



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: John Hinzman, Community Development Director
Date: April 4, 2022
Item: Administrative Citations - City Code Amendments

Council Action Requested:

Consider 1st Reading of the following amendments to Hastings City Code pertaining to the adoption of administrative citations:

1. Chapter 10 - General Provisions - Administrative Citations
2. Chapter 95 - Health and Safety; Nuisances - Public Nuisances
3. Chapter 32.04.A - Disposal of Abandoned Vehicles
4. Chapter 158 - Property Maintenance
5. Chapter 34.03 - Fee Schedule
6. Chapter 91.30 - Dangerous Dogs
7. Repealing Criminal Penalties, Violations and Citations for Various City Code Sections.

Upon consideration of 1st Reading, 2nd Reading and Final Adoption would be scheduled for the April 18, 2022 City Council Meeting. A simple majority is necessary for action.

Background Information:

The proposed amendments create an administrative process to enforce certain nuisance code violations. At present all nuisance violations are handled through the criminal code, which often times has a longer time frame for resolution.

Financial Impact:

Administrative citations have been shown to lessen the amount of staff time in handling enforcement complaints.

Advisory Commission Discussion:

N/A

Council Workshop Discussion:

The City Council held a workshop on March 21st to review specific changes to accommodate administrative citations. The proposed amendments are consistent with Council discussion.

Attachments:

- Memo - City Attorney Land
- Ordinance Amendments



MEMO

TO: Mayor Fasbender and Members of the Hastings City Council
FROM: Kori Land, City Attorney
DATE: April 5, 2022
RE: Administrative Citations Ordinance Amendments

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. The administrative citation process will be an additional tool available for City Staff to address nuisance violations that tend to be a burden on limited City resources while at the same time, protecting people's property rights, protecting the public health, safety and general welfare, and ensuring that everyone is afforded due process.

ORDINANCE AMENDMENTS DISCUSSION

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.

Who – There is a specific list of positions (or their designee), who are given the authority to enforce the Code. These are the positions who will 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 provides the minimum threshold for the process or a default inspection process where none exists.

95.20, .21, .23, .24 and .97 – 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 as more general types of violations that may be considered a public nuisance, that may involve businesses, smells, dangerous structural conditions, noise and other types of nuisance conditions.

The ordinance sections are divided into the types of nuisances, such as General, Health, Peace & Safety and Noise.

New 95.25 – Unsheltered Storage

This is a new section that defines unsheltered storage as a public nuisance and specifically states:

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 new regulation for unsheltered storage states that property owners cannot leave unsheltered storage upon an open space area of any premises located anywhere in the city. The intent is to require all property owners to store their unused, discarded stuff in a building and not pile it up in the back yard for the neighborhood to see.

Section 32.04A: Disposal of Abandoned Motor Vehicles

Inoperable and abandoned motor vehicles will be considered akin to unsheltered storage and will be subject to abatement or administrative citations. If not removed or made operable, the City has the authority to tow it or issue a citation.

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.

One new provision that was supported by the Council is *to prohibit off-street parking in the front and side yards adjacent to a street, unless parked on concrete or asphalt surfaces*. While this provision will go into effect at the same time as the rest of the ordinances, which is 7 days after publication, we would recommend that an educational component, notice letters, social media campaign, etc. precede any enforcement action so that the public is made aware of the new regulation.

Now that we have defined public nuisances, we are providing two clear paths to administratively address public 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.¹

These enforcement tools provide for swift enforcement action. The City Staff can choose which tool is best for each situation. But if neither one of these options is appropriate or effective, then the traditional methods of criminal enforcement are still available.

New 95.96 – Abatement

Abatement is the most efficient method of Code enforcement as it allows for a nearly immediate correction of the violation. This tool is for violations that can be removed by the City relatively painlessly, such as unsheltered storage of 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.

New 10.25 – Administrative Citations

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

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

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).²
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 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 filing fee to cover administrative costs of setting up the hearing. Then:
 - 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 violator can represent themselves and the hearing officer usually renders a decision immediately.
 - b. If the violation is upheld, the violator 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 and the filing fee will be refunded.
 - 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 as well as 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 fine schedule for Administrative Citation violations. A proposed ordinance amending Ch. 34 to add these fines to the fee table is included.

² 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.

New Section 91.30: Dangerous Dogs

Currently the City only regulates Dangerous Dogs. State law allows cities to designate and regulate *Potentially* Dangerous Dogs as well. 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"³ without any penalty. But if the dog is declared as 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 for the public.

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.

³ "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.

