

# MEMO

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**TO:** Mayor Fasbender and Members of the Hastings City Council  
**FROM:** Kori Land, City Attorney  
**DATE:** March 21, 2022  
**RE:** Administrative Citations

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## INTRODUCTION

On or around October 4, 2021, the City Council adopted a Charter Amendment that provides the authority to enact Administrative Citations. Charter Amendments become effective 90 days after adoption, therefore, it is now in effect and the proposed City Code Amendments surrounding administrative citations are ripe for consideration. Keep in mind that the creation of an administrative process does not preclude criminal prosecution or the use of other remedies, such as revoking a license, abatement or civil actions such as injunctions. The administrative citation process will be an *additional* tool available for City Staff to address nuisance violations.

A team from Community Development, Fire, and Police have been meeting with me over the last 5 months preparing, reviewing and revising ordinance amendments surrounding nuisance violations and the administrative citations process. Through the course of the meetings, I asked Staff to consider existing ordinances in which they had issues or concerns related to nuisance violations that could be addressed with these amendments. Ideas were suggested and some are being put forward as amendments now. Some ideas, however, were put on “pause” so that we could engage the Council before moving forward. As we talk through the ordinance amendments at the work session, I will specifically point out any “new idea” ordinance amendments that are proposed, as well as ask you to consider some of the “paused” ideas that require your direction.

The goal of the Administrative Citations is to provide more efficient tools for the City to address problem properties and nuisance calls that tend to be a burden on limited City resources. In addition, we need to protect people’s property rights, protect the public health, safety and general welfare, provide justification and a foundation for the ordinances, and ensure that everyone is afforded due process if they choose to challenge a violation.

We are not going to meticulously go through all of the ordinance amendments proposed, but instead, I will attempt to explain the flow of how code enforcement is intended to operate under the new ordinance amendments.

## **City Code Section 10.20** **Enforcement and Inspections**

This amendment addresses who can enforce the Code and how to conduct inspections. These sections will apply to all Code enforcement and provide for uniformity in the process.

*Who* – There is a specific list of positions that are given the authority to enforce the Code. City Staff was comfortable that the positions named (“or designee”) are sufficient to cover the needs of the necessary departments. The list is important because it gives the required authority to the positions so that they can conduct inspections, send notice letters, order abatements, issue administrative citations or undertake any other enforcement actions authorized in the Code.

*Inspections* – The inspection process is outlined to ensure there is uniformity in the implementation of all Code enforcement inspections, including providing at least 72 hours’ advanced notice, authority for emergency access and how to gain access when the property owners refuse access. While each department may have its own inspection procedures, this section should not contradict their current process and in addition, it will provide a default inspection process where none exists.

## **Section 95.20-.27** **Nuisances**

We are redefining nuisances and giving two clear paths to administratively address nuisance violations:

1. Abatement. This is for those types of violations that can be physically removed from the property by the City. Junk, trash, weeds, or other kinds of objects that are conducive to hiring a contractor who can easily remove the offending item. The City will abate the nuisance, send an invoice for the abatement and if not paid, assess the costs against the property;

OR

2. Administrative citations. For all other violations that cannot be abated but are not corrected, a citation is issued, resulting in a fine and if not paid, it is assessed against the property.<sup>1</sup>

These enforcement tools provide for swift enforcement action. The City Staff can choose which tool is best for each situation. The process is described in greater detail later in this memo. But if neither of these options are appropriate or effective, then the traditional methods of enforcement are still available.

### 95.20, .21 and .23 – Public Nuisances

We are providing a new general definition section for all terms used in this chapter, including a new definition of Public Nuisance that is not tied to the statutory or criminal definition of public nuisance. Instead, there is a list of specific Code violations that are considered nuisances, as well

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<sup>1</sup> All assessments will be done pursuant to state law through an assessment hearing, thereby preserving due process to object to the assessment.

as more general types of violations that may be considered a public nuisance, that may involve businesses, smells, fighting words, dangerous structural conditions, noise and other types of nuisance conditions.

\*New\* 95.25 – Unsheltered Storage

This is a new section based on a partial definition that currently existed elsewhere in the list of “nuisances affecting peace and safety” (found at City Code §95.23 (L)), which provided the following:

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

The new section defines unsheltered storage:

UNSHELTERED STORAGE. Includes but is not limited to: machinery, implements, equipment, or personal property, worn out or discarded material, household appliances or parts, tools, building materials, tin cans, glass, furniture, mattresses, box springs, crates, cardboard, tires or any other unsightly debris, brush or materials, the accumulation of which may have an adverse effect upon the neighborhood or property values, health, safety or general welfare of the public.

The section then provides the purpose and legal basis for regulating unsheltered storage and declares it to be a nuisance that can be abated. The reason it is important to clarify the purpose and intent is that if property owners appeal, a court will look at the City’s foundation for implementing the ordinance.

**Section 158**  
**Property Maintenance Code**

This section was revised to make it clear that violations of the Property Maintenance Code will fall squarely in the “nuisance” category. Many of the definitions were simplified to reference state law or other sections of the Code, in order to avoid having conflicting or outdated definitions. The enforcement, inspection and penalty sections were removed and directed to the new provisions in Chapter 10.

\*New\* One of the new suggested ideas raised by Staff adds a requirement in the Property Maintenance Code that all off-street parking must be on concrete or asphalt surfaces. This means no parking in yards, grass, gravel or dirt. It is proposed to apply to **new** parking surfaces installed after a date that would be set by Council. The “grandfathering rights” would allow for existing parking that currently occurs in yards, grass, gravel or dirt to continue, but if someone wants to install a new driveway or start using a new place to park a vehicle where none previously existed (backyard, front yard, side yard), they have to comply with the new parking surface requirement.

The ordinance has been prepared for your consideration, *but we seek direction on whether the Council supports this change at this time.*<sup>2</sup>

**\*New\* 95.96 – Abatement**

Abatement is the most efficient method of Code enforcement as it allows for a swift correction of the violation. This tool is for violations that can be removed by the City relatively painlessly, such as junk in the yard, inoperable motor vehicles, weeds, snow and ice. The process will be implemented as follows:

1. Notice is sent with sufficient details that the violator (property owner and/or tenant) can understand the violation, providing a deadline to comply and a statement that failure to comply may result in abatement by the City, the costs of which are the owner's responsibility and if not paid, can be assessed against the property.
2. The letter is served by regular mail or personal service.
3. If the owner fails to correct the violation, the City has the authority to abate the violation, store the material if it has value, and treat it as abandoned property if not retrieved, or discard the material if it has no value.
4. The City will then issue an invoice for the costs of abatement and if not paid, it can be assessed against the property.
5. The appeals will be handled through the Office of Administrative Hearings, a process that is outlined in the Administrative Citation Section below.

There is authority provided for emergency abatements, should a hazardous condition exist that needs immediate attention. An example would be an unsecured foreclosed vacant house that has evidence of squatters or holes that are causing a rodent infestation in the neighborhood. The City could immediately and without notice, hire a contractor to board up the property and secure it.<sup>3</sup>

**\*New\* Section 10.25 – Administrative Citations**

This is the new section authorized by the Charter Amendment to implement Administrative Citations. The process is as follows:

1. A compliance letter is sent with sufficient details that the violator (property owner and/or tenant) can understand the violation, providing a deadline to comply and a statement that failure to comply may result in a fine (specifying the amount of the fine).<sup>4</sup>
2. The letter is served by certified mail, regular mail, personal service or by posting it on the property.
3. Failure to comply with the compliance letter authorizes the officer to issue an administrative citation. The citation will be on a uniform "citation" form that also provides

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<sup>2</sup> City Staff offered other suggested changes, such as regulating outdoor wood boilers, backflow valves, shipping containers as well as modifications to other sections of the Code but we chose not to address all of the suggestions in this process.

<sup>3</sup> One city I represent recently used an emergency abatement process when a property owner refused to repair his leaking lateral water line that was spilling into the street, causing a dangerous icy condition.

<sup>4</sup> Certain violations will not require a compliance letter, such as repeat offenders within 12 months, license violations, open burning, animals at large, noise, fireworks, etc. In many cases, these offenses are violations for which notice would be futile because the event is occurring immediately.

specificity of the violation, the amount of the fine, a statement that the violation must still be corrected, a statement on how to appeal, and notice that failing to pay may result in the fine being assessed against the property. Options for what happens after an administrative citation is issued include the following:

- a. Pay and correct = case closed
  - b. Pay and do not correct = another citation
  - c. Do not pay and correct = assess then close
  - d. Do not pay and do not correct = assess, another administrative citation, criminal citation, or other enforcement action
4. Appeals can be made by filing a notice with the City Clerk within 10 days after the citation is mailed, along with a \$100 filing fee to cover administrative costs of setting up the hearing
- a. The appeal will be submitted to the Office of Administrative Hearings (OAH) to be heard by an administrative law judge. It will be treated as a court trial, but without the strict rules of evidence. The City and the offender can represent themselves and the hearing officer usually renders a decision immediately.
  - b. If the violation is upheld, the offender must pay for the cost of the hearing, up to \$1,000. If the violation is overturned, the City pays for the cost of the hearing.
  - c. Decisions of the hearing officer are final but may be appealed to the Court of Appeals.

This appeal provision is available for abatement or administrative citations, for dangerous dog designations, and potentially for other violations of the Code. It provides for an expedient and a fair and impartial hearing before an independent hearing officer, where due process is afforded all parties.

5. The City will need to adopt a fee schedule for Administrative Citation violations. A proposed fee schedule is attached and includes a provision that for a second violation in 12 months the fine doubles, up to a maximum fine of twice the amount of a misdemeanor fine (\$2,000).

### **Section 91.30** **Dangerous Dogs**

***\*New Proposed Ordinance\**** One of the ordinances the PD asked me to review was the Dangerous Dog ordinance, which currently only allows the City to regulate Dangerous Dogs. I suggested we consider designating Potentially Dangerous Dogs, as allowed by state law. Under the current Code, dogs can bite another animal many times or bite a person that doesn't rise to the level of "substantial bodily harm"<sup>5</sup> without any penalty at all. But if we are able to designate a dog as

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<sup>5</sup> "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member. Minn. Stat. § 609.02 subd. 7a.

Potentially Dangerous, then it has to be properly restrained and if it bites again, regardless of the level of harm, it can be designated as a Dangerous Dog, which comes with more protections. Below are the differences between Dangerous Dogs and Potentially Dangerous Dogs:

**DANGEROUS DOG** - Definition

- Inflicted substantial bodily harm on a person
- Has killed another animal off of the owner's property
- Has attacked someone on 2 or more occasions
- Has been labeled "Potentially Dangerous" and then bites, attacks or endangers the safety of people or animals.

The license requirements for a Dangerous Dog are:

- Proper enclosure
- Insurance
- Pay an annual license fee
- Microchip ID implanted in the dog
- Sterilize the dog
- Have a warning symbol on the property
- Wear an identifiable license tag

**POTENTIALLY DANGEROUS DOG** - Definition

- Bit a person or another animal
- Chased a person in an attitude of attack
- Has a known propensity to attack causing or threatening the safety of people or animals

The license requirements for a Potentially Dangerous Dog are:

- Proper enclosure
- Pay an annual license fee
- Microchip ID implanted in the dog

Both Potentially and Dangerous Dogs must be properly restrained on a leash no more than 4 feet and muzzled while outside of their own property.

The reason this is ripe for consideration is because violations of conditions required under the ordinance can be addressed through administrative citations instead of criminal court. In addition, anyone who wants to appeal the designation will be managed through the OAH instead of the panel that is assembled today.

*We are specifically looking for direction on whether the Council supports adding the designation of Potentially Dangerous Dogs to the ordinance.*

### **Misc. Ordinance Regarding Penalties/Violations**

There are numerous ordinances throughout the Code that discuss criminal penalties and violations. Now that the general penalty section applies to all Code violations and includes administrative citations where applicable, there is no need to have violation and penalty sections in each chapter or section of the Code. Many of these attached ordinance amendments simply provide this “clean up” in random sections but are not substantive changes.<sup>6</sup>

### **\*Policy Discussion on Rental Licensing\***

One tool that has been useful in other communities in which Administrative Citations have been implemented is to apply the Administrative Citation process to rental properties. The City currently has a rental license ordinance and maintenance code for rental properties and while violations will now be enforced through administrative citations, the current Code does not address landlords who fail to address problem tenants/behavior who create an unsafe environment for other tenants and the neighborhood. A more robust rental license ordinance can hold landlords accountable for disturbance-type nuisances at their property. One addition to the rental license ordinance could be the ability to issue a *provisional* license that allows the Council to place conditions on a license, for example, requiring a professional property management company or a security company to monitor the safety of the property or require more frequent trash removal, depending on the specific issues at the property. Today, the City conducts a maintenance inspection, and if it complies with the rental maintenance codes, a license is issued. There is little ability to revoke or suspend a rental license except for maintenance issues. By way of example, I have attached the South St. Paul Rental License Ordinance, which has been very helpful for City Staff and also for the community as a whole because it creates safer rental properties.

*We request discussion and direction on whether the Council would like to consider this type of ordinance amendment. If the Council supports moving forward, we will provide additional information and specific background data as to why this ordinance would be helpful. At this point, we are simply asking if the Council supports exploring it further.*

### **CONCLUSION**

Attached you will find a packet of the existing Code Sections that are being amended (Attachment 1), a packet of the proposed ordinance amendments (Attachment 2), a draft fee schedule (Attachment 3) and the South St. Paul Rental License Ordinance (Attachment 4).

1. Provide reaction to the ordinances for Administrative Citations and the fee schedule
2. Provide direction on whether you want to implement the ordinance designating Potentially Dangerous Dogs
3. Provide direction on whether you want to implement the ordinance requiring parking on impervious surfaces
4. Provide direction on whether you want to pursue amendments to the rental license ordinance

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<sup>6</sup> There may be other sections of the Code with penalty provisions that were inadvertently overlooked, and we will diligently try to find them all before first and final reading.

**Attachment 1**  
**Existing Ordinances**



## **10.20 Enforcement**

- A. Any licensed peace officer of the City's Police Department, or the County Sheriff, or any Deputy Sheriff, shall have the authority to enforce any provision of this code.
- B. As permitted by M.S. 626.862, as it may be amended from time to time, the City Clerk shall have the authority to administer and enforce this code. In addition, under that statutory authority, certain individuals designated within the code or by the Clerk or City Council shall have the authority to administer and enforce the provisions specified. All and any person or persons designated may issue a citation in lieu of arrest or continued detention to enforce any provision of the code.
- C. The City Clerk and any City official or employee designated by this code who has the responsibility to perform a duty under this code may with the permission of a licensee of a business or owner of any property or resident of a dwelling, or other person in control of any premises, inspect or otherwise enter any property to enforce compliance with this code.
- D. If the licensee, owner, resident, or other person in control of a premises objects to the inspection of or entrance to the property, the City Clerk, peace officer, or any employee or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety, and welfare of the people are being complied with and to enforce these provisions only. No warrant shall be issued unless there be probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particular property.
- E. Every licensee, owner, resident, or other person in control of property within the City shall permit at reasonable times inspections of or entrance to the property by the City Clerk or any other authorized City officer or employee only to determine whether the provisions of this code enacted to protect the health, safety, and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses, or City service to the property. Mailed notice shall be given to the licensee, owner, resident, or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident, or other person in control of the property shall be given an opportunity to appear before the City Council to object to the termination before it occurs, at a regularly scheduled or special meeting.
- F. Nothing in this section shall be construed to limit the authority of the City to enter private property in emergency situations where there is an imminent danger in order to protect the public health, safety, and welfare.

