shall take all reasonable actions to minimize the amount of noise.

Subd. 2 Parades. Parades permitted by proper authorities which are conducted within the limits of their permits are exempt from this section.

730.04 Enforcement.

Subd. 1 Enforcement Duties. The police department shall enforce the provisions of this Section. The police department or its members may inspect private premises other than private residences and shall make all reasonable efforts to prevent violations of this Section.

Subd. 2 Civil Remedies. This section may be enforced by injunction, action for abatement or other appropriate civil remedy.

Subd. 3 Noise Impact Statements. The Council may require any person applying for a change in zoning classification, a variance or a permit or license for any structure, operation, process, installation or form prescribed by the Council. The Council shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

Subd. 4 Criminal Penalties. Every person who violates any provision of this section is guilty of a misdemeanor. Each act of violation and each day of violation occurs or continues constitutes a separate offense.

SECTION 740 - CLEAN-UP OF DRUG LAB AND CHEMICAL DUMP SITES

740.01 General Provisions

A. **Purpose and Intent.** The purpose of this ordinance is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals or residue from a suspected clandestine drug lab site or associated dump site may exist. Professional reports, based on assessments, testing and investigations, show that chemicals used in the production of illicit drugs can condense, penetrate, and contaminate surfaces, furnishings, and equipment

of surrounding structures. The City Council finds that such sites, and the personal property within such sites, may contain suspected chemicals and residues that place people, particularly children or adults of child bearing age, at risk when exposed through inhabiting or visiting the site or using or being exposed to contaminated personal property.

- B. **Interpretation and application.** In the interpretation and application of this article, the provisions herein shall be construed to protect the public health, safety and welfare. Where the conditions imposed by any provision of this ordinance are either more or less restrictive to the public than comparable provisions imposed by any other law, ordinance, statute, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements on the public shall prevail. Should any court of competent jurisdiction declare any section or subpart of this article to be invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the provision declared invalid.
- C. **Fees.** Fees for the administration of this ordinance may be established and amended periodically by resolution of the City Council.

740.02 Definitions

For the purposes of this ordinance, the following terms or words shall be interpreted as follows:

Child - Shall mean any person less than 18 years of age.

Chemical dump site - Shall mean any place or area where chemicals or other waste materials used in a clandestine drug lab operation have been located.

City - Shall mean the City of Circle Pines.

Clandestine drug lab sites/Wastes/Substances - Shall mean any place or area where law enforcement has determined that conditions associated with the operation of an unlawful clandestine drug lab exist. A clandestine drug lab site may include dwellings, accessory buildings, accessory structures, a chemical dumpsite, any land or personal

property which may include vehicle(s), boat(s), trailer(s), etc. Wastes generated from a clandestine drug lab shall be treated, stored, transported or disposed of in a manner consistent with Minnesota Department of Health, Minnesota Pollution Control, and Anoka County Health Department rules and regulations.

Clandestine drug lab operation - Shall mean the unlawful manufacture or attempt to manufacture a controlled substance.

Controlled substance - Shall mean any drug, substance or immediate precursor in Minnesota Statute § 152.02 Schedules I through V together with any amendments or modifications thereto. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

Manufacture, (in places other than a pharmacy) - Shall mean and include the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, and the packing, repacking, tableting, encapsulating, labeling, relabeling, or filling or by other process of drugs.

Owner - Shall mean any person(s), firm(s), corporation(s) or other entity who or which owns, in whole or in part, the land, building, structure, vehicle, boat, trailer or other location associated with a clandestine drug lab site or chemical dump site.

Public Health Nuisance - All dwellings, accessory structures and buildings or adjacent property associated with a clandestine drug lab site are potentially unsafe due to health hazards and are considered a public health nuisance pursuant to Minn. Stat. § 463.15, et seq.; § 463.15, et seq.; § 412.221, et seq.; and 145A.01, et seq.

740.03 Declaration of Site and Contents as a Public Health Nuisance

All dwellings, accessory structures, buildings, vehicles, boats, trailers, personal property, adjacent property or other locations, associated with a clandestine drug lab site or chemical dump site are potentially unsafe due to health hazards and are hereby declared to be a public health nuisance pursuant to Minn. Stat. § 463.15, et seq.; § 463.15, et seq.; § 412.221, et seq.; and 145A.01, et seq.