Violations of conditions required under the ordinance can be addressed through administrative citations instead of criminal court. In addition, anyone who files an appeal of the designation will be sent through the OAH.

Misc. Ordinance Regarding Penalties/Violations

There are numerous ordinances and sections throughout the Code that individually discuss criminal penalties, violations and appeals related to their specific topic. We have provided a laundry list of these sections in one ordinance that are recommended to be repealed in order to eliminate conflicting Code sections. Instead, all penalties and appeals will be addressed in Ch. 10, which applies to the entire City Code.

CONCLUSION

This is a first reading of these ordinance amendments. These are not zoning ordinance amendments, *so no public hearing is required*. If approved on first reading, we will schedule a 2nd reading as required by the Charter. If the Council requests that the 2nd reading be a public hearing, please include it as part of the motion so that it can be properly noticed.

RECOMMENDATION: Move approval of the 1st reading of the ordinance amendments as presented.

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. Failure to pay the reinspection fee 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

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 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 filing fee shall be refunded and 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 § 10.98, 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 CITY CODE SECTION 95.20, AMENDING SECTIONS 95.21 AND 95.23, REPEALING AND REPLACING SECTION 95.24 AND ENACTING SECTIONS 95.25-95.27 REGARDING PUBLIC NUISANCES

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 95, Section 95.20 Public Nuisances shall be repealed and replaced as follows:

95.20 Public Nuisances

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

ABATEMENT. Includes, but is not limited to the removal, stoppage, extermination, eradication, cleaning, cutting, mowing, grading, repairing, draining, securing, barricading, fencing, demolishing or destroying that which causes or constitutes a nuisance.

ANNOYANCES. Any condition that unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public.

COMPLIANCE DEADLINE. Either 48 hours after the notice is received or posted or such other date by which the nuisance must be removed, as specified in the notice.

EMERGENCY ABATEMENT. The abatement of the nuisance by the city, or a contractor employed by the city, by removal, repair or other acts without notice to the owner, agent or occupant of the property except for the notice required by this code.

ENFORCEMENT OFFICER. Any employee or agent enumerated in City Code § 10.20 or any duly authorized representative thereof.

GARBAGE. Junk, trash, refuse, rubbish, litter, rubble, paper discarded articles, debris or matter of any kind or form not cared for, discarded, abandoned or not concealed within an enclosure.

OBSTRUCTIONS. Objects or conditions that interfere with, endanger or prevent the ordinary or safe use of any property including public right-of-way.

OWNER. Any person shown to be the property owner of record.

PROPERTY. Any real property, premises, structure or location on which a public nuisance is alleged to exist.

PUBLIC NUISANCE OR NUISANCE. Any substance, matter, emission or thing that creates a dangerous or unhealthy condition or that threatens the public peace, health, safety or sanitary condition of the city or that is offensive or has a blighting influence on the community and is found upon, in, being discharged or flowing from or onto any street, alley, highway, vehicle, water, excavation, building, erection, lot, grounds or other property located within the city or any offense that is deemed or declared to be a public nuisance by the City Code.

RESPONSIBLE PARTY. Any one or more of the following:

1. Agent;
2. Contract for deed holder;
3. Mortgagee or vendee in possession;
4. Lessee; or
5. Other person, firm or corporation exercising apparent control over a property.

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.

B. Public Nuisance includes, but is not limited to, the following:

1. Violations of City Code § 50 (General Provisions)
2. Violations of City Code § 51 (Utilities);
3. Violations of City Code § 91 (Animals);
4. Violations of City Code § 92 (Rental Housing);
5. Violations of City Code § 150 (Construction Regulations);
6. Violations of City Code § 152 (Stormwater Management);
7. Violations of City Code § 95.25 (Unsheltered Storage);