### **10.99 General Penalty**

- A. Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.
- B. Any person, firm, or corporation who violates any provision of this code, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of a fine of not more than \$300.
- C. In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution or state surcharges may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.
- D. The failure of any officer or employee of the City to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation.
- E. In addition to any penalties provided for in this section, if any person, firm, or corporation fails to comply with any provision of this code, the Council or any City official designated by it may institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

## **32.04 Disposal Of Abandoned Motor Vehicles, Unclaimed Property, And Excess Property**

### *A. Disposal Of Abandoned Motor Vehicles.*

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

**ABANDONED MOTOR VEHICLE.** A motor vehicle as defined in M.S. Chapter 169, as it may be amended from time to time, that has remained for a period of more than 48 hours on public property illegally or lacking vital component parts, or has remained for a period of more than 48 hours on private property without the consent of the person in control of the property, or in an inoperable condition such that it has no substantial possible further use consistent with its function, unless it is kept in an enclosed garage or storage building. It shall also mean a motor vehicle voluntarily surrendered by its owner to the City. A classic car or pioneer car, shall not be considered an abandoned motor vehicle. Vehicles on the premises of junkyards or automobile graveyards, which are licensed and maintained in accordance with the City code, shall not be considered abandoned motor vehicles within the meaning of this section.

**VITAL COMPONENT PARTS.** Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train, and wheels.

2. Custody. The City may take into custody and impound any abandoned motor vehicle.
3. Immediate sale. When an abandoned motor vehicle is more than 7 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 provision of this division (A).
4. Notice.
  - a. When an abandoned motor vehicle does not fall within the provisions of division (A)(3) above, the City shall give notice of the taking within 10 days. The notice shall set forth the date and place of the taking, the year, make, model, and serial number of the abandoned motor vehicle, if the 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 division (A)(5) below, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents be deemed a waiver by them of all rights, title, and interest in the vehicle and a

consent to the sale of the vehicle at a public auction pursuant to division (A)(6) below.

- b. The notice shall be sent by mail to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lien holders or 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.
5. Right to reclaim.
  - a. The owner or any lien holder of an abandoned motor vehicle shall have a right to reclaim the vehicle from the City upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 days after the date of the notice required by this division (A)(4).
  - b. Nothing in this division (A) 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 division (A)(5), **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.
6. Public sale.
  - a. An abandoned motor vehicle and contents taken into custody and not reclaimed under division (A)(5) above shall be sold to the highest bidder at public auction or sale, following 1 published notice published at least 7 days prior to the 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.
  - b. 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 division (A). Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in the General Fund of the City.
7. 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 division (A).
8. 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. When 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 the City enters into a contract with a person duly authorized 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 for the purpose of obtaining reimbursement.
- 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.

### **91.30 Regulation Of Dangerous Dogs**

- A. *State Law Adopted.* The provisions of Minnesota Statutes 347.50 through 347.565 are adopted by reference and govern dangerous dogs in the City of Hastings.
- B. *Hearing Officer Decisions Final.* All decisions or impartial hearing officers appointed pursuant to M.S. 347.541 shall be final without any further right of administrative appeal.
- C. *Quarantine.* Any dog that has bitten a person or is believed to have bitten a person shall immediately be impounded for at least 10 days and kept apart from other animals, under the supervision of a veterinarian, until it is determined whether the animal had or has a disease which might have been transmitted by the bite. The impounding may be done by the owner, under the supervision of a veterinarian, and need not be at a shelter designated by the city, but if it is not at the city designated shelter, the owner shall notify the City Animal Control Officer or the Police Department immediately and shall furnish proof in writing where the dog is being impounded. After 10 days, if it is determined the dog does not have a disease which might have been transmitted by the bite, it may be released upon approval of the Animal Control Officer or Police Department.
  1. Any dog which is not quarantined as required by this subdivision, is subject to immediate seizure by the city. Any person who fails to quarantine an animal as required by this section is guilty of a misdemeanor.
  2. Any dog which has been bitten or otherwise exposed by a rabid animal shall be humanely euthanized or quarantined for 6 months. A dog may be released from quarantine after 40 days if:
    - a. The dog had been vaccinated for rabies at least 21 days and no longer than 1 year, before the bite;
    - b. The dog has been re-vaccinated for rabies immediately after the bite. The 40-day period begins on the date of the re-vaccination;
    - c. The required written report is sent to the Minnesota Board of Animal Health; and
    - d. The owner of the dog notifies the city's animal control officer or Hastings Police Department before the dog is released from quarantine.

## **95 Nuisances**

### **95.20 Public Nuisance**

### **95.21 Public Nuisances Affecting Health**

### **95.22 Public Nuisances Affecting Morals And Decency**

### **95.23 Public Nuisances Affecting Peace And Safety**

### **95.24 Duties Of City Officers**

#### **95.20 Public Nuisance**

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

- A. Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;
- B. Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or
- C. Is guilty of any other act or omission declared by law or §§ 95.20, 95.21, or 95.22, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.

#### **95.21 Public Nuisances Affecting Health**

The following are hereby declared to be nuisances affecting health:

- A. Exposed accumulation of decayed or unwholesome food or vegetable matter;
- B. All diseased animals running at large;
- C. All ponds or pools of stagnant water;
- D. Carcasses of animals not buried or destroyed within 24 hours after death;
- E. Accumulations of manure, refuse, or other debris;
- F. 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;
- G. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;
- H. All noxious weeds and other rank growths of vegetation upon public or private property;
- I. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- J. All public exposure of people having a contagious disease; and
- K. Any offensive trade or business as defined by statute not operating under local license.

## **95.22 Public Nuisances Affecting Morals And Decency**

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

- A. All gambling devices, slot machines and punch boards, except as otherwise authorized by federal, state, or local law;
- B. Betting, bookmaking, and all apparatus used in those occupations;
- C. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- D. All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place; and
- E. Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

## **95.23 Public Nuisances Affecting Peace And Safety**

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

- A. All snow and ice not removed from public sidewalks 48 hours after the snow or other precipitation causing the condition has ceased to fall;
- B. All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
- C. All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- D. 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;
- E. Radio aerials or television antennae erected or maintained in a dangerous manner;
- F. 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;
- G. All hanging signs, awnings and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
- H. The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- I. Any barbed wire fence less than 6 feet above the ground and within 3 feet of a public sidewalk or way;
- J. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- K. Waste water cast upon or permitted to flow upon streets or other public properties;



- L. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other material in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or safety hazards from accumulation;
- M. Any well, hole, or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- N. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
- O. The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;
- P. The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- Q. All other conditions or things which are likely to cause injury to the person or property of anyone;
- R.
  - 1. Prohibited Noises.
    - a. 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, or 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 restrictions of this section. All noises in violation of the Minnesota Pollution Control Agency Rules, Chapter 7030, as they may be amended from time to time, which are hereby incorporated by reference into this code, are prohibited.
    - b. Nuisance Factors-Noises. The characteristics and conditions which shall be considered in determining whether a noise unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value for the purposes of paragraph (a) of this subsection, shall include, without limitation, the following:
      - (1) The time of day or night when the noise occurs;
      - (2) The duration of the noise;
      - (3) The proximity of the noise to a sleeping facility, residential area, church, school, institution of learning or hospital
      - (4) The land use, nature and zoning of the area from which the noise emanates and the area where it is perceived;
      - (5) The number of people and their activities that are affected or are likely to be affected by the noise; and
      - (6) The sound peak pressure level of the noise, in comparison to the level of ambient noise.
    - c. Noisy Assembly.

- (1) Defined. The term “noisy assembly” shall mean a gathering of more than one person in a residentially zoned or used area or building that would be likely to cause significant discomfort or annoyance to a reasonable person of ordinary sensitivities present in the area, considering the time of day and the residential character of the area, due to loud, disturbing or excessive noise.
  - (2) Permitting Noisy Assembly. It shall be a violation of this section for any person having dominion, care or control of a residentially zoned or used area or building knowingly to permit a noisy assembly.
  - (3) Remaining at a Noisy Assembly. It shall be a violation of this section to participate in, visit or remain at a gathering knowing or having reason to know that the gathering is a noisy assembly, except any person(s) who has/ have come to the gathering for the sole purpose of abating the noisy assembly.
- d. Animals. It shall be a violation of this section to own, keep, have in possession or harbor any animal or animals which make any noise to the reasonable annoyance of another person or persons. The phrase “to the reasonable annoyance of another person or persons” shall include, but is not limited to, the creation of any noise by any animal or animals which can be heard by any person, including the animal control officer or a law enforcement officer, from a location outside of the premises where the animal or animals are located and which animal noise occurs repeatedly over at least a five-minute period of time with no more than a one-minute lapse of time between each animal noise during the five-minute period.
- e. Amplified Sound. It shall be a violation of this section to play, operate or permit the playing, use or operation of any radio, tape player, disc player, loud speaker or other electronic device used for the amplification of sound, unless otherwise permitted by law, located inside or outside, the sound of which carries to points of habitation or adjacent properties, and is audible above the level of conversational speech at a distance of fifty (50) feet or more from the point of origin of the amplified sound.
- f. Motor Vehicles.
- (1) Generally. It shall be a violation of this section to use any automobile, truck, motorcycle, motorboat, all terrain vehicle, snowmobile, recreational vehicle, other vehicle, or stationary internal combustion engine which causes or would be likely to cause significant discomfort or annoyance to a reasonable person of ordinary sensitivities present in the area due to loud, disturbing or excessive noise.
  - (2) Amplified Sound from Motor Vehicles. It shall be a violation of this section to play, operate or permit the playing, use or operation of any radio, tape player, disc player, loud speaker

or other electronic device used for the amplification of music or other entertainment, which is located within a motor vehicle on a public street or alley, or in a commercial or residential parking facility, which is audible by any person from a distance of fifty (50) feet or more from the motor vehicle. When sound violating this section is produced or reproduced by any such device that is located in a motor vehicle, the motor vehicle's owner, if present when the violation occurs, is guilty of the violation. If the motor vehicle's owner is not present at the time of the violation, the person who has dominion, care or control of the motor vehicle at the time of the violation is guilty of the violation. In addition to an owner or a driver, any person who controls or assists with the production, reproduction, or amplification of sound in violation at this section is guilty of the violation.

(3) Horns and Other Signals. It shall be a violation of this section to sound any horn or signal device on an automobile, motorcycle, bus or other vehicle, except as a danger signal or traffic warning, which would be likely to cause significant discomfort or annoyance to a reasonable person of ordinary sensitivities in the area.

(4) Application of the MPCA Rules. No person shall operate a motor vehicle in the City in violation of the motor vehicle noise limits of the Minnesota Pollution Control Agency Rules, Sections 7030.1000 through 7030.1060.

2. Hourly Restriction Of Certain Operations.

a. 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. Snow removal equipment is exempt from this provision.

b. Refuse Hauling. 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 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

c. 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.

3. Noise Impact Statements. The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation or alteration or project that may be considered a potential noise source to submit a noise impact statement on

a form prescribed by the Council. It 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.

**95.24 Duties Of City Officers**

For purposes of § 95.24, the Police Department, or Sheriff or person designated by the City Council under § 10.20, if the city has at the time no Police Department, may enforce the provisions relating to nuisances. Any peace officer or designated person shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no police officer or designated person shall enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing the entry, as provided in § 10.20.

### **113.09 Citations And Fines**

- A. Upon discovery of a violation of this chapter, or pursuant to a compliance check, the licensee will be issued an administrative citation. Each violation, and every day in which a violation occurs or continues, will constitute a separate offense.
- B. For purposes of determining the number of occurrences of violations, the City Council shall consider a violation as a second occurrence if it occurred within 18 months of the first violation and shall consider a violation a third violation if it occurred within 30 months of the second violation. The City Council shall consider a violation a fourth violation if it occurred within 30 months of the third violation.
  - 1. First violation - the licensee shall pay a civil fine established by ordinance.
  - 2. Second violation - the licensee shall pay a civil fine established by ordinance.
  - 3. Third violation - the licensee shall pay a civil fine of established by ordinance and shall have its license suspended for 3 consecutive days.
  - 4. Fourth violation - the licensee's license shall be revoked.
- C. All administrative fees imposed by this chapter are to be paid within 60 days of the date of citation or not later than 30 days after the date of any written decision following the appeal process. Failure to pay any fee imposed herein within the time limits established will result in a license suspension until the date of payment.
- D. Nothing in this chapter prevents the City Council from imposing a harsher penalty than those established by ordinance or resolution herein.
- E. In addition to any administrative citation and penalty imposed herein, the city reserves the right to also issue a criminal citation to any person who violates a provision of this city code section or any state law regarding the storage, display, or sale of consumer fireworks.

### **113.10 Right Of Hearing**

Within 20 calendar days of the date of the written notice of violation, any cited party may request an opportunity to appeal the violation. The request for appeal must be in writing and must be submitted to the City Clerk. The City Clerk will place the item on the agenda of the next regularly scheduled City Council meeting. Upon review, the City Council may affirm, modify, or overrule the initial determination of penalty.

### **113.98 Violations**

Every person who violates a provision of this chapter when they perform an act thereby prohibited or declared unlawful, or fails to act when that failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as for a misdemeanor.

## **CHAPTER 158 PROPERTY MAINTENANCE**

### **158.01 Purpose And Policy**

### **158.02 Definitions**

### **158.03 Enforcement**

### **158.04 Property Maintenance Requirements**

### **158.99 Penalty**

#### **158.01 Purpose And Policy**

##### *A. Purpose And Policy.*

1. This chapter provides a practical method to regulate the maintenance and use of existing properties and buildings within the City of Hastings for the purpose of protecting the public health, safety and welfare.
2. This chapter:
  - a. Establishes minimum standards for maintenance property and buildings; and
  - b. Provides for administration and enforcement.

- B. *Intent.* The Council finds there exists in the city numerous properties which are substandard in 1 or more important features of structure or appearance. Such conditions adversely affect public health and safety and lead to the continuation, extension and aggravation of urban blight. Adequate protection of public health, safety and welfare requires the establishment and enforcement of minimum property maintenance standards. The City Council intends that this chapter be an integral part of the city's program of health, safety, building and land use regulation. This chapter is to be construed liberally, in conjunction with other provisions of the City Code, to give effect to the policy, purpose and objectives of this section, but is not construed to modify, amend or otherwise alter the provisions of the City Code relating to health, safety, structure or land use regulation.

#### **158.02 Definitions**

The following terms as used in this subchapter shall have the meaning stated:

**APPROVED.** As approved by the Property Maintenance Inspector.

**BOARD OF APPEALS.** The City Council of the City of Hastings.

**CARPORT.** A shelter for an automobile, consisting of a roof extended from the side of a building, sometimes with an additional wall.

**COMMERCIAL VEHICLES/EQUIPMENT.** Includes but is not limited to backhoes, dump trucks, landscaping equipment, skid steers, wood chippers, cube or box type trailers or trucks, tow trucks, tractor trailers, semi-trailers, farm trailers, custom service vehicles, such as, but not limited to, well-drilling machines, wood-sawing machines, cement mixers, rock crushers, road grader, ditch digger, grading equipment; typical household or property maintenance service vehicles, any service vehicle engaged in a business which includes

the repairing or servicing of vehicles, snow removal and road maintenance equipment and vehicles and all trailers designed for, or frequently used to transport any of the above.

**DETERIORATED.** Materials or conditions that are substandard and are in need of repair or replacement.

**EXTERIOR SURFACE.** Any surface exposed to weather conditions.

**FAILED PAINT.** Paint which is cracked, flaked, blistered, pealed, chalked, scaled over 20% or more of any wall surface or fence surface, or has failed to provide a protective surface for the base material.

**FULLY SCREENED.** Enclosed by use of a wall, fence or partition to hide the view of an object or property so as not to be readily visible from adjacent property.