740.04 Law Enforcement Action

If law enforcement authorities determine the existence of a clandestine drug lab site or chemical dump site, the site, and all personal property therein, shall be declared a public health nuisance. Law enforcement authorities who identify conditions associated with a clandestine drug lab site or chemical dumpsite which may place neighbors, the visiting public, or present and future occupants of the site at risk for exposure to harmful contaminants and other associated conditions are authorized to take the following action:

- A. Promptly notify the State Duty Officer, Chemical Assessment Team (CAT), Crime Lab, City Building Official or designee, child protection, public health authorities and the appropriate enforcement division of the drug enforcement administration of the U.S. Justice Department of the location of the site, local law enforcement officials, and the owner if known, of the conditions found; and
- B. Treat, store, transport or dispose of all wastes/substances generated from a clandestine drug lab operation found at the site in a manner consistent with Minnesota Department of Health, Minnesota Pollution Control and Anoka County Health Department rules and regulations; and
- C. Public Health Officials may issue a temporary declaration of public health nuisance for the affected site and post a copy of the declaration on all doorway entrances to the site or, in the case of bare land, post the declaration in several conspicuous places on the property. This temporary declaration of public health nuisance shall expire subsequent to the same authority and the City Building Official or designee inspecting the site and determining the appropriateness of issuing a after the City Building Official or designee inspects the site and determines the appropriateness of issuing a permanent declaration of public health nuisance; and
- D. The Chemical Assessment Team (CAT) and Crime Lab will notify all persons occupying the site that a temporary declaration of public health nuisance has been issued; and

- E. Require all persons occupying the site to immediately vacate the site, remove all pets from the site, and not return without written authorization from the City Building Official or designee; and
- F. Notify all occupants vacating the site that all personal property at the site may be contaminated with dangerous chemical residue; and
- G. Public Health Official or City Building Official or designee may put locks on each doorway entrance to the site to prohibit people from entering the site without authorization after all occupants of the site have vacated.

The obligation to promptly notify the persons and organizations mentioned above may be delayed to accomplish appropriate law enforcement objectives, but only to the extent that public health and child protection responsibilities are not unnecessarily compromised.

740.05 Seizure of Property

When the clandestine drug lab site or chemical dump site is inside a vehicle, boat, trailer or other form of moveable personal property, law enforcement authorities, upon the direction of the Duty Officer, Chemical Assessment Team (CAT) and Crime Lab, shall immediately seize it and not allow it to be transported except to a more secure location. In such circumstances, all other requirements of this ordinance shall be followed as closely as possible given the specific type of property in which the site is discovered.

740.06 Action by City Building Official or Designee

- A. **Inspection and Declaration of Nuisance.** Within 48 hours of notification that law enforcement authorities have determined the existence of a clandestine drug lab site or chemical dump site, the City Building Official or designee shall inspect the site to determine the appropriate scope of a permanent declaration of public health nuisance. Based on the results of the inspection, the City Building Official or designee may then promptly issue a permanent declaration of public health nuisance and a Do Not Enter-Unsafe to Occupy Order for the affected site to

replace the temporary declaration issued and posted by law enforcement. A copy of the permanent declaration and order shall be posted on all doorway entrances to the site or, in the case of bare land, shall be posted in several conspicuous places on the property.

- B. **Abatement Order.** After a permanent declaration of public health nuisance has been issued and posted, the City Building Official or designee shall send written notice to the site owner ordering abatement of the public health nuisance. The abatement order shall include the following information:
1. A copy of the declaration of public health nuisance and Do Not Enter Unsafe to Occupy Order; and
 2. Information about the potentially hazardous condition of the site; and
 3. Notification of suspension of the site's rental license if applicable; and
 4. A summary of the site owner's and occupant's responsibilities under this ordinance; and
 5. Information that may help the owner locate appropriate services necessary to abate the public health nuisance.
- C. **Notice to Concerned Parties.** The Building Official or designee shall also mail a copy of the permanent declaration of public health nuisance, a copy of this ordinance, and a notification of the suspension of the site's rental licenses, if applicable, to the following concerned parties at their last known address:
1. Occupants or residents of the site if the identities of such persons are known; and
 2. Neighbors in proximity to the site who may be reasonably affected by the conditions found; and
 3. The City Administrator; and
 4. The Community Development Director; and
 5. The City Police Department; and
 6. The City Fire Department; and
 7. The appropriate enforcement division of the Drug Enforcement Administration of the U.S. Justice Department; and
 8. Other City, State and Local authorities, such as the city Water Department, the Minnesota Pollution Control Agency, the Department of Natural Resources and any other agency or authority which is known to have public and

protection responsibilities that are applicable to the situation.