8. Violations of City Code § 95.21 (Public Nuisances Affecting Health);
9. Violations of City Code § 95.22 (Public Nuisance Affecting Morals and Decency);
10. Violations of City Code § 95.23 (Public Nuisance Affecting Peace and Safety);
11. Violations of City Code § 32.04 (Disposal of Inoperable or Abandoned Motor Vehicles);
12. Violations of City Code § 95.24 (Prohibited Noises);
13. Violations of City Code § 90.04 (Ice And Snow on Public Sidewalks);
14. Violations of City Code § 90.05 (Grass, Weeds and Trees in Streets);
15. Violations of City Code § 157 (Structure Maintenance Code for Rental Residential Properties);
16. Violations of City Code § 158 (Property Maintenance);
17. Direct sky-reflected glare directed into any adjoining property where the bare lightbulb is in view of adjacent property or public street.
18. Engaging in any business, activity or conduct that is dangerous, hurtful, unwholesome, offensive or unhealthy to the neighborhood, or which constitutes an annoyance to considerable members of the public, or is detrimental to the property in the neighborhood or to the general public including but not limited to, chronic traffic congestion, noisy or late night parties or gatherings that disturb the repose of neighboring property owners, excessive or unreasonable amounts of otherwise lawful parking that causes the unsafe narrowing of traffic lanes and which parking is caused by crowds associated with parties or social gatherings; abusive or threatening language or gestures by residents of the property directed at adjacent or neighboring property owners; a property that is the location of gatherings of juveniles and residents or guests have received citations for underage consumption or the owner of the property has received a citation for allowing or aiding or abetting juvenile consumption;
19. Permitting, suffering, maintaining or failing to remove any offensive, nauseous, hurtful, dangerous or unhealthy condition resulting from a failure to properly dispose of garbage, sewage, waste, debris or any other unwholesome or offensive substance, liquid, or thing upon one's premises, or dropping, discharging, passing, depositing or otherwise delivering the same upon the premises of another or public property;
20. Displaying, circulating, issuing, posting or publishing any slanderous or obscene, or lewd pictures, posters, literature, writings, drawings or oral statements;

21. Any fence, wall, shed, deck, house, garage, building, structure, tree, pole, smokestack, excavation, hole, pit, basement, cellar, sidewalk, dock, lot, land, yard, premises or location which by reason of the condition in which it is found or permitted to be or remain, does or may endanger the health, safety, life, limb or property, or cause any hurt, harm, inconvenience, discomfort, damage or injury to any one or more individuals in the city; and
22. Any other activity, place or thing that is defined in this code as a nuisance or public nuisance or any other violations of the city code or zoning ordinance that are a danger to the health, safety and general welfare of the citizens of the city.

SECTION 2. AMENDMENT. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 95, Section 95.21 Public Nuisances Affecting Health shall be amended as follows:

95.21 Public Nuisances Affecting Health

The following are hereby declared to be public nuisances affecting health:

- ~~1.A.~~ Exposed accumulation of decayed or unwholesome food or vegetable matter;
- ~~2.B.~~ All diseased animals running at large;
- ~~3.C.~~ All ponds or pools of stagnant water;
- ~~4.D.~~ Carcasses of animals not buried or destroyed within 24 hours after death;
- ~~5.E.~~ Accumulations of manure, refuse, or other debris;
- ~~6.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;
- ~~7.G.~~ The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;
- ~~8.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 unnecessary and annoying vibrations;
- ~~A.K.~~ Violations of City Code § 152.09 (Illicit Discharges and Connections)
- ~~9.L.~~ Any offensive trade or business as defined by statute not operating under local license.
- ~~10.~~
- ~~11. All public exposure of people having a contagious disease; and~~

SECTION 3. AMENDMENT. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 95, Section 95.23 Public Nuisances Affecting Peace and Safety shall be amended as follows:

95.23 Public Nuisances Affecting Peace and Safety

The following are declared to be public 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.A.~~ All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

~~C.B.~~ 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.C.~~ 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 aeri-als or television antennae erected or maintained in a dangerous manner;~~

~~F.D.~~ 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.E.~~ 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.F.~~ 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.G.~~ Any barbed wire fence less than 6 feet above the ground and within 3 feet of a public sidewalk or way;

~~J.H.~~ All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

~~K.I.~~ 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.J.~~ 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.K.~~ Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash of other materials;

~~O.L.~~ 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.M.~~ The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

~~Q.N.~~ All other conditions or things which are likely to cause injury to the person or property of anyone.

~~R. Noises~~

~~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.~~

~~e. 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.~~

~~e. 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.~~

SECTION 4. REPEAL AND REPLACE. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 95, Section 95.24 Duties of City Officers shall be repealed and replaced with 95.24 Prohibited Noises.

95.24 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.
- i. 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:
- a. The time of day or night when the noise occurs;
 - b. The duration of the noise;
 - c. The proximity of the noise source to any location, such that it is reasonably likely to interfere with the peace, quiet, repose or operation of that property;
 - d. The land use, nature and zoning of the area from which the noise emanates and the area where it is perceived;
 - e. The number of people and their activities that are affected or are likely to be affected by the noise; and