**HAZARDOUS TREES or BRUSH.** Any tree(s) or brush that jeopardizes the structural integrity of a building, fence or structure or endangers human safety.

**LOT.** A separate parcel, tract or area of land undivided by any public street or approved private road, established by plat, metes and bounds subdivision, or otherwise permitted by law, and occupied or intended to be developed for and occupied by a principal building or group of buildings or accessory buildings, or utilized for a principle uses and uses accessory thereto, including such open spaces and yards as are designed and arranged or required by this city code for such building, use or development.

**MISCELLANEOUS MATERIAL. MISCELLANEOUS MATERIAL** includes, but is not limited to, wood pallets and miscellaneous construction materials, glass, wire, metal items, vehicle or bicycle parts, tires, gasoline cans, plastic containers, indoor furniture, cookware or other items meant for indoor use, propane tanks, used oil, used antifreeze, paper, wrappings, cardboard, tin cans, leaves, yard clippings, bricks, batteries, plaster, cement and mattresses.

**MOTOR VEHICLE.** Any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways. It includes any vehicle propelled or drawn by a self-propelled vehicle.

**MOTORCYCLE.** Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground, including motor scooter and bicycles with motor attached, other than those vehicles defined as motorized bicycles.

**MOTORIZED BICYCLES.** A bicycle that is propelled by a motor of a piston displacement capacity of 50 cubic centimeters or less, and a maximum of 2 brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface with no more than 1% grade in any direction when the motor is engaged.

**ORDER TO REPAIR.** An order from the City of Hastings to a property owner that requires maintenance or repairs to be done to correct a Property Maintenance Ordinance violation.

**OWNER'S AGENT.** A person with written permission from the owner, legal guardian or power of attorney, able to represent the owner's interests.

**PASSENGER VEHICLES.** Passenger automobile, pick-up truck, van, self-propelled recreational vehicle motorcycle, motorized bicycle, school bus or farm truck.

**PICK-UP TRUCK.** Any truck with a manufacturers nominal rated carrying capacity of 3/4 ton or less, commonly known as a pick-up truck.

**PROPERTY MAINTENANCE INSPECTOR.** The person or persons who have been authorized by the Hastings City Council to enforce the Property Maintenance Ordinance, which shall include the building Official and the Supervisor of Inspections and Code Enforcement.

**RECREATIONAL VEHICLES/EQUIPMENT.** Motorized or non-motorized; includes but is not limited to boats, boat trailers, travel trailers, pick-up campers and coaches, tent campers, tent trailers, canoes, motor homes, jet skies, all-terrain vehicles, go-karts, mud trucks, stock cars, stock car trailers, buses, snowmobiles, snowmobile trailers, jet ski trailers, truck toppers, and enclosed box trailers, whether occupied or not with equipment or vehicles, and all trailers designed for or frequently used to transport any of the above.

**SEMI-TRAILER. SEMI-TRAILER** means a vehicle of the trailer type so designed and used in conjunction with a truck-tractor that a considerable part of its own weight or that of its load rests upon and is carried by the truck-tractor and includes a trailer drawn by a truck-tractor semi-trailer combination.

**SPECIFIC AREA.** One part or piece of a larger surface or assembly.

**TRAILER.** Trailer means any vehicle designed for carrying property or passengers on its own structure and for being drawn by a motor vehicle.

**TRUCK-TRACTOR.** Also known as a **TRACTOR-TRAILER**, a **TRUCK-TRACTOR** is a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

**VAN.** Any vehicle of box-like design with no barrier or separation between the operators and the remainder of the cargo-carrying area, and with a manufacturers nominal rated capacity of 3/4 tons or less.

**VEHICLE.** Any motor vehicle, passenger vehicle, recreational vehicle/equipment or commercial vehicle/equipment.



**VIOLATION NOTICE.** Notice in writing given to the owner of record of a violation of the City of Hastings Property Maintenance Ordinance.

**158.02 Enforcement**

- A. *Enforcement.* The Hastings City Council shall authorize the Inspections and Code Enforcement staff as assigned by the Supervisor of Inspections and Code Enforcement to enforce this chapter under the title of Property Maintenance Inspector.
- B. *Inspections.* The Property Maintenance Inspector shall make inspections and take any such action as may be required to enforce the provisions of this chapter.
- C. *Right Of Entry.* Whenever the Property Maintenance Inspector has reasonable cause to believe that there may exist in any building or on any property any condition that is in violation of this chapter, the Property Maintenance Inspector may enter the building or property at reasonable times to make inspections or to perform any duty required to administer said chapter. The Property Maintenance Inspector shall first present proper credentials and request entry. If the property is unoccupied the inspector shall mail notice to the owner of record by certified mail 7 days prior to inspection. If entry is refused the building inspector shall have recourse to every remedy provided by law to secure entry, including the right to secure a proper inspection warrant.
- D. *Violations.* When a property or building is in violation of this ordinance, the property owner of record shall be issued a Notice of Violation and Compliance Order in writing to include the following information:
  - 1. A description of the property sufficient for identification.
  - 2. Description of the violation(s) and the action required to remedy the violation(s).
  - 3. Provision of reasonable time to perform any remedy to be completed.
  - 4. Notice of any action that may be taken by the city if repairs are not made in a reasonable time period.
  - 5. Notice of any right of appeal.
- E. *Appeals.* Any person aggrieved by a violation notice and order to make repairs to property shall have the right to appeal. The Board may uphold the violation; void all violations; or, change any described violation by adding violations, removing violations or changing the order to repair.
- F. *Appeal Procedure.* Any property owner or owner's agent that has been served with a violation notice and an order to repair shall have the right to appeal the order to the Board of Appeals and Adjustments within 20 days after receiving the compliance order. All appeals shall be made to the Supervisor of Inspections and Code Enforcement in writing with any information to substantiate the appeal. The appeal shall be considered by the Board of Appeals and Adjustments under provisions established for consideration of the appeals under § 30.02.

### **158.03 Property Maintenance Requirements**

- A. *Abandoned And Non-operational Motor Vehicles.* It is unlawful to park or store on any property within the city any abandoned or non-operational or unlicensed motor vehicle, unless housed within a building which complies with City Code.
- B. *Parking And Storage Of Vehicles.*
1. It is unlawful to park or store on a residential lot, outside of a building that complies with city code, vehicles in excess of the amount permitted by this division.
  2. In the Agricultural, R-1, and R-1L Zoned Residential Districts, it is unlawful to park or store more than a combined total of 5 vehicles outside of a structure on a lot. Of these 5 no more than 2 may be of the recreational vehicle/equipment category or the commercial vehicle/equipment category, combined.
  3. In all other Zoning Districts it is unlawful to park or store on a residential lot more than a combined total of 3 vehicles per residential dwelling unit outside of an enclosed structure on any lot. Of these 3, only 1 may be of the recreational vehicle/equipment or commercial vehicle/equipment category.
  4. For those allowed in this division, the following conditions shall apply:
    - a. No recreational vehicle/equipment or commercial vehicle/equipment shall be parked or stored at the street end of a driveway within the boulevard portion of the public right-of-way.
    - b. No more than 1 currently licensed recreational vehicle/equipment or commercial vehicle/equipment may be parked in a driveway on a residential lot and it must also be 8 feet or less in height.
    - c. One currently licensed recreational vehicle/equipment or commercial vehicle/equipment may be parked on the lot behind the nearest portion of the building closest to a street.
    - d. No motor vehicles, passenger vehicles, recreational vehicles/equipment or commercial vehicles/equipment shall be used for the purpose of a residence and/or housekeeping, in any zoning district, unless approved by the City.
    - e. Except as provided in (B)(4)(b) above, no commercial vehicles/equipment may be parked or stored on a residential lot outside of a structure, except while work is being performed at the property.
    - f. Except as provided in (B)(4)(b) above, recreational vehicles/equipment can be parked in a driveway for a period not to exceed 72 hours for the purpose of loading and unloading.
- C. *Storage Of Miscellaneous Materials And Equipment.*
1. *Screened.* All miscellaneous materials and equipment not enclosed within an approved shelter or approved cover, shall be fully screened so as not to be visible from adjoining properties.
  2. *Exceptions.* Hot tubs, clothes lines, playground type equipment, construction, agricultural, landscaping materials or equipment currently being used to perform work on the premise.
- D. *Grass And Weeds On Private Property.*

1. It is unlawful for any owner, occupant or agent of any lot or parcel of land in the city to allow any vegetation such as weeds or grass growing upon any such lot or parcel or land to grow to a height greater than 12 inches or to allow such weeds or grass to go to seed.
2. If any such owner, occupant or agent fails to comply with this height limitation and after notice given by the Property Maintenance Inspector, or his or her agent, has not complied within 72 hours of such notice, the city shall cause such weeds or grass to be cut and the expenses thus incurred shall be a lien upon such real estate. The city shall certify to the Dakota County Auditor, a statement of cost incurred by the city. Such amount, together with interest, shall be entered as a special assessment against such lot or parcel of land and shall be collected in the same manner as real estate taxes.

*E. Trees, Brush, Shrubs On Private Property.*

1. Any tree, shrub or brush that grows against any building or fence which represents a hazard to the structural integrity of said building or fence shall be removed or trimmed to prevent damage
2. Trees, tree limbs, brush or shrubs that are dead, damaged and hazardous by nature shall be removed and disposed of in a legal manner.

*F. Electrical Wires, Fixtures, And Devices On Private Property.*

1. No electrical wires shall hang less than 10 feet above the ground or 12 feet from a driveway surface.
2. Loose hanging electrical fixtures, wires and devices shall be repaired, replaced or properly abandoned.

*G. Stormwater Runoff.* Stormwater runoff from roofs, decks, yards and other surfaces shall drain so as not to represent a hazard to other properties or stain, discolor or degrade siding and other building surfaces.

*H. Repair And Maintenance Of Existing Buildings.* All buildings within the city shall be maintained as indicated below. Existing uses shall comply with these provisions within 12 months following passage of this chapter.

1. All surfaces in general.
  - a. All exterior surfaces shall be of material manufactured or processed specifically for use in weather exposed location.
  - b. All surfaces must be kept reasonably weather tight and rodent proof.
  - c. Exterior wood, not decay resistant by processed or natural means must be protected by paint, stain or other approved treatment and applied as approved for use by the manufacturer.
  - d. Exterior surfaces shall be maintained free of cracks, tears, breaks from deterioration or neglect.
  - e. Exterior protective surfaces on all buildings shall be maintained in good repair so as to provide a sufficient covering and protection of structural members, insulation and interior finishes.
  - f. All visible rot shall be deemed deteriorated and must be replaced or repaired.

2. Roof.

- a. Roofs shall be maintained in a weather tight and water proof condition.
  - b. Loose, broken and missing roofing materials shall be repaired or replaced as per manufacturers' recommendations. All repairs shall match original color, style and application as close as possible or as approved by the city.
  - c. All roofing materials shall be applied to suitable base or sheathing according manufacturer's recommendations. Rotted or deteriorated structural members and sheathing shall be replaced prior to the installation of roofing materials.
  - d. Severely deteriorated roofing materials shall be replaced. When 25% or more of granule mineral surface coating is missing from the surface of asphalt roofing products, the roofing shall be considered severely deteriorated.
3. Foundations.
- a. All foundations shall be constructed of materials that are resistant to rot such as: concrete, stone, brick or FDN .60 CCA retention preservative treated lumber to a point 6 inches above the finished grade.
  - b. All foundations shall be maintained to support the intended loads.
  - c. All foundations shall be repaired if any brick, stone, block or other component has fallen out or has deteriorated.
  - d. All foundations shall be deemed out of repair if more than 20% of mortar is loose or has fallen out.
  - e. All foundations shall be rodent proof and shall not have cracks more than 1/4 inch in width.
4. Exterior walls, soffit, fascia and trim.
- a. All surfaces shall be free of rot, damaged or missing pieces and shall provide complete weather protection.
  - b. All exterior surfaces on which the paint has blistered, peeled, cracked, flaked, scaled or chalked away or has failed to provide a protective surface over any wall to an extent of 20% or more of surface area, including windows, doors, trim, rails, cornice, siding, fascia, soffit and other such areas shall be deemed to be out of repair and must be repainted with materials approved for use, applied per manufacturer's recommendations. Patching of existing painted areas shall be matched in color as close as possible.
  - c. All missing trim pieces shall be replaced to match existing trim.
5. Exterior doors, windows.
- a. All exterior doors and windows shall be set square in secured frames and fully operable. Doors and windows may be secured in a closed position if not necessary for egress or fire escape.
  - b. All broken or missing glazing or screens shall be replaced in doors and windows with new glazing or screens. All broken or missing glazing in doors or areas subject to human impact shall be replaced

with safety glass as approved by the Building Official or which meets UBC Standard No.

- c. Exterior paint must be maintained per as described herein.
  - d. Exterior masonry or brick chimneys will be deemed to be out of repair if 10% or more of the pointing is loose, has fallen out or if any brick, masonry unit or stone is loose or fallen out.
6. Steps, sidewalks, porch, decks, etc.
- a. All exterior steps, porches, decks, and sidewalks (located on private property) shall be repaired with decay resistant materials unless protected by a roof.
  - b. All rotted or missing materials shall be repaired.
  - c. Steps, porches, and decks shall be repaired if settlement has occurred at a rate of 1/2 inch in 1 foot.
  - d. Cracked or buckled sidewalks (located on private property) with 1 inch difference in height between must be repaired.
  - e. Exterior paint must be maintained as per division (H)(4)(d).
7. Fences.
- a. Fences shall be deemed deteriorated if any of the following conditions occur: rotted, missing or broken parts, if they are unstable leaning or failed paint over more than 20% of any fence surface.
  - b. Existing fences shall not be constructed with materials designed to cause an injury such as fencing charged with electricity or barbwire.
  - c. Fences may not cause a hazard by blocking a drivers view of an oncoming vehicle or pedestrian.

### **158.99 Penalty**

- A. Any person who shall violate any of the provisions of this chapter hereby adopted or fail to comply therewith, or shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, and from which no appeal has been taken, modified by the Board of Appeals or by a court of competent jurisdiction, within the time fixed herein, shall separately for each and every violation and non-compliance, respectively, be guilty of a misdemeanor. The imposition of 1 penalty for any violation shall not excuse the violation or permit it to continue; and, all such persons shall be required to correct or remedy such violation or defects within a reasonable time; and, when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.
- B. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

**Attachment 2**  
**Proposed Ordinances**

**ORDINANCE NO. XXX**

**AN ORDINANCE FOR THE CITY OF HASTINGS, MINNESOTA, REPEALING AND REPLACING CITY CODE SECTIONS 10.20 ENFORCEMENT AND 10.99 GENERAL PENALTY AND ENACTING SECTION 10.25 ADMINISTRATIVE CITATIONS**

The City Council of the City of Hastings, Dakota County, Minnesota, does hereby ordain as follows:

**SECTION 1. REPEAL AND REPLACE.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 10, Section 10.20 Enforcement shall be repealed and replaced as follows:

**10.20. Enforcement and Inspections.**

- A. Any licensed peace officer of the city’s Police Department, or the County Sheriff, or any Deputy Sheriff, shall have the authority to enforce any provision of this code.
  
- B. The following individuals designated in this section, or their designee, shall have the authority to administer and enforce the provisions of this code:
  - 1. Building Official;
  - 2. City Administrator;
  - 3. City Clerk;
  - 4. Code Enforcement Officer;
  - 5. Community Development Director;
  - 6. Community Service Officer;
  - 7. Fire Chief, Fire Inspector, Fire Marshal;
  - 8. Parks & Recreation Director;
  - 9. Public Works Director;
  - 10. Zoning Administrator.
  