- D. **Modification or removal of declaration.** The City Building Official or designee is authorized to modify or remove the declaration of public health nuisance after the Building Official or designee receives documentation from a City approved environmental hazard testing and cleaning firm stating that the suspected health and safety risks, including those of neighbors and potential dwelling occupants, either do not exist or have been sufficiently abated or corrected to justify amendment or removal of the declaration.

740.07 Site Owner's Responsibility to Act

Within ten (10) business days of the date the abatement order is mailed to the owner of the site, the owner shall accomplish the following:

- A. Provide the City Building Official or designee, City Administrator and City Attorney with written notification:
1. That the owner has confirmed that all persons and their pets have vacated the site; and
 2. Of the name(s) of all children who the owner believes were residing at the site during the time period the clandestine drug lab or chemical dump site is suspected to have been at the site; and
 3. That the site will remain vacated and secured until the public health nuisance is completely abated as required by this ordinance.
- B. Contract with one (1) or more City approved environmental hazard testing and cleaning firms to conduct the following work in accordance with the most current Minnesota Department of Health guidelines:
1. A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;
 2. Soil testing of the site and testing of all property and soil in proximity to the site which the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site; and

3. A complete clean up of the site (including, but not limited to, the clean up or removal of plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the site and complete clean up of the demolished site; and
 4. A complete clean up, or disposal at an approved dump site, of all personal property in the site; and
 5. A complete clean up of all property and soil in proximity to the site which is found to have been affected by the conditions found at the site; and
 6. Remediation testing and follow-up testing, including, but not limited to, testing of the ventilation system and plumbing, to determine that all health risks are sufficiently reduced, according to Minnesota Department of Health guidelines, to allow safe human occupancy and use of the site and use of the personal property therein and of all property and soil in proximity to the site.
- C. Provide the City Building Official or designee with the identity of the testing and cleaning firm with which the owner has contracted for abatement of the public health nuisance as required above; and
- D. Sign an agreement with the City Building Official or designee establishing a clean up schedule. The schedule shall establish reasonable deadlines for completing all actions required by this ordinance for abatement of the public health nuisance. In determining appropriate deadlines, the City Building Official or designee shall consider practical limitations and the availability of contractors in approving the schedule for clean up.

The site owner must meet all deadlines established on the clean up schedule. Also, pursuant to the deadlines established by the clean up schedule, the site owner is required to provide the City Building Official or designee with written documentation of the clean up process, including a signed statement from a City approved environmental hazard testing and cleaning firm that the site, all personal property therein and all property and soil in proximity to the site, is safe for human occupancy and use and that the clean up was conducted in accordance

with the most current Minnesota Department of Health guidelines.

740.08 Site Owner's Responsibility for Costs

The site owner shall be responsible for all costs, including those of the City, of dealing with and abating the public health nuisance, including contractor's fees and the City's costs for services performed in association with the clandestine drug lab site or chemical dump site clean up. The City's cost may also include, but shall not be limited to:

- A. Posting of the site; and
- B. Notification of affected parties; and
- C. Securing the site, providing limited access to the site, and prosecution of unauthorized persons found at the site; and
- D. Expense related to the recovery of costs, including the assessment process; and
- E. Laboratory fees; and
- F. Clean up services; and
- G. Administrative fees; and
- H. Legal fees; and
- I. Other associated costs

740.09 City Action and Recovery of Costs

- A. If the building owner fails to comply with any of the requirements of this ordinance, the City Building Official or designee is authorized to take all reasonable actions necessary to abate the public health nuisance including, but not limited to, contracting with a City approved environmental hazard testing and cleaning firm to conduct the work outlined in Section 7 of this ordinance.

The Building Official or designee is also authorized to provide a certified copy of the declaration of public health nuisance to the lien and/or mortgage holder(s), insurance company(ies) and with the Office of the Anoka County Recorder or Registrar of Titles of the affected site to help assure that persons with interest in the site have access to information about the declaration of public health nuisance. Upon abatement of the nuisance as required herein, the Building Official shall cause a notice of successful

abatement and removal of the Declaration of Public Health Nuisance.