- C. Any city official or employee designated by this code who has the responsibility to perform a duty under this code may, with the permission of a licensee of a business or owner of any property or resident of a dwelling, or other person in control of any premises, inspect or otherwise enter any property to enforce compliance with this code.
  
- D. Inspection of buildings and premises.
  - 1. General rule. For the purpose of safeguarding the health and safety of the general public and of the occupants of all buildings or to determine compliance with the code, an order or a permit or license, it is the duty of any authorized officer to conduct inspections to determine the condition of the buildings and premises located within the city. For the purpose of making the inspection, the authorized officer is authorized to enter, examine and survey the building or premises at all reasonable times.

2. Notice. Prior to making the inspection, the authorized officer will inform the occupants of the building or premises to be inspected of the date and time of the inspection by personal service or regular mail postmarked not less than 72 hours prior to the time the inspection is made.
  3. Access. After the written notice has been given, the owner, occupant or operator of the building must give the authorized officer free access to the building and its premises, for the purpose of the inspection, examination or survey, provided that the inspection, examination or survey must not have for its purpose the harassment of the owner or occupant and the inspection, examination or survey is made so as to cause the least amount of inconvenience to the owner or occupant.
  4. Emergency access. The authorized officer must be allowed immediate entry:
    - a. At any time when in the opinion of the authorized officer an actual emergency tending to create an immediate danger to public health and safety exists; or
    - b. At any time when the inspection, examination or survey may be requested by the owner or occupant.
- E. Application for search warrant. Upon a refusal of any owner or occupant to permit the authorized officer access to a dwelling, dwelling unit or premises to make an inspection, and upon a belief of probable cause that the dwelling, dwelling unit or premises does not conform to the requirements of this code, the authorized officer may make application to the appropriate court for an order or warrant directing the inspection and search of the dwelling, dwelling unit or premises for its conformity to the requirements of this code, and any evidence or information from the inspection or search may be used in any court proceedings.
- F. Interference with official duties. It is unlawful for any person to prevent, delay or interfere with representatives of the city while they are engaged in the performance of his or her duties.
- G. Reinspection Fees. The City may charge a reinspection fee for violations of any ordinance related to buildings and premises.

**SECTION 2. ENACTMENT.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 10, Section 10.25 Administrative Citations is hereby enacted as follows:

**10.25 Administrative Citations.**

- A. *Purpose.* The City Council seeks to offer an alternative method of enforcement for city code violations rather than relying on the criminal court system. The formal criminal prosecution process does not provide an environment to adequately address the unique and sensitive issues that are involved in city code violations, including, but not limited to, neighborhood concerns, livability issues, economic impact, physical limitations of the



offenders and the stigma and unintended consequences of being charged with or convicted of a misdemeanor offense. In addition, the court system is a slow, overburdened and methodical process that is not conducive to dealing with the violations in a prompt and timely manner. Finally, the penalties afforded the criminal court system are restricted to fines or physical confinement, which are not always effective solutions to address city code violations.

In order to provide more flexibility in addressing city code violations on an individualized basis that will be more efficient and effective, the City Council finds that an alternative enforcement process is necessary. Therefore, to protect the health, safety and welfare of the citizens of the city, it is the City Council's intent to create a process for the use and imposition of administrative civil penalties that will provide the public and the city with a more effective alternative method for addressing city code violations.

- B. *Alternative methods of enforcement.* A violation of the city code is a misdemeanor pursuant to City Code § 10.99; however, this section seeks to gain compliance with the city code as an alternative to the commencement of any formal civil or criminal court action. The administrative civil penalties proceedings are in addition to any other legal or equitable remedy available to the city for city code violations. The city may, in its discretion, choose not to issue an administrative citation and may initiate criminal charges instead.
1. Authority to issue compliance letters and administrative citations. Any employee or agent enumerated in City Code § 10.20 or any duly authorized representative thereof is authorized to issue compliance letters and administrative citations for violations of the city code.
  2. Compliance letter.
    - a. Contents of compliance letter. If a city employee or agent determines that a city code violation has occurred, when appropriate, a compliance letter shall be issued. The compliance letter shall contain the following information:
      - (1) A description or address of the property on which the city code violation has occurred;
      - (2) The nature of the violation, including a reference to the appropriate city code section;
      - (3) A compliance deadline, providing a reasonable time for compliance based on the nature of the violation; and
      - (4) A statement that failure to correct the violation may result in the imposition of an administrative citation, including a civil penalty and stating the amount of the penalty as provided in the fee schedule.
    - b. Service of compliance letter. The compliance letter may be served on the offender by certified mail, regular mail sent to the last known legal address, by personal

service or by posting a copy in a conspicuous place in or about the building or property affected by the letter.

- c. Reasonable extensions. Following service of the compliance letter, the city shall attempt to work to resolve the violation, including, but not limited to, offering reasonable extensions for compliance.
- d. Exceptions to issuance of a compliance letter. For violations of any of the following sections, the city shall not be required to issue a compliance letter and may proceed directly to issuance of an administrative citation as provided below.
  - (1) Repeat offender. If the same offender commits a subsequent violation within 12 months after a compliance letter has been issued for a same or similar offense.
  - (2) License violations. For any license violations, including, but not limited to, not having a license.
  - (3) Fire prevention and protection violations. For violations of Chapter 93.
  - (4) Animal violations. For any violation of Chapter 91.
  - (5) Traffic or parking violations. For traffic or parking violations issued under Chapter 70 and 71.
  - (6) Noise violations. For any violation of City Code § 95.24.
  - (7) Discharge of fireworks. For any violation of City Code § 113.08.
  - (8) Emergency situations. When a condition exists that requires immediate action to protect the public health, safety and welfare.
  - (9) Disorderly conduct or other similar behavior that tends to disrupt, injure or annoy a reasonable person for which a compliance letter would be moot, as the conduct or behavior has terminated.

### 3. Administrative citation.

- a. Generally. Upon the failure to correct the violation specified in the compliance letter within the time frame established in the compliance letter or any extension thereof granted by the city, or for any offense for which a compliance letter is not required, an administrative citation may be issued. The administrative citation shall be served by certified mail, regular mail or by personal service and shall contain the following information:
  - (1) A description or address of the property on which the city code violation has occurred;
  - (2) Reference to the city code that is alleged to be violated;
  - (3) The amount of the administrative civil penalty for the specific city code violation, which shall be due and payable to the city within 30 days of the date the citation is mailed or personally served;
  - (4) A statement that the violation must be corrected or a subsequent administrative or a criminal citation may be issued;
  - (5) A statement that the city code violation and the amount of the administrative civil penalty may be contested to be heard before an independent hearing

officer by notifying the City Clerk in writing within 10 days after the citation was mailed or personally served; and

(6) A statement that failure to pay the administrative civil penalty may result in it being assessed against the property as provided in Minn. Stat. Chapter 429, as it may be amended from time to time.

b. Payment of penalty and correction of violation. If the offender pays the administrative civil penalty and corrects the city code violation, no further action will be taken for that same violation.

c. Payment of penalty without correction of violation. If the offender pays the administrative civil penalty but fails to correct the city code violation, the city may issue a subsequent administrative citation, initiate criminal proceedings or initiate any other proceedings or remedies available in order to enforce correction of the city code violation.

d. No payment of penalty and no correction of violation. If the offender fails to pay the administrative civil penalty and fails to correct the city code violation, the city may do any of the following, or any combination thereof:

(1) Assess the administrative civil penalty against the property pursuant to Minn. Stat. Chapter 429, as it may be amended from time to time;

(2) Issue a subsequent administrative citation, thereby commencing a new administrative penalties process;

(3) Initiate criminal proceedings; and/or

(4) Initiate other enforcement action authorized by law.

e. Failure to pay an administrative citation for which the costs cannot be assessed shall be a misdemeanor.

C. *Contesting the administrative citation/Appeal Process.* An offender receiving an administrative citation may contest the alleged city code violation and the amount of the administrative civil penalty. In order to contest any part of the administrative citation, the offender must notify the City Clerk in writing within 10 calendar days after the citation is mailed or personally served, stating that the offender contests the alleged violation, the amount of the penalty or both and pay a \$100 non-refundable filing fee.

1. Administrative citation hearing.

a. Scheduling the hearing. After receipt of the written notice to contest the citation as provided in City Code § 10.25. C. above, the City Clerk shall schedule a hearing before an independent hearing officer, which will be held within 60 days, unless otherwise agreed to in writing by the parties. The City Clerk shall notify the owner of the date, time and location of the hearing.

- b. Independent hearing officer. An independent hearing officer, who may be from the office of administrative law judges, shall preside over the administrative citation hearing.
- c. Conduct of the administrative citation hearing.
  - (1) At the hearing, both parties may be represented by counsel, shall have the opportunity to present testimony, shall be able to call and question witnesses and introduce any exhibits; however, strict rules of evidence shall not apply.
  - (2) The hearing officer shall receive and give weight to the evidence, including hearsay evidence.
  - (3) The hearing shall be recorded and a full record of the proceedings shall be maintained by the city according to its data retention schedule.
  - (4) Authority of hearing officer. The independent hearing officer has the authority to do any of the following, or a combination thereof:
    - i. Make a finding that a violation has occurred;
    - ii. Reduce, stay or waive a scheduled administrative civil penalty either unconditionally or upon compliance with reasonable conditions;
    - iii. Require compliance with the city code within a specified time frame; and/or
    - iv. Make a finding that no violation has occurred and dismiss the administrative citation.
  - (5) Decision and order.
    - 1. The hearing officer may announce a decision at the conclusion of the hearing or may take the matter under advisement.
    - 2. The hearing officer shall issue a decision in the form of an order and shall serve a written copy of the order upon the parties no later than 10 days after the hearing.
    - 3. Any administrative civil penalty that the independent hearing officer imposes must be paid to the city within the time frame established in the order. If no date is specified, it must be paid within 30 days of the hearing officer's order.
    - 4. If the administrative civil penalty is not paid, the city may assess the civil penalty against the owner's property pursuant to Minn. Stat. Chapter 429, as it may be amended from time to time.
    - 5. If the hearing officer determines that no violation occurred, then the city may not proceed with criminal prosecution for the same act or conduct.
  - (6) Finding of violation. If the violation is upheld, then the offender must pay for the cost of the hearing, not to exceed \$1,000, toward the cost of the hearing.

- (7) Failure to appear. Failure to appear at the hearing shall result in a default judgment against the party who fails to appear. If the offender fails to appear, the administrative citation shall be sustained and the fee for the cost of the hearing shall be imposed. If the city fails to appear, the administrative citation shall be dismissed and the filing fee shall be refunded.
2. Appeal from Hearing Officer's Decision. The hearing officer's decision is final and may only be appealed to the Minnesota Court of Appeals.
3. Schedule of administrative civil penalties.
  - a. The city shall adopt a fee schedule of administrative civil penalties for city code violations by ordinance or resolution.
  - b. The maximum amount of an administrative civil penalty may not exceed twice the maximum fine authorized by state law for misdemeanor offenses or the maximum fine authorized by state law for an administrative process.

**SECTION 3. REPEAL AND REPLACE.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 10, Section 10.99 General Penalty shall be repealed and replaced as follows:

**Section 10.99. General Penalty.**

- A. Any person who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime that is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall include a sentence of a fine or jail or both, up to the maximum authorized by law.
- B. Exceptions. Where a provision of this code or a statute, rule, or regulation adopted by reference in this code sets a lesser penalty such as an administrative citation or a petty misdemeanor, or a different period constituting a violation than set pursuant to City Code § 10.99, that code or statutory or regulatory provision prevails.
- C. Pursuant to Minn. Stat. § 631.48, as it may be amended from time to time, in either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.
- D. The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation.
- E. In addition to any penalties provided for in this section or in § 10.20, if any person, firm or corporation fails to comply with any provision of this code, the Council or any city official

designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

**SECTION 4. SUMMARY PUBLICATION.** Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The text amendment adopted by the Hastings City Council on \_\_\_\_\_, 2022 modifies the City Ordinance to \_\_\_\_\_

**SECTION 5. EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mary Fasbender, Mayor

Attest:

\_\_\_\_\_  
Kelly Murtaugh, City Clerk

Published in the \_\_\_\_\_ on [Date].

## ORDINANCE NO. XXX

### AN ORDINANCE FOR THE CITY OF HASTINGS, MINNESOTA, REPEALING AND REPLACING SECTION 32.04.A – DISPOSAL OF ABANDONED MOTOR VEHICLES

The City Council of the City of Hastings, Dakota County, Minnesota, does hereby ordain as follows:

**SECTION 1. REPEAL AND REPLACE.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 32, Section 32.04 A. Disposal of Abandoned Motor Vehicles is hereby repealed and replaced as follows:

*A. Inoperable or abandoned motor vehicles.*

1. *Definitions.* For the purposes of this subdivision, an inoperable or abandoned motor vehicle means a motor vehicle as defined in Minn. Stat. § 168B.011, subd. 2 and in a condition described by one of the following:
  - a. On private property for a period of more than 48 hours without consent of the person in control of the property;
  - b. Disabled meaning partially or completely dismantled or appearing either to be undrivable or to be lacking any of those parts of a motor vehicle which are essential to the functioning of the vehicle to the extent of making the vehicle inoperable, unless allowed under A.3. of this section;
  - c. Without license plates or with license plates that have been expired for more than 90 days prior to the date of inspection;
  - d. An abandoned motor vehicle shall also mean a motor vehicle as defined in Minn. Stat. § 168B.011, subd. 2. which has remained in the impound lot of a towing company, licensed by the city, for more than 30 days after a written notice to remove the motor vehicle has been sent by registered mail to the registered owner.
2. *General Rule.* No person shall place, park, permit to remain, store or leave upon an open area of any premises located anywhere in the city any inoperable or abandoned vehicle for more than seven days unless:
  - a. In a residential zoned district, inoperable or abandoned vehicles may not be placed, parked, permitted to remain, stored or left for more than 48 hours unless the vehicle is kept entirely within an enclosed building.
  - b. In a business or industrial zoned district, inoperable or abandoned vehicles may not be placed, parked, permitted to remain, stored or left for more than 48 hours unless adequately screened, or three days on a business or industrial property that is not an auto repair establishment. Adequate screening will require the keeping of the

vehicles within a building, tight fence at least five feet in height, or within an earth-toned or neutral colored opaque cover that was specifically designed and manufactured for that purpose and which completely encloses such vehicle. Any inoperable or abandoned vehicle legally kept in a business or industrial zoning district for more than seven days must be at least 100 feet from a public highway or residential building.

3. *Exemptions.* For the purpose of this chapter the following vehicles are not to be considered abandoned or inoperable motor vehicles:
  - a. A classic or pioneer car, as defined in Minn. Stat. § 168.10, provided that it is kept secure and as long as it has substantial potential further use consistent with its usual functions;
  - b. Vehicles on the premises of a motor vehicle and parts dealer, junkyard, junk dealer, motor vehicle salvage dealer, automobile repair garage or body shop which is authorized by this Code;
  - c. A vehicle kept inside an enclosed garage or storage building.
4. *Removal and Disposal.* If a vehicle fails to meet any of the above requirements, the owner or possessor of the vehicle will be responsible to remove the vehicle to a duly licensed junkyard or other authorized place of deposit or storage within ten business days of receipt of a written demand by the city. In the event the owner or possessor of the vehicle cannot be located, then it will be the responsibility of the owner of the premises to remove the vehicle to a duly licensed junkyard or other authorized place of deposit or storage within ten working days of receipt of the written demand by the city.
5. *Impoundment of vehicles.* The city may take into custody and impound any vehicle or vehicles in violation of this section, following the expiration of the notice.
6. *Disposition of impounded vehicles.* In all cases of impoundment described above, the city shall serve notice on the owner of the property pursuant to Minnesota Statute § 168B.06. The owner or lienholder may reclaim the vehicle pursuant to Minnesota Statute § 168B.07. If the vehicle is not reclaimed, it may be disposed of at auction or sale pursuant to Minnesota Statute § 168B.08.

**SECTION 2. SUMMARY PUBLICATION.** Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The text amendment adopted by the Hastings City Council on \_\_\_\_\_  
\_\_\_\_\_, 20\_\_ modifies the City Ordinance to



**SECTION 3. EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mary Fasbender, Mayor

Attest:

\_\_\_\_\_  
Kelly Murtaugh, City Clerk

Published in the \_\_\_\_\_ on [Date].

**ORDINANCE NO. XXX**

**AN ORDINANCE FOR THE CITY OF HASTINGS, MINNESOTA, REPEALING AND REPLACING CITY CODE SECTION 91.30 REGARDING DANGEROUS DOGS**

The City Council of the City of Hastings, Dakota County, Minnesota, does hereby ordain as follows:

**SECTION 1. REPEAL AND REPLACE.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 91, Section 91.30 Dangerous Dogs shall be repealed and replaced as follows:

**91.30 Regulation of Dangerous or Potentially Dogs**

- A. Adoption by reference. Except as otherwise provided in this section, the regulatory and procedural provisions of Minn. Stat. §§ 347.50 to 347.565, as they may be amended from time to time (commonly referred to as the “dangerous dog regulations”) are adopted by reference.
- B. Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS DOG. A dog that:

- 1. Has when unprovoked, inflicted substantial bodily harm on a human being on public or private property;
- 2. Has killed a domestic animal when unprovoked while off the owner’s property;
- 3. Has attacked one or more persons on two or more occasions; or
- 4. Has been found to be potentially dangerous and after the owner has notice of the same, the dog aggressively bites, attacks or endangers the safety of humans or domestic animals.

DOG. Both the male and female of the canine species commonly accepted as domesticated household pets.

GREAT BODILY HARM. Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

OWNER. Any person or persons, firm, corporation, organization, department or association owning, possessing, harboring, keeping, having an interest in, or having care, custody or control of a dog.

MAINTENANCE COSTS. Any costs incurred as a result of seizing an animal for impoundment, including, but not limited to, the capturing, impounding, keeping, treating,

examining, securing, confining, feeding, destroying, boarding or maintaining seized animals, whether these services are provided by the city or the pound.

POTENTIALLY DANGEROUS DOG. A dog that:

1. Has when unprovoked, inflicted a bite on a human or domestic animal on public or private property;
2. Has when unprovoked, chased or approached a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the owner's property, in an apparent attitude of attack; or
3. Has a known propensity, tendency or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

PROPER ENCLOSURE. Securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the dog from escaping and to provide protection for the dog from the elements. A PROPER ENCLOSURE does not include a porch, patio or any part of a house, garage or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the dog from exiting. The enclosure shall not allow the egress of the dog in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

1. A minimum overall floor size of 32 square feet;
2. Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support post shall be one and one-fourth inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground;
3. A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and openings in the wire shall not exceed two inches; and
4. An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and openings in the wire shall not exceed two inches. The gate shall be self-closing and self-locking. The gate shall be locked at all times when the dog is in the pen or kennel.

SUBSTANTIAL BODILY HARM. Bodily injury that involves a temporary but substantial disfigurement, or that causes a temporary but substantial loss or impairment of the function of any bodily member or organ or that causes a fracture of any bodily member.

UNPROVOKED. The condition in which the dog is not purposely excited, stimulated, agitated or disturbed.

C. Declaration of dangerous or potentially dangerous dog.

1. A police officer, community service officer, animal control officer or other authorized city employee may declare a dog to be dangerous or potentially dangerous when the officer has probable cause to believe that a dog is dangerous or potentially dangerous. The following factors will be considered in determining a dangerous or potentially dangerous dog:
  - a. Whether any injury or damage to a person by the dog was caused while the dog was protecting themselves, defending a person, or the protecting dog's offspring within the immediate vicinity of the dog from an unjustified attack or assault;
  - b. The size and strength of the dog, including jaw strength, and the animal's propensity to bite humans or other domestic animals; and
  - c. Whether the dog has wounds, scarring, is observed in a fight, or has other indications that the dog has been or will be used, trained or encouraged to fight with another animal or whose owner is in possession of any training apparatus, paraphernalia or drugs used to prepare such dogs to fight with other animals.
2. Beginning six months after a dog is declared dangerous or potentially dangerous, an owner may request annually that the city review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training or other factors. If enough evidence is provided, the city may rescind the designation.
3. After a dog is declared dangerous or potentially dangerous, the provisions of 91.30 (D)-(O) shall apply.
4. *Quarantine.* Any dog that has bitten a person or is believed to have bitten a person shall immediately be impounded for at least 10 days and kept apart from other animals, under the supervision of a veterinarian, until it is determined whether the animal had or has a disease which might have been transmitted by the bite. The impounding may be done by the owner, under the supervision of a veterinarian, and need not be at a shelter designated by the city, but if it is not at the City designated shelter, the owner shall notify the City Animal Control Officer or the Police Department immediately and shall furnish proof in writing where the dog is being impounded. After 10 days, if it is determined the dog does not have a disease which might have been transmitted by the bite, it may be released upon approval of the Animal Control Officer or Police Department.
  - a. Any dog which is not quarantined as required by this subdivision, is subject to immediate seizure by the City.
  - b. Any dog which has been bitten or otherwise exposed by a rabid animal shall be humanely euthanized or quarantined for 6 months. A dog may be released from quarantine after 40 days if:
    1. The dog had been vaccinated for rabies at least 21 days and no longer than 1 year, before the bite;
    2. The dog has been re-vaccinated for rabies immediately after the bite. The 40-day period begins on the date of the re-vaccination;

3. The required written report is sent to the Minnesota Board of Animal Health; and
4. The owner of the dog notifies the city's animal control officer or Hastings Police Department before the dog is released from quarantine.
- c. The dog's owner is responsible for all costs incurred in confining, impounding, and disposing of any dog quarantined under this section.

5. Exceptions:

- a. The provisions of this section do not apply to dogs used by law enforcement; and
- b. Dogs may not be declared dangerous or potentially dangerous if the threat, injury or danger was sustained by a person who was:
  - i. Committing a willful trespass or other tort upon the premises occupied by the owner of the dog;
  - ii. Provoking, tormenting, abusing or assaulting the dog, or who can be shown to have a history of repeatedly provoking, tormenting, abusing or assaulting the dog; or
  - iii. Committing or attempting to commit a crime.

D. *License required.* The owner must obtain an annual license for the dog as a dangerous dog or potentially dangerous dog. Newly declared dangerous or potentially dangerous dogs must be licensed within 14 days after notice that a dog has been declared dangerous or potentially dangerous. Regardless of any appeal that may be requested, the owner must comply with the requirements of Minn. Stat. § 347.52(a) and (c), as they may be amended from time to time, regarding proper enclosures and notification to the city upon transfer or death of the dog, until and unless a hearing officer or court of law reverses the declaration. No other dog license (i.e. life-time) shall be issued for a dangerous dog or potentially dangerous dog.

1. Dangerous Dog Licenses Requirements. The city will issue a dangerous dog license to the owner of a dangerous dog if the owner presents sufficient evidence that:
  - a. There is a proper enclosure;
  - b. Written proof that there is a surety bond by a surety company authorized to conduct business in the state in the sum of at least \$300,000, payable to any person injured by a dangerous dog, or receipt of a copy of a policy of liability insurance issued by an insurance company authorized to do business in the state in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog. The surety bond or insurance policy shall provide that no cancellation of the bond or policy will be made unless the city is notified in writing by the surety company or the insurance company at least ten days prior to the cancellation;
  - c. The owner has paid the annual license fee for a dangerous dog;

- d. The owner has had a microchip identification implanted in the dangerous dog. The name of the microchip manufacturer and identification number of the microchip must be provided to the city. If the microchip is not implanted by the owner, it may be implanted by the city at the owner's expense; and
      - e. The owner provides proof that the dog has been sterilized. If the owner does not sterilize the dog within 30 days, the city may seize the dog and sterilize it at the owner's expense.
  - 2. Potentially Dangerous Dog License Requirements. The city will issue a potentially dangerous dog license to the owner of a potentially dangerous dog if the owner presents sufficient evidence that:
    - a. There is a proper enclosure;
    - b. The owner has paid the annual license fee for a potentially dangerous dog; and
    - c. The owner has had a microchip identification implanted in the potentially dangerous dog. The name of the microchip manufacturer and identification number of the microchip must be provided to the city. If the microchip is not implanted by the owner, it may be implanted by the city at the owner's expense.
  - 3. Pre-License Inspections for Dangerous and Potentially Dangerous Dog License. A pre-license inspection of the premises to ensure compliance with the city code is required for dangerous dogs and potentially dangerous dogs. If the city issues a license to the owner of a dangerous or potentially dangerous dog, the city shall be allowed at any reasonable time to inspect the dog, the proper enclosure and all places where the animal is kept.
  - 4. Post-License Requirements for Dangerous Dogs.
    - a. Warning symbol. The owner of a dangerous dog licensed under this section must post a sign with the uniform dangerous dog warning symbol on the property in order to inform children that there is a dangerous dog on the property. The sign will be provided by the city upon issuance of the license.
    - b. Tags. A dangerous dog licensed under this section must wear a standardized, easily identifiable tag at all times that contains the uniform dangerous dog symbol, identifying the dog as dangerous. The tag shall be provided by the city upon issuance of the license.
- E. *Properly restrained in proper enclosure or outside of proper enclosure for dangerous dogs and potentially dangerous dogs.* While on the owner's property, an owner of a dangerous or potentially dangerous dog must keep it in a proper enclosure. Inside a residential home, there must be a secured area maintained where the dog will stay when persons other than family members are present. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash no longer than four feet and under the physical restraint of an adult. The muzzle must be made in a manner 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.

F. Notification requirements to city.

1. Relocation or death. The owner of a dog that has been declared dangerous or potentially dangerous must notify the City Clerk or Police Department in writing if the dog is to be relocated from its current address or if the dog has died. The notification must be given in writing within 30 days of the relocation or death. The notification must include the current owner's name and address, and the new owner's name and the relocation address. If the relocation address is outside of the city, the city may notify the local law enforcement agency of the transfer of the dog into its jurisdiction.
2. Renter's obligations. A person who owns or possesses a dangerous or potentially dangerous dog and who will rent property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal periods that the person owns or possesses a dangerous or potentially dangerous dog that will reside at the property. A dog owner, who is currently renting property, must notify the property owner within 14 days of city notification if the owned dog is newly declared as dangerous or potentially dangerous and the owner keeps the dog on the property.
3. Transfer of ownership into the city. No dog that has been previously determined to be dangerous or potentially dangerous by another jurisdiction shall be kept, owned or harbored in the city, unless the dog's owner complies with the requirements of this section prior to bringing the dog into the city. Dogs in violation of this section are subject to impoundment and destruction.

G. Seizure. The city may immediately seize any dangerous or potentially dangerous dog if:

1. After 14 days after the owner has notice that the dog is declared dangerous or potentially dangerous, the dog is not validly licensed and no appeal has been filed;
2. After 14 days after the owner has notice that the dog is dangerous, the owner does not secure the proper liability insurance or surety coverage as required or such required insurance is cancelled;
3. The dog is not maintained in a proper enclosure;
4. The dog is outside the proper enclosure and not under proper restraint, as required by subdivision (E) above;
5. After 30 days after the owner has notice that the dog is dangerous, the dog is not sterilized, as required by subdivision (D)(1)(e) above; and
6. The dog's microchip has been removed.

H. Reclamation. A dog seized under subdivision (G) above may be reclaimed by the owner of the dog upon payment of maintenance costs, and presenting proof to the city that the requirements of this section have been met. A dog not reclaimed under this subdivision (H) within seven days may be disposed of and the owner will be liable to the city for maintenance costs. A person claiming an interest in a seized dog may prevent disposition of the dog by posting a security in an amount sufficient to provide for the dog's

maintenance costs. The security must be posted with the city within seven days of the seizure inclusive of the date seized.

I. Subsequent offenses: seizure. If a person has been convicted of violating a provision of this section, and the person is charged with a subsequent violation relating to the same dog, the dog may be seized. If the owner is convicted of the crime for which the dog was seized, the court may order that the dog be destroyed in a proper and humane manner and the owner pay the maintenance costs. If the owner is not convicted and the dog is not reclaimed by the owner within seven days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of, used for research or destroyed.

J. Notice; hearings.

1. Notice. After a dog has been declared dangerous or potentially dangerous or has been seized for destruction, the city shall give notice by delivering or mailing it to the owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The notice shall include:

- a. A description of the seized dog; the authority for and purpose of the declaration and seizure; the time, place and circumstances under which the dog was declared; and the telephone number and contact person where the dog is kept;
- b. A statement that the owner of the dog may request a hearing concerning the declaration and that failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing;
- c. A statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of Minn. Stat. § 347.52(a) and (c), as they may be amended from time to time, regarding proper enclosures and notification to the city upon transfer or death of the dog, until such time as the hearing officer issues an opinion;
- d. A statement that if the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all other requirements of Minn. Stat. §§ 347.51, 347.515 and 347.52, as they may be amended from time to time;
- e. A form to request a hearing; and
- f. A statement that if the dog has been seized, all maintenance costs of the care, keeping and disposition of the dog pending the outcome of the hearing are the responsibility of the owner, unless a court or hearing officer finds that the seizure or impoundment was not reasonably justified by law.

2. Right to hearing.

- a. After a dog has been declared dangerous, potentially dangerous or has been seized for destruction, the owner may appeal in writing to the city within 14 days after notice of the declaration or seizure. Failure to do so within 14 days



of the date of the notice will terminate the owner's right to a hearing. The owner must pay a \$200 non-refundable filing fee for an appeal hearing.

- b. The appeal hearing will be held before a hearing officer, pursuant to the process outlined in City Code §10.25 C.1-C.2 for Administrative Citations.

K. Destruction of certain dogs. The Police Chief and/or hearing officer are authorized to order the destruction or other disposition of any dog, after proper notice is given pursuant to subdivision J.1. above and upon a finding that:

1. The dog has habitually destroyed property or habitually trespassed in a damaging manner on property of persons other than the owner;
2. The dog has been declared dangerous, the owner's right to appeal hereunder has been exhausted or expired and the owner has failed to comply with the provisions of this section;
3. It is determined that the dog is infected with rabies;
4. The dog inflicted substantial or great bodily harm on a human on public or private property without provocation;
5. The dog inflicted multiple bites on a human on public or private property without provocation;
6. The dog bit multiple human victims on public or private property in the same attack without provocation;
7. The dog bit a human on public or private property without provocation in an attack where more than one dog participated in the attack; or
8. The dog poses a danger to the public's health, safety or welfare. In determining whether the dog poses a danger to the public's health, safety or welfare, the following factors may be considered:
  - a. The dog weighs more than 20 pounds;
  - b. The strength of the dog, including jaw strength;
  - c. The dog's tolerance for pain;
  - d. The dog's tendency to refuse to terminate an attack;
  - e. The dog's propensity to bite humans or other domestic animals;
  - f. The dog's potential for unpredictable behavior;
  - g. The dog's aggressiveness; and
  - h. The likelihood that a bite by the dog will result in serious injury.

L. Concealing of dogs. No person may harbor, hide or conceal a dog that the city has the authority to seize or that has been ordered into custody for destruction or other proper disposition.