- B. If the costs to clean the site or to clean the personal property at the site are prohibitively high in relation to the value of the site or the personal property, the City is authorized to remove or demolish the site, structure or building and/or dispose of the personal property therein. These actions shall be taken in accordance with the provisions of Minnesota Statute Chapter 463 together with any amendments or modifications thereto.
- C. If the City abates or assists in abating the public health nuisance, in addition to any other legal remedy, the City shall be entitled to recover all of its out of pocket costs as set forth in Section 8 above and an additional 25 percent of such costs for administrative and legal expense. The City may recover costs by civil action against the owner of the site or by assessing such costs as a special charge against the site as taxes and special assessments are certified and collected pursuant to Minnesota Statute § 429.101 or according to the provisions of Minnesota Statute Chapter 463 together with any amendments or modifications thereto.
- D. Nothing herein shall limit the authority of the City to enforce this ordinance or seek any other legal remedy to abate the nuisance through declaratory action, injunction, and nuisance declaration of otherwise.

740.10 Recovery of Costs from Persons Causing Damage

No provisions of this ordinance are intended to limit the site owner's, residents' or the City's right to recover costs incurred under this article from either the persons contributing to the public health nuisance, such as the operators of the clandestine drug lab, and/or from other lawful sources.

740.11 Site Owner and Address

When the site is real property and the owner or the address of the owner of the site is unknown, the owner and the owner's address is deemed to be that of the property's

taxpayer's name and address as that information is maintained by the County Auditor's Office. When the site is a vehicle, boat or trailer and the owner or the address of the owner of the site is unknown, the owner and the owner's address is deemed to be that of the person on file as the owner on the current or most recent title to the vehicle, boat or trailer

740.12 Suspension of Residential Rental Certification

Upon issuance of a permanent declaration of public health nuisance, any residential rental certificate issued by the City for the site, or any part thereof, is hereby declared to be immediately suspended pending full compliance with this ordinance.

740.13 Unauthorized Removal of Postings

It is unlawful for any person, except authorized City personnel or Public Health Officials, to remove postings designating a temporary or permanent declaration of public health nuisance and/or Do Not Enter - Unsafe to Occupy Order from a chemical dump site or a clandestine drug lab site.

740.14 Entry Into or Onto Site

While a declaration of public health nuisance for an affected site is in effect and has been posted at the site, no persons are permitted to be inside the site, or on the site property without prior written consent of the City Building Official or designee or as otherwise authorized by this ordinance. To confirm compliance with this ordinance and to execute their duties under this ordinance, law enforcement officers, the City Building Official or designee, and any persons designated by the Building Official or designee, may enter onto the site property or enter into the site at any time while a declaration of public health nuisance is in effect for the site.

740.15 Removal of Personal Property from the Site

While a declaration of public health nuisance for an affected site is in effect and has been posted at the site, no personal property may be removed from the site without

prior written consent from the City Building Official or designee. Consent to remove personal property shall only be granted at the reasonable discretion of the Building Official or designee, and only in cases of hardship after:

- A. A City approved environmental hazard testing and cleaning firm has advised the City, in writing, that the item(s) of personal property can be sufficiently cleaned to remove all harmful contamination; and
- B. The owner of the personal property agrees in writing:
 - 1. That the owner is aware of the danger of using the contaminated property; and
 - 2. That the owner will thoroughly clean the property to remove all contamination prior to the use of the property; and
 - 3. That the owner releases and agrees to indemnify the city, its Staff, and the City Council from all liability to the owner and/or third persons for injuries or damages caused, or alleged to have been caused, by the contaminated property.

740.16 City Council Review/Right to Appeal

The owner of the property or any party with a legal interest in the property who has been issued a Declaration of Public Health Nuisance, an Order for Abatement, or a Statement of Public Costs may appeal to the City Council. The appeal shall be in writing, filed with the City Clerk and Anoka County Community Health and Environmental Services, specifying the grounds for the appeal and the relief requested. The appeal must be filed within ten (10) days of the issuance of the item from which appeal is taken. The City Council shall hear the appeal at the next available City Council meeting. Upon review, the City Council may affirm, modify or reverse the action taken. The filing of an appeal shall suspend the terms of the Declaration of Public Health Nuisance, Order for Abatement, or Statement of Public Costs, whichever is applicable. However, in the instance of an appeal from an Order for Abatement, the appeal shall not suspend that part of the order prohibiting occupancy of the property.

740.17 Violations and Penalties

Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be

subject to the penalties set forth in Minnesota Statute §
609.02, Subd. 3.