M. Dog ownership prohibited.

1. Except as provided below, a person shall not own a dog if the person has been:

- a. Convicted of a third or subsequent violation of subdivisions (D), (E) or (F) above or similar ordinance in another jurisdiction, or Minn. Stat. §§ 347.51, 347.515 or 347.52, as they may be amended from time to time;
  - b. Convicted of second degree manslaughter due to negligent or intentional use of a dog under Minn. Stat. § 609.205(4), as it may be amended from time to time; or
  - c. Convicted of gross misdemeanor harm caused by a dog under Minn. Stat. § 609.226(1), as it may be amended from time to time.
2. Any person who owns a dangerous or potentially dangerous dog and is found to be in violation of any of the provisions of this section or had owned a dangerous or potentially dangerous dog but never achieved compliance with this section may be prohibited from ownership or custody of another dog for a period of five years after the original declaration. Any dog found to be in violation, may be impounded until due process is completed, pursuant to subdivision (J) above.
  3. If any member of a household is prohibited from owning a dog in subdivisions (M)(1) or (M)(2) above, unless specifically approved with or without restrictions by the city, no person in the household is permitted to own a dog.

N. Dog ownership prohibition review.

1. Beginning three years after a conviction under subdivision (M)(1) above that prohibits a person from owning a dog, and annually thereafter, the person may request in writing to the Police Chief that the city review the prohibition.
2. The city may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the city deems appropriate. The city may rescind the prohibition entirely or rescind it with limitations. The city also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses.
3. If the city rescinds a person's prohibition and the person subsequently fails to comply with any limitations imposed by the city or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the city may permanently prohibit the person from owning a dog in this state.

O. Penalties.

1. Unless stated otherwise, any person who violates a provision of this section is guilty of a misdemeanor.
2. Any person who is convicted of a second or subsequent violation of any provision of subdivisions (D), (E) or (F) above is guilty of a gross misdemeanor.
3. Any person who violates subdivision (M) above, whether an owner or household member, is guilty of a gross misdemeanor.

**SECTION 2. SUMMARY PUBLICATION.** Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the

entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The text amendment adopted by the Hastings City Council on \_\_\_\_\_, 2022 modifies the City Ordinance to

**SECTION 3. EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mary Fasbender, Mayor

Attest:

\_\_\_\_\_  
Kelly Murtaugh, City Clerk

Published in the \_\_\_\_\_ on [Date].

**ORDINANCE NO. XXX**

**AN ORDINANCE FOR THE CITY OF HASTINGS, MINNESOTA, AMENDING SECTIONS 113.09 AND REPEALING SECTIONS 113.10 AND 113.98 REGARDING CITATIONS AND FINES FOR FIREWORKS VIOLATIONS**

The City Council of the City of Hastings, Dakota County, Minnesota, does hereby ordain as follows:

**SECTION 1. AMENDMENT.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 113, Section 113.09 Citations and Fines regarding Fireworks shall be amended as follows:

**113.09 Citations And ~~Fines~~ Penalties**

- ~~A. Upon discovery of a violation of this chapter, or pursuant to a compliance check, the licensee will be issued an administrative citation. Violations of this Chapter shall be deemed to be a public nuisance subject to an administrative citation pursuant to City Code Section 10.25 or any other enforcement action pursuant to City Code Section 10.99, or suspension or revocation of the license.~~
- ~~B. All administrative fees imposed by this chapter are to be paid within 60 days of the date of citation or not later than 30 days after the date of any written decision following the appeal process. Failure to pay any fee imposed herein within the time limits established will result in a license suspension until the date of payment.~~
- ~~C. B.~~ Nothing in this chapter prevents the City Council from imposing a harsher penalty than those established by ordinance or resolution herein.
- ~~D. In addition to any administrative citation and penalty imposed herein, the city reserves the right to also issue a criminal citation to any person who violates a provision of this city code section or any state law regarding the storage, display, or sale of consumer fireworks.~~

**SECTION 2. REPEAL.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 113, Sections 113.10 Right of Hearing and 113.98 Violations regarding Fireworks shall be repealed.

**SECTION 3. SUMMARY PUBLICATION.** Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The text amendment adopted by the Hastings City Council on \_\_\_\_\_  
\_\_\_\_\_, 2022 modifies the City Ordinance to

**SECTION 4. EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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Mary Fasbender, Mayor

Attest:

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Kelly Murtaugh, City Clerk

Published in the \_\_\_\_\_ on [Date].

**ORDINANCE NO. XXX**

**AN ORDINANCE FOR THE CITY OF HASTINGS, MINNESOTA, AMENDING  
CHAPTER 158 PROPERTY MAINTENANCE**

The City Council of the City of Hastings, Dakota County, Minnesota, does hereby ordain as follows:

**SECTION 1. AMENDMENT.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 58 is hereby amended as follows:

**158.01 Purpose And Policy**

A. *Purpose And Policy.*

1. This chapter provides a practical method to regulate the maintenance and use of existing properties and buildings within the City of Hastings for the purpose of protecting the public health, safety and welfare.
2. This chapter:
  - a. Establishes minimum standards for maintenance property and buildings; and
  - b. Provides for administration and enforcement.

B. *Intent.* The Council finds there exists in the city numerous properties which are substandard in 1 or more important features of structure or appearance. Such conditions adversely affect public health and safety and lead to the continuation, extension and aggravation of urban blight. Adequate protection of public health, safety and welfare requires the establishment and enforcement of minimum property maintenance standards. The City Council intends that this chapter be an integral part of the city's program of health, safety, building and land use regulation. This chapter is to be construed liberally, in conjunction with other provisions of the City Code, to give effect to the policy, purpose and objectives of this section, but is not construed to modify, amend or otherwise alter the provisions of the City Code relating to health, safety, structure or land use regulation.

**158.02 Definitions**

The following terms as used in this subchapter shall have the meaning stated:

~~**APPROVED.** As approved by the Property Maintenance Inspector.~~

~~**BOARD OF APPEALS.** The City Council of the City of Hastings.~~

**CARPORT.** A shelter for an automobile, consisting of a roof extended from the side of a building, sometimes with an additional wall.

**COMMERCIAL VEHICLES/EQUIPMENT.** Includes but is not limited to backhoes, dump

trucks, landscaping equipment, skid steers, wood chippers, cube or box type trailers or trucks, tow trucks, tractor trailers, semi-trailers, farm trailers, custom service vehicles, such as, but not limited to, well-drilling machines, wood-sawing machines, cement mixers, rock crushers, road grader, ditch digger, grading equipment; typical household or property maintenance service vehicles, any service vehicle engaged in a business which includes the repairing or servicing of vehicles, snow removal and road maintenance equipment and vehicles and all trailers designed for, or frequently used to transport any of the above.

**DETERIORATED.** Materials or conditions that are substandard and are in need of repair or replacement.

**EXTERIOR SURFACE.** Any surface exposed to weather conditions.

**FAILED PAINT.** Paint which is cracked, flaked, blistered, pealed, chalked, scaled over 20% or more of any wall surface or fence surface, or has failed to provide a protective surface for the base material.

**FULLY SCREENED.** Enclosed by use of a wall, fence or partition to hide the view of an object or property so as not to be readily visible from adjacent property.

**HAZARDOUS TREES or BRUSH.** Any tree(s) or brush that jeopardizes the structural integrity of a building, fence or structure or endangers human safety.

~~**LOT.** A separate parcel, tract or area of land undivided by any public street or approved private road, established by plat, metes and bounds subdivision, or otherwise permitted by law, and occupied or intended to be developed for and occupied by a principal building or group of buildings or accessory buildings, or utilized for a principle uses and uses accessory thereto, including such open spaces and yards as are designed and arranged or required by this city code for such building, use or development. As defined in City Code § 155.02.~~

**MISCELLANEOUS MATERIAL.** **MISCELLANEOUS MATERIAL** includes, but is not limited to, wood pallets and miscellaneous construction materials, glass, wire, metal items, vehicle or bicycle parts, tires, gasoline cans, plastic containers, indoor furniture, cookware or other items meant for indoor use, propane tanks, used oil, used antifreeze, paper, wrappings, cardboard, tin cans, leaves, yard clippings, bricks, batteries, plaster, cement and mattresses. See also definition of Unsheltered Storage – City Code § 95.20 A.

~~**MOTOR VEHICLE.** Any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways. It includes any vehicle propelled or drawn by a self-propelled vehicle. As defined in Minnesota Statutes § 168.002 subd. 18.~~

~~**MOTORCYCLE.** Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground, including motor scooter and bicycles with motor attached, other than those vehicles defined as motorized bicycles. As defined in Minnesota Statutes § 169.011 subd. 44.~~

**MOTORIZED BICYCLES.** ~~A bicycle that is propelled by a motor of a piston displacement capacity of 50 cubic centimeters or less, and a maximum of 2 brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface with no more than 1% grade in any direction when the motor is engaged. As defined in Minnesota Statutes § 169.011 subd. 45.~~

**ORDER TO REPAIR.** An order from the City of Hastings to a property owner that requires maintenance or repairs to be done to correct a Property Maintenance Ordinance violation.

**OWNER'S AGENT.** A person with written permission from the owner, legal guardian or power of attorney, able to represent the owner's interests.

**PASSENGER VEHICLES.** ~~Passenger automobile, pick-up truck, van, self-propelled recreational vehicle motorcycle, motorized bicycle, school bus or farm truck. As defined in Minnesota Statutes § 168.002 subd. 24.~~

**PICK-UP TRUCK.** ~~Any truck with a manufacturer's nominal rated carrying capacity of 3/4 ton or less, commonly known as a pick-up truck. As defined in Minnesota Statutes § 168.002 subd. 26.~~

**PROPERTY MAINTENANCE INSPECTOR.** ~~The person or persons who have been~~Any person authorized by the ~~Hastings City Council~~ to enforce the Property Maintenance Ordinance, which shall include the building Official and the Supervisor of Inspections and Code Enforcement.

**RECREATIONAL VEHICLES/EQUIPMENT.** As defined in Minnesota Statutes § 168.002 subd. 27, and includes, but is not limited to the following:

- a. Boats and canoes;
- b. All terrain vehicles (ATVs);
- c. Snowmobiles;
- d. Noncommercial utility trailers and trailers for the transportation of boats, canoes, snowmobiles and ATVs, or other such similar vehicles;
- e. Travel campers or house trailers;
- f. Motor homes and motor vehicles designed, constructed or used to provide temporary movable living quarters; or
- g. Slip-in camper tops attached or detached from pick-up trucks.

~~Motorized or non-motorized; includes but is not limited to boats, boat trailers, travel trailers, pick-up campers and coaches, tent campers, tent trailers, canoes, motor homes, jet skies, all-terrain vehicles, go-karts, mud trucks, stock cars, stock car trailers, buses, snowmobiles, snowmobile trailers, jet-ski trailers, truck toppers, and enclosed box trailers, whether occupied or not with equipment or vehicles, and all trailers designed for or frequently used to transport any of the above.~~

**SEMI-TRAILER. SEMI-TRAILER.** As defined in Minnesota Statutes § 168.002 subd. 30.



~~means a vehicle of the trailer type so designed and used in conjunction with a truck tractor that a considerable part of its own weight or that of its load rests upon and is carried by the truck tractor and includes a trailer drawn by a truck tractor semi-trailer combination.~~

**SPECIFIC AREA.** One part or piece of a larger surface or assembly.

~~**TRAILER.** Trailer means any vehicle designed for carrying property or passengers on its own structure and for being drawn by a motor vehicle. As defined in Minnesota Statutes § 168.002 subd. 35.~~

~~**TRUCK-TRACTOR.** Also known as a **TRACTOR-TRAILER**, a **TRUCK-TRACTOR** is a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load drawn. As defined in Minnesota Statutes § 168.002 subd. 38.~~

~~**VAN.** Any vehicle of box-like design with no barrier or separation between the operators and the remainder of the cargo-carrying area, and with a manufacturer's nominal rated capacity of 3/4 tons or less. As defined in Minnesota Statutes § 168.002 subd. 40.~~

~~**VEHICLE.** Any motor vehicle, passenger vehicle, recreational vehicle/equipment or commercial vehicle/equipment. As defined in Minnesota Statutes § 168A.01 subd. 24.~~

**VIOLATION NOTICE.** Notice in writing given to the owner of record of a violation of the City of Hastings Property Maintenance Ordinance.

### **158.03 Enforcement**

- A. *Enforcement.* ~~Enforcement and inspections shall be conducted pursuant to City Code § 10.20. The Hastings City Council shall authorize the Inspections and Code Enforcement staff as assigned by the Supervisor of Inspections and Code Enforcement to enforce this chapter under the title of Property Maintenance Inspector.~~

~~*Inspections.* The Property Maintenance Inspector shall make inspections and take any such action as may be required to enforce the provisions of this chapter.~~

~~*Right Of Entry.* Whenever the Property Maintenance Inspector has reasonable cause to believe that there may exist in any building or on any property any condition that is in violation of this chapter, the Property Maintenance Inspector may enter the building or property at reasonable times to make inspections or to perform any duty required to administer said chapter. The Property Maintenance Inspector shall first present proper credentials and request entry. If the property is unoccupied the inspector shall mail notice to the owner of record by certified mail 7 days prior to inspection. If entry is refused the building inspector shall have recourse to every remedy provided by law to secure entry,~~

~~including the right to secure a proper inspection warrant.~~*Violations.* Violations are considered a public nuisance and punishable pursuant to City Code § 95.97, or any other alternative methods of enforcement authorized by this Code. When a property or building is in violation of this ordinance, the property owner of record shall be issued a Notice of Violation and Compliance Order in writing to include the following information:

- ~~1. A description of the property sufficient for identification.~~
  - ~~2. Description of the violation(s) and the action required to remedy the violation(s).~~
  - ~~3. Provision of reasonable time to perform any remedy to be completed.~~
  - ~~4. Notice of any action that may be taken by the city if repairs are not made in a reasonable time period.~~
  - ~~5. Notice of any right of appeal.~~
- ~~B. Appeals.~~ Any person aggrieved by a violation notice and order to make repairs to property shall have the right to appeal. The Board may uphold the violation; void all violations; or, change any described violation by adding violations, removing violations or changing the order to repair.
- ~~C.B. Appeal Procedure.~~ Any property owner or owner's agent that has been served with a violation notice and an order to repair shall have the right to appeal the order to the Board of Appeals and Adjustments within 20 days after receiving the compliance order. All appeals shall be made to the Supervisor of Inspections and Code Enforcement in writing with any information to substantiate the appeal. The appeal shall be considered by the Board of Appeals and Adjustments under provisions established for consideration of the appeals under § 30.02.

#### **158.04 158.04 Property Maintenance Requirements**

- ~~a.A.~~ Abandoned And Non-operational Motor Vehicles. It is unlawful to park or store on any property within the city any abandoned or non-operational or unlicensed motor vehicle, unless housed within a building which complies with City Code. See City Code § 32.04.
- B. Parking And Storage Of Vehicles. The outside parking and storage on property of large numbers of vehicles and vehicles, materials, supplies or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it: obstructs views on streets and private property; creates cluttered and otherwise unsightly areas; prevents the full use of residential streets for residential parking; introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited; decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood; and otherwise adversely affects property values and neighborhood patterns.
1. Purpose. The purpose of this section is to preserve and protect residential districts from the intrusion of objects of a size and appearance as to cause interference with sight lines, access to structures by emergency vehicles and personnel, unsightly clutter and to prevent visual obstruction that is inconsistent with the intent of the provisions of the zoning and subdivision ordinances.

~~b.~~ b. *Number of Vehicles.*

~~1.2.~~ 1.2. It is unlawful to park or store on a residential lot, outside of a building that complies with city code, vehicles in excess of the amount permitted by this division.     

~~a.~~ a. In the Agricultural, R-1, and R-1L Zoned Residential Districts, it is unlawful to park or store more than a combined total of 5 vehicles outside of a structure on a lot. Of these 5 no more than 2 may be of the recreational vehicle/equipment category or the commercial vehicle/equipment category, combined.

a.

b. In all other Zoning ~~Districts~~ Districts, it is unlawful to park or store on a residential lot more than a combined total of 3 vehicles per residential dwelling unit outside of an enclosed structure on any lot. Of these 3, only 1 may be of the recreational vehicle/equipment or commercial vehicle/equipment category.

~~2.~~ 2. Parking Surfaces. All parking surfaces for the parking or storage of motor vehicles, including recreational vehicles, must be of concrete-type or asphalt. This provision shall be in effect for new parking surfaces installed after \_\_\_\_\_, 2022. Any existing non-conforming parking surfaces may continue to be maintained, repaired, replaced, and improved, but not expanded

3.

4. For those allowed in this division, the following conditions shall apply:

~~3.~~

~~a.~~ a. No recreational vehicle/equipment or commercial vehicle/equipment shall be parked or stored at the street end of a driveway within the boulevard portion of the public right-of-way.

a.

b. No more than 1 currently licensed recreational vehicle/equipment or commercial vehicle/equipment may be parked in a driveway on a residential lot and it must also be 8 feet or less in height.

c. One currently licensed recreational vehicle/equipment or commercial vehicle/equipment may be parked on the lot behind the nearest portion of the building closest to a street.

d. No motor vehicles, passenger vehicles, recreational vehicles/equipment or commercial vehicles/equipment shall be used for the purpose of a residence and/or housekeeping, in any zoning district, unless approved by the City.

e. Except as provided in (B)(4)(b) above, no commercial vehicles/equipment may be parked or stored on a residential lot outside of a structure, except while work is being performed at the property.

f. Except as provided in (B)(4)(b) above, recreational vehicles/equipment can be

parked in a driveway for a period not to exceed 72 hours for the purpose of loading and unloading.

- g. No more than one non-oversized (less than 20 feet, as measured from the tongue to the rear) noncommercial utility trailer or trailer for the transportation of boats, canoes, snowmobiles and ATVs or other such similar vehicle may be parked or stored on single-family residential property.
- h. No recreational vehicle shall be permanently affixed to the parking surface in a manner that would prevent its removal.
- i. All recreational vehicles shall be in good, operable condition and properly licensed for operation.
- j. All recreational vehicles shall be registered to the property owner or occupant on which the recreational vehicles are stored.
- k. Noncommercial utility trailers that are loaded with a boat, snowmobile, ATV or similar vehicle shall be counted as one recreational vehicle (trailer plus vehicle) for purposes of calculating the total number of vehicles per premises.

f.

~~e. *Storage Of Miscellaneous Materials And Equipment.*~~

- ~~1. *Screened.* All miscellaneous materials and equipment not enclosed within an approved shelter or approved cover, shall be fully screened so as not to be visible from adjoining properties.~~
- ~~2. *Exceptions.* Hot tubs, clothes lines, playground type equipment, construction, agricultural, landscaping materials or equipment currently being used to perform work on the premise.~~

~~d.b.~~ *Grass And Weeds On Public or Private Property.*

- 1. It is unlawful for any owner, occupant or agent of any lot or parcel of land in the city to allow any vegetation such as weeds or grass growing upon any such lot or parcel or land to grow to a height greater than 12 inches or to allow such weeds or grass to go to seed.
- 2. If any such owner, occupant or agent fails to comply with this height limitation and after notice given by the Property Maintenance Inspector, or his or her agent, has not complied within 72 hours of such notice, the city shall cause such weeds or grass to be cut and the expenses thus incurred shall be a lien upon such real estate. The city shall certify to the Dakota County Auditor, a statement of cost incurred by the city. Such amount, together with interest, shall be entered as a special assessment against such lot or parcel of land and shall be collected in the same manner as real estate taxes.
- 3. Property owners must also comply with City Code § 90.05 regarding Grass, Weeds and Trees in Street.

~~2.~~

e.c. *Trees, Brush, Shrubs On Public or Private Property.*

1. Any tree, shrub or brush that grows against any building or fence which represents a hazard to the structural integrity of said building or fence shall be removed or trimmed to prevent damage.
2. Trees, tree limbs, brush or shrubs that are dead, damaged and hazardous by nature shall be removed and disposed of in a legal manner.
- 2.3. Property owners must also comply with City Code § 90.05 regarding Grass, Weeds and Trees in Street.

f.d. *Electrical Wires, Fixtures, And Devices On Private Property.*

1. No electrical wires shall hang less than 10 feet above the ground or 12 feet from a driveway surface.
2. Loose hanging electrical fixtures, wires and devices shall be repaired, replaced or properly abandoned.

g.e. *Stormwater Runoff.* Stormwater runoff from roofs, decks, yards and other surfaces shall drain so as not to represent a hazard to other properties or stain, discolor or degrade siding and other building surfaces.

h.f. *Repair And Maintenance Of Existing Buildings.* ~~All buildings within the city shall be maintained as indicated below. Existing uses shall comply with these provisions within 12 months following passage of this chapter.~~ Buildings, fences and other structures that have been poorly maintained so that their physical condition and appearance detract from the surrounding neighborhood or are unsecured so as to attract nuisance activity, are declared to be a public nuisance because they are unsightly, decrease adjoining landowners and occupants' enjoyment of their property and neighborhood and adversely affect property values. Owners of buildings, fences and other structures shall comply the following regulations:

1. All surfaces in general.
  - a. All exterior surfaces shall be of material manufactured or processed specifically for use in weather exposed location.
  - b. All surfaces must be kept reasonably weather tight and rodent proof.
  - c. Exterior wood, not decay resistant by processed or natural means must be protected by paint, stain or other approved treatment and applied as approved for use by the manufacturer.
  - d. Exterior surfaces shall be maintained free of cracks, tears, breaks from deterioration or neglect.
  - e. Exterior protective surfaces on all buildings shall be maintained in good repair so as to provide a sufficient covering and protection of structural members, insulation and interior finishes.
  - f. All visible rot shall be deemed deteriorated and must be replaced or repaired.

2. Roof, chimneys.

- a. Roofs shall be maintained in a weather tight and water proof condition.
- b. Loose, broken and missing roofing materials shall be repaired or replaced as per manufacturers' recommendations. All repairs shall match original color, style and application as close as possible or as approved by the city.
- c. All roofing materials shall be applied to suitable base or sheathing according manufacturer's recommendations. Rotted or deteriorated structural members and sheathing shall be replaced prior to the installation of roofing materials.
- d. Severely deteriorated roofing materials shall be replaced. When 25% or more of granule mineral surface coating is missing from the surface of asphalt roofing products, the roofing shall be considered severely deteriorated.
- d-e. Chimneys and air vents or similar projects must be structurally sound and in good repair. These projections must be properly secured.

3. Foundations.

- a. All foundations shall be constructed of materials that are resistant to rot such as: concrete, stone, brick or FDN .60 CCA retention preservative treated lumber to a point 6 inches above the finished grade.
- b. All foundations shall be maintained to support the intended loads.
- c. All foundations shall be repaired if any brick, stone, block or other component has fallen out or has deteriorated.
- d. All foundations shall be deemed out of repair if more than 20% of mortar is loose or has fallen out.
- e. All foundations shall be rodent proof and shall not have cracks more than 1/4 inch in width.

4. Exterior walls, soffit, fascia and trim.

- a. All surfaces shall be free of rot, damaged or missing pieces and shall provide complete weather protection and secured so as to prevent unauthorized entry.
- b. All exterior surfaces on which the paint has blistered, peeled, cracked, flaked, scaled or chalked away or has failed to provide a protective surface over any wall to an extent of 20% or more of surface area, including windows, doors, trim, rails, cornice, siding, fascia, soffit and other such areas shall be deemed to be out of repair and must be repainted with materials approved for use, applied per manufacturer's recommendations. Patching of existing painted areas shall be matched in color as close as possible.
- c. All cornices, moldings, trim, sills, bay or dormer windows or similar projections must be kept in good repair. Any missing ~~trim~~ pieces shall be replaced to match existing materials ~~trim~~.

5. Exterior doors, windows.

- a. All exterior doors and windows shall be set square in secured frames and fully

operable. Doors and windows may be secured in a closed position if not necessary for egress or fire escape.

- a.b. No glass, including windows and exterior light fixtures, may be broken or cracked.
- b.c. All broken, torn or missing glazing or screens shall be replaced in doors and windows with new glazing or screens. All broken or missing glazing in doors or areas subject to human impact shall be replaced with safety glass as approved by the Building Official or which meets UBC Standard No.
- e.d. Exterior paint must be maintained per as described herein.
- e. Exterior masonry or brick chimneys will be deemed to be out of repair if 10% or more of the pointing is loose, has fallen out or if any brick, masonry unit or stone is loose or fallen out.
- d.f. Doors and windows must be secured so as to prevent unauthorized entry.

6. Steps, sidewalks, porch, decks, etc.

- a. All exterior steps, porches, decks, and sidewalks (located on private property) shall be structurally sound and in good repair ~~repaired~~ with decay resistant materials unless protected by a roof.
- b. All rotted or missing materials shall be repaired.
- c. Steps, porches, and decks shall be repaired if settlement has occurred at a rate of 1/2 inch in 1 foot.
- d. Cracked or buckled sidewalks (located on private property) with 1 inch difference in height between must be repaired.
- e. Exterior paint must be maintained as per division (H)(4)(~~db~~).

7. Fences.

- a. Fences shall be deemed deteriorated if any of the following conditions occur: rotted, missing or broken parts, if they are unstable leaning or failed paint over more than 20% of any fence surface.
- b. Existing fences shall not be constructed with materials designed to cause an injury such as fencing charged with electricity or barbwire.
- c. Fences may not cause a hazard by blocking a drivers view of an oncoming vehicle or pedestrian.

**158.99 Penalty**

~~A. Any person who shall violate any of the provisions of this chapter hereby adopted or fail to comply therewith, or shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, and from which no appeal has been taken, modified by the Board of Appeals or by a court of competent jurisdiction, within the time fixed herein, shall separately for each and every violation and non-compliance, respectively, be guilty of a misdemeanor. The imposition of 1 penalty for any violation shall not excuse the violation or permit it to continue; and, all such persons shall be required to correct or remedy such~~

~~violation or defects within a reasonable time; and, when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.~~

~~B. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.~~

**SECTION 4. SUMMARY PUBLICATION.** Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The text amendment adopted by the Hastings City Council on \_\_\_\_\_, 2022 modifies the City Ordinance to

**SECTION 5. EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mary Fasbender, Mayor

Attest:

\_\_\_\_\_  
Kelly Murtaugh, City Clerk

Published in the \_\_\_\_\_ on [Date].



## ORDINANCE NO. XXX

### AN ORDINANCE FOR THE CITY OF HASTINGS, MINNESOTA, REPEALING SECTIONS REGARDING CRIMINAL PENALTIES, VIOLATIONS AND CITATIONS FOR VARIOUS CITY CODE SECTIONS AND AMENDING SECTION 91.05 RESTRAINT AND CONFINEMENT OF ANIMALS TO REMOVE MISDEMEANOR PENALTY

The City Council of the City of Hastings, Dakota County, Minnesota, does hereby ordain as follows:

**SECTION 1. REPEAL.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 91.02. A. 2h. Violation and Penalty for Keeping of Goats shall be repealed.

**SECTION 2. REPEAL.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 93.98 Violations regarding Fire Alarm Systems and Installation shall be repealed.

**SECTION 3. REPEAL.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 94.98 Violations regarding Parks and Recreation shall be repealed.

**SECTION 4. REPEAL.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 111.98 Violations regarding Liquor Licenses shall be repealed.

**SECTION 5. REPEAL.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 114.99 Penalty regarding Adult Use Licenses shall be repealed.

**SECTION 6. REPEAL.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 151.98 Violations regarding Flood Plain Regulations shall be repealed.

**SECTION 7. REPEAL.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 152.09. G. 3. Appeal of Notice of Violation regarding Illicit Discharges and Connections shall be repealed.

**SECTION 8. REPEAL.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 152.98 Violations regarding Stormwater Management shall be repealed.

**SECTION 9. REPEAL.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 153.98 Violations regarding Shoreland Management shall be repealed.

**SECTION 10. REPEAL.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 154.98 Violations regarding Zoning Regulations shall be repealed.

**SECTION 11. REPEAL.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 157.14 Appeals; Right of Appeal regarding Structure Maintenance Code for Rental Residential Properties shall be repealed.

**SECTION 12. REPEAL.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 157.99. C. Penalty – Violation a Misdemeanor regarding Structure Maintenance Code for Rental Residential Properties shall be repealed.

**SECTION 13. REPEAL.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 158.99 Penalty regarding Property Maintenance shall be repealed.

**SECTION 14. REPEAL.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 130.13 Issuance of Citations regarding Public Protection, Crimes and Offenses shall be repealed.

**SECTION 15. REPEAL.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 130.98 Violations regarding Public Protection, Crimes and Offenses shall be repealed.

**SECTION 16. AMENDMENT.** The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 91.05 Restraint and Confinement regarding Animals shall be amended as follows:

**91.05 Restraint and Confinement.**

It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large. A person, who owns, harbors, or keeps a dog or cat which runs at large shall be ~~guilty of a misdemeanor~~ **subject to enforcement pursuant to City Code §10.99.** 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.”

**SECTION 17. SUMMARY PUBLICATION.** Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The text amendment adopted by the Hastings City Council on \_\_\_\_\_, 2022 modifies the City Ordinance to

**SECTION 18. EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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Mary Fasbender, Mayor

Attest:

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Kelly Murtaugh, City Clerk

Published in the \_\_\_\_\_ on [Date].

**Attachment 3**  
**Proposed Administrative Citation Fine Schedule**

## Administrative Citation Fine Schedule

City Code Section	Description of Violation	Penalty Amount <sup>1</sup>
City Code §§ 50, 51	General Provisions, Utilities (i.e. sewer, water, trash)	\$200
City Code §§ 30.02, 30.03, 154, 155	Failure to obtain a Zoning or Subdivision permit or violations of approved Zoning or Subdivision permit	\$500
City Code § 32.04	Inoperable or Abandoned Motor Vehicles	\$200
City Code §§ 70, 71	Traffic or parking violations	\$50
City Code § 90.04	Ice and Snow on Public Sidewalks	\$50
City Code § 90.05	Grass, Weeds and Trees in Streets	\$100
City Code § 91	Animal violations (i.e. running at large, too many, improper shelter) but not including license violations or dangerous dog violations	\$50
City Code § 91	Animal license violations but not including dangerous dog violations	\$75
City Code § 91.30	All Dangerous Dog violations	\$500
City Code §§ 92, 110	All violations involving business license or permit violations	\$500
City Code § 93	Fire Code violations	\$100
City Code § 95	All Public Nuisance violations	\$200
City Code § 150	Construction regulations	\$200
City Code §§ 150, 156, 157, 158	Construction regulations involving hazardous conditions	\$500
City Code §§ 154, 155	All general Zoning or Subdivision Regulation violations	\$200
City Code § 157	Maintenance Code for Rental Residential Properties	\$500
City Code § 158	Property Maintenance Violations	\$200
General	Except as otherwise stated herein, all other violations of City Code or Zoning Ordinance	\$200

<sup>1</sup> For repeat violations within 12 months, the amount of the fine imposed for the most recent violation will be doubled, up to a maximum of \$2,000

**Attachment 4**  
**South St. Paul Rental Ordinance**

# South St. Paul City Code

Subpart B - LAND DEVELOPMENT REGULATIONS  
Chapter 106 - BUILDINGS AND BUILDING REGULATIONS  
ARTICLE VII. RESIDENTIAL RENTAL HOUSING

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## **ARTICLE VII. RESIDENTIAL RENTAL HOUSING<sup>1</sup>**

### **Sec. 106-230. Purpose.**

It is the purpose of this article to protect the public health, safety and welfare of the citizens of the city who live in rental units, the property owners who operate and manage rental units, and the general public who reside next to rental units, by adopting a rental dwelling inspection and maintenance program that corrects substandard conditions and maintains a standard for existing and newly constructed rental dwellings in the city. The operation of rental properties is a business enterprise that includes certain responsibilities. Rental owners, operators and managers are responsible for taking such reasonable steps as are necessary to ensure that the citizens who occupy such rental units, as well as neighboring properties, may pursue the quiet enjoyment of the normal activities of life in surroundings that are safe, secure, and sanitary, free from noise, nuisances and annoyances, and free from unreasonable fears about safety of persons and property.

### **Sec. 106-231. Definitions.**

Words used in this article shall have the following meanings unless otherwise defined in this article.

*Alternative inspection report* means a rental dwelling inspection report that the applicant obtains from an independent building inspector or for insurance-related or mortgage-related purposes, or another inspection report deemed acceptable by the city's building official. An alternative inspection report is valid for a period of 12 months.

*Apartment* means a community, complex or building having a common owner and containing at least one rental dwelling unit.

*Boardinghouse* means a building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodging are provided for more than three unrelated persons.

*City approved inspector's report or inspection report* means a rental dwelling inspection report prepared and signed by a housing evaluator. A city approved inspector's report is valid for a period of 36 months.

*City administrator* means the South St. Paul City Administrator or his or her designee.

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<sup>1</sup>Editor's note(s)—Ord. No. 1300, § 1, adopted February 1, 2016, amended article VII in its entirety to read as herein set out. Former article VII, §§ 106-230—106-247, pertained to similar material, and derived from Ord. No. 1204, adopted July 21, 2008; Ord. No. 1226, adopted April, 5, 2010 and Ord. No. 1237, adopted October 18, 2010.

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*Dwelling* means a building or one or more portions of a building occupied or intended to be occupied for residential purposes.

*Family* means those persons legally related to each other in a linear relationship such as spouses, grandparents, parents, children, grandchildren and siblings. Family does not include branching relationships such as aunts, uncles or cousins.

*Housing evaluator* means an independent inspector who is licensed by the city as an evaluator, pursuant to section 106-181.

*Let for occupancy or to let or to rent* means to permit possession or occupancy of a dwelling or rental dwelling unit by a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease.

*Licensed rental property* means the residential rental building for which a rental license is needed, including, but not limited to the building containing the residential dwelling units, common areas for the benefit of its tenants, such as parking lots, garages, storage units, playgrounds, social gathering areas, yards and open space.

*Occupant or tenant* means any person living or sleeping in a dwelling unit, or having possession of a space within a dwelling unit.

*Operate* means to rent, lease or grant the use and possession of a rental dwelling unit, whether or not compensation is paid.

*Operator or manager* means any person who has charge, care or control of a structure or premises that is let or offered for occupancy.

*Owner or licensee* means any person, agent, or operator having a legal or equitable interest in the property or recorded in the official state, county or city records as holding title to the property or otherwise having control of the property.

*Person* may be an individual, corporation, firm, association, company, partnership, organization or any other group acting as a unit.

*Rental dwelling unit* means any room or rooms, or space, in any rental dwelling designed or used for residential occupancy by one or more persons who are not the owner or a member of the owner's family.

**Sec. 106-232. License required.**

(a) *General rules.*

- (1) No person shall operate a rental property or rental dwelling unit in the city without a license pursuant to city Code chapter 18, article II.
- (2) No person shall operate a boardinghouse in any zoning district within the city, which means that no more than three unrelated persons may reside in one rental dwelling unit.

(b) *Applications.* An application for a license shall be made on a form provided by the city. The license application shall include:

- (1) *Property owner information.*



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- a. The name, address, and complete information of the property owner, if the property owner is an individual.
  - b. The name, address and complete information of at least one officer, manager or director, if the property owner is a business entity.
- (2) *Property contact information.* For single-family residential dwellings, the license applicant must provide 24-hour contact information for one person in any of the following categories, which shall be kept current for the term of the license. For all other types of dwellings, the license applicant must provide 24-hour contact information for two people in any of the following categories:
- a. At least one owner of the rental property or rental dwelling unit.
  - b. At least one person, if different from the owner, who is responsible for compliance with this and any other code requirement pertaining to the rental dwelling or rental dwelling unit, such as a manager.
  - c. Any of the owner's agents responsible for management of the rental property or rental dwelling unit, such as a property management company and the name and contact information of a person at the property management company.
  - d. Any vendors and all vendees, if the rental dwelling or rental dwelling unit is being sold pursuant to a contract for deed.
- (3) *Number and type of units.* The license application must contain the number of units and types of units (condominium, apartment, townhome, etc.) within the rental property.
- (4) *Inspection report.* The license application must be accompanied by a satisfactory city approved inspector's report or an alternative inspection report.
- (5) *Notification of changes.* The city clerk must be notified in writing of any changes to the information provided on the application.

**Sec. 106-233. Investigations.**

- (a) In order to protect the general welfare of the public for all applications, a background investigation will be conducted on the owner listed on any new application. The city may request additional information from the applicant regarding all property owners, if the property is owned by individuals or regarding all officers, managers, or directors, if the property is owned by a business entity, and may conduct additional background investigations as it deems necessary. The applicant shall pay a background investigation fee for each background investigation conducted, as set by resolution adopted by the city council.
- (b) *Authorization.* At the time of making a new application, the applicant must provide written authorization to the city to investigate all facts set out in the application and to do a personal and business background investigation on the applicant. A criminal background investigation shall be conducted as part of a personal background investigation. The information obtained from the investigation shall be used to assist the police chief in making a recommendation to the city council as to whether the applicant should be granted a license. The recommendation may be based on the following criteria:

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- (1) Whether the applicant was convicted of a crime or offense in the last five years involving or directly relating to the business for which a license is sought; or
  - (2) Whether there is a material misrepresentation in the application.

**Sec. 106-234. Changes in ownership.**

A license is nontransferable. If there is a change in the ownership of the licensed rental property or rental dwelling unit, a new license is required.

**Sec. 106-235. Changes in the rental dwelling or rental dwelling unit.**

If changes are made in the number or type of units, the licensee shall amend its license in accordance with the provisions of subsection 106-232(b).

**Sec. 106-236. Annual license.**

Persons desiring to let rental property or rental dwelling units must make an annual application to the city, provide the information required by this section and pay the applicable license fees prior to any new or renewal license being issued.

**Sec. 106-237. Conditions of the license.**

As conditions of the license, the licensee must do the following:

- (1) *Tenant register.* Maintain a current register of tenants and other persons who have a lawful right to occupancy of rental dwellings or rental dwelling units, which must be available for inspection by city officials upon request. The licensee must designate the name of the person or persons who will have possession of the register and must promptly notify the city administrator of any change in the identity, address or telephone numbers of such person. For purposes of this section, "current" means that the register is updated every 30 days.
- (2) *Fire certification.* Execute a statement that the smoke detectors are properly installed and operable and that the fire exits are accessible.
- (3) *Tenant screening certification.* Execute a statement that the licensee has a screening process the licensee uses during the approval process of each tenant to attempt to insure quality tenants occupy the rental dwelling.
- (4) *Minnesota Crime-Free Lease Addendum.* Use the Minnesota Crime-Free Lease Addendum, or its equivalent, as part of its leases.

**Sec. 106-238. Display of license certificate.**

The license certificate must be exhibited in a conspicuous place at or near the entrance to the rental property. One license certificate must be displayed for each building. If practical, the certificate must be displayed in the rental office or other common area accessible to all tenants of the licensed building.

**Sec. 106-239. Exemptions.**

This section does not apply to and no license shall be required for hotels, motels, hospitals, state-licensed residential care facilities, assisted living facilities or nursing homes.

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**Sec. 106-240. Responsibility for acts of manager.**

Licensees are responsible for the acts or omissions of their managers as it pertains to the rental property.

**Sec. 106-241. Maintenance standards.**

- (a) *Tenant responsibilities.* Tenants are responsible for the condition of the rental dwelling units that they occupy. The licensee is responsible for the maintenance of the rental dwelling units, the rental property, the buildings and the lot. It is ultimately the responsibility of the licensee to assure that every licensed rental property is maintained in compliance with all city ordinances and state laws. A violation of any of the following laws and ordinances is a violation of the rental license and constitutes a public nuisance:
- (1) Building code (chapter 106).
  - (2) Animal ordinance (chapter 15).
  - (3) Fire prevention code (chapter 30).
  - (4) Parked or stored motor vehicles (chapter 58).
  - (5) Public nuisance ordinance (chapter 34).
  - (6) Solid waste ordinance (chapter 46).
  - (7) Exterior storage (section 118-240).
  - (8) Weeds (section 66-49).
  - (9) Snow and ice removal (section 54-1).
  - (10) Other property maintenance violations.
- (b) *Interior inspections of rental dwellings.* The building official, building inspector, fire department personnel, police officers and their respective representatives are authorized inspectors who may enter rental property and rental dwelling units for purposes of making inspections reasonably necessary to enforce this section. The tenant and owner shall be given notice of the inspection by personal service, electronic communication, telephone contact or postmarked letter at least 72 hours prior to the time the inspection is made. All authorized inspectors noted in this section have the authority to enter any rental property or rental dwelling unit at all reasonable times. Each tenant of a rental property or rental dwelling unit shall give the owner, the owner's agent or authorized city official access to any part of such rental property or rental dwelling unit at reasonable times for the purpose of inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this article. An owner or tenant may refuse to permit entry to a rental property or rental dwelling unit for an inspection pursuant to this article, in which case, the inspector may seek an administrative search warrant authorizing such inspection.

**Sec. 106-242. Conduct in rental dwelling or rental dwelling unit.**

- (a) *Provisions.* It shall be the responsibility of the licensee to ensure that persons occupying a licensed rental property conduct themselves and cause their guests to conduct themselves in such a manner as not to cause the licensed rental property or surrounding neighborhoods to be

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disorderly. For the purposes of this section, a licensed rental property is disorderly at any time that any of the following activities occur involving:

- (1) Noise complaints;
  - (2) Disorderly conduct;
  - (3) Controlled substances;
  - (4) Violations of city code chapter 6 article III regarding intoxicating liquor or 3.2 percent malt liquor;
  - (5) Falsely reporting a crime;
  - (6) Prostitution or acts relating to prostitution;
  - (7) The unlawful use of a firearm or unlawful possession of a firearm;
  - (8) Terroristic threats, not including domestic assault; assault;
  - (9) Contributing to the need for protection or services or delinquency of a minor, child abuse/child endangerment;
  - (10) Violations of subsection 106-241 (maintenance standards for rental dwellings);
  - (11) Murder;
  - (12) Rape, indecent exposure, other sex crimes;
  - (13) Robbery, burglary or theft (including auto theft);
  - (14) Arson, negligent fires;
  - (15) Property damage (including criminal damage to property);
  - (16) Trespass;
  - (17) Warrant arrests;
  - (18) Public health violations;
  - (19) Aiding and abetting the commission of a violation contained herein.
- (b) *First incident.* Upon a determination by the city that a licensed rental property was used in a disorderly manner, as described in section 106-242, the city shall give written notice to the licensee and the tenant of the incident and direct the licensee to take steps to prevent further incidents. Such notice shall comply with the requirements of a compliance letter issued pursuant to section 38-105 and notify the licensee that if another disorderly incident occurs within three months of the first incident, an administrative citation may be issued.
- (c) *Second incident (two incidents within three months).* If a second incident of disorderly use of the licensed rental property occurs within three months of the first notice, the city may issue an administrative citation pursuant to section 38-106.
- (d) *Third incident (three incidents within 12 months).* If a third incident of disorderly use of the rental dwelling unit occurs within 12 months after the first incident noted above, the city shall issue an administrative citation.

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**Sec. 106-243. Reserved.**

**Sec. 106-244. License denial, suspension, or revocation and administrative penalties.**

- (a) *Grounds for denial, suspension or revocation.* Regardless of whether any administrative citations are issued pursuant to section 106-242, the city council may deny, revoke or suspend a license for any of the following:
- (1) Any of the reasons enumerated in city code section 18-47(b) (revocation, suspension or denial of a business license).
  - (2) Any uncorrected violations of section 106-241 (maintenance standards).
  - (3) Violations of subsection 106-242(a) (code of conduct).
  - (4) Any other violation of this article.
- Any temporary suspension, suspension or revocation shall comply with section 18-47(c) and (d).
- (b) *Nonexclusive remedy.* Enforcement actions provided in this section are not exclusive, and the council may take any action with respect to a licensee, a tenant or the licensed premises as is authorized by the city code, state or federal law.
- (c) *Reapplication.* Upon suspension or revocation of a license, the owner may not reapply for a license for a period of six months. Upon expiration of the six-month period, the applicant must re-apply by complying with all the provisions of section 106-232.
- (d) *Notification to tenants.* Upon receipt of notice of a hearing to be held by the city council to consider the denial, suspension or revocation of the rental license, the property owner will notify all affected tenants of the license hearing by providing a copy of the notice of hearing to all tenants. Following the hearing, upon the suspension, revocation or denial of a license, the property owner will notify all affected tenants that the license has been revoked, suspended or denied.

**Sec. 106-245. Summary action.**

- (a) *Emergency.* The building official has the authority to summarily condemn or close individual rental dwelling units or areas of the rental dwelling on the following basis:
- (1) When the conduct of any owner or owner's agent, representative, employee or lessee is detrimental to the public health, sanitation, safety and general welfare of the community;
  - (2) When the condition of the rental property or rental dwelling unit is detrimental to the public health, sanitation, safety and general welfare of the community;
  - (3) When the property in or on which it is located, is in a condition such that it is detrimental to the public health, sanitation, safety and general welfare of the community; or
  - (4) When the behavior of the residents of the rental property or rental dwelling unit constitutes a nuisance, fire hazard, or other unsafe or dangerous condition.
- (b) *Notice.* Notice of summary action will be posted at the units or areas affected and will describe the units or areas affected. No person shall remove the posted notice, other than the building official or a designated representative.

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- (c) *Appeal.* Any person aggrieved by a decision or action of the building official to condemn all or part of a rental dwelling shall be entitled to appeal to the council by filing a notice of appeal with the city administrator. The city administrator must schedule a date for hearing before the council and notify the aggrieved person of the date. The hearing will be conducted pursuant to subsection 18-31(b).

**Sec. 106-246. Posted to prevent occupancy.**

Whenever any rental property or rental dwelling unit is found to be unfit for human habitation under the state building code, it shall be posted by the building official or any other designated representative of the city, on the door of each building on the rental property or each rental dwelling unit, whichever the case may be, to prevent further occupancy. No person, other than the building official or the city representative, shall remove or alter any posting. The building official or city representative will post the date the rental property or rental dwelling unit shall be vacated and no person shall reside in, occupy or cause to be occupied that rental property or rental dwelling unit until the building official, the city representative or council permits it.

**Sec. 106-247. No warranty by city.**

By enacting and undertaking to enforce this article, neither the city nor its council, agents or employees warrant or guaranty the safety, fitness or suitability or any rental dwelling or rental dwelling unit in the city. Owners and occupants should take appropriate steps to protect their interests, health, safety and welfare.