- f. The sound peak pressure level of the noise, in comparison to the level of ambient noise.
- ii. Noisy Assembly.
 - a. 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.
 - b. 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.
 - c. 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.
 - iii. *Animals.* Dog barking is regulated by City Code § 91.28. For all other animals, it shall be a violation of this section to have an animal or animals which make any noise to the reasonable annoyance of another person. This shall include animal noise which can be heard by any person from a location outside of the premises where the animal or animals are located, and which 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.
 - iv. *Prohibited noises made by sound producing or reproducing equipment.* No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for the production or reproduction of sound in a distinctly and loudly audible manner as to disturb the peace, quiet and comfort of any person nearby. This includes operation of any such set, instrument, machine or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building.
 - v. Motor Vehicles.
 - a. 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.
 - b. Amplified Sound from Motor Vehicles. No person shall operate or permit operation of a device used for the amplification of sound from a motor vehicle, when the sound is audible above the level of conversational speech and causes a disturbance or an annoyance to a reasonable person of ordinary sensibilities present in the area

of the motor vehicle. Any person who has care or control of the motor vehicle with the operating device, whether or not the owner, is guilty of a violation of this section. Any person who assists with the amplification of sound is guilty of violating this section.

- c. **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.
 - d. **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.
- vi. **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.
- vii. **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.

SECTION 5. ENACTMENT. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 95, Section 95.25 Unsheltered Storage shall be enacted as follows:

95.25 Unsheltered Storage

A. General.

1. *Purpose.* The purpose of this section is to declare the unsheltered storage of inoperable or abandoned motor vehicles and any other vehicles, machinery, implements,

equipment, junk or personal property of any kind to be a danger to the public health and safety. The use of tarps shall not be considered an acceptable form of shelter.

2. *Declaration.* The unsheltered storage of these property items throughout the city tend to impede traffic in the streets, interfere with the enjoyment of and reduce the value of public and private property, invite plundering, create fire hazards and other safety and health hazards to children as well as adults, interfere with the comfort and well-being of the public, and create, extend and aggravate urban blight. The Council declares that, in order to protect the public health, safety and welfare from such conditions, these conditions are a public nuisance and must be regulated, abated and prohibited.

- B. *Unsheltered storage and clutter - General rule.* No person may place, permit, store, allow, maintain or leave machinery, implements, equipment, clutter or personal property or unsheltered storage upon an open space area of any premises located anywhere in the city.

SECTION 6. ENACTMENT. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 95, Section 95.96 Abatement shall be enacted as follows:

95.96 Abatement

- A. *Emergency abatement.* Whenever the city is made aware of the existence of a public nuisance, the city will cause to be inspected the property on which it is alleged that such a public nuisance exists. Should the Enforcement Officer determine that a public nuisance exists and that the public health, safety or welfare may be in immediate danger, then emergency abatement procedures will be implemented and the city may cause the nuisance to be removed or abated. When emergency abatement is authorized, notice to the owner, agent or occupant of the property is not required. Following emergency abatement, the city will post a notice on the property describing the action taken to abate the nuisance.
- B. *Abatement; notice.*
 1. *General rule.* If, after inspecting the property, the Enforcement Officer declares the existence of a public nuisance but the nature of the nuisance is not such as to require emergency abatement of the nuisance, then regular abatement procedures will be followed.
 2. *Notice.*
 - a. In cases where emergency abatement of a public nuisance is not required, the Enforcement Officer will serve a notice on the owner or responsible party, by regular mail, or by personal service, ordering the owner or responsible party to remove the public nuisance. The notice will contain the following information:
 - (1) Description of the property upon which the nuisance is situated;
 - (2) The nature of the nuisance to be abated;

- (3) State that in the event the owner or responsible party does not comply with the notice, the necessary work may be performed by the city;
 - (4) State that if the owner or responsible party does not pay for the expense, the cost of the work will be assessed against the property; and
 - (5) A compliance deadline. The notice will require that the public nuisance must be removed within 48 hours after the date of receipt of the notice unless another compliance deadline is stated.
 - b. If the owner of the property or responsible party cannot be found, the notice will be posted on the property for a period of 48 hours, after which period the city may perform any necessary work. Notice by regular mail and notice by posting may be done simultaneously.
3. *Disclosure of responsible party.*
- a. Upon the request of the Enforcement Officer, an owner or responsible party shall disclose the name of any other owner or responsible party known. This shall include the person for whom he or she is acting, from whom he or she is leasing the property, to whom he or she is leasing the property, or with whom he or she has any conveyancing contract.
 - b. An owner or responsible party shall, upon the request of the Enforcement Officer, provide the Officer with access to all interior portions of any occupied or unoccupied building in order to permit the Officer to make a complete inspection.
4. *Authority to abate.*
- a. The Enforcement Officer is authorized to enter in or upon any property or structure for the purpose of enforcing and ensuring compliance with the provisions of this section.
 - b. If the public nuisance has not been removed or resolved by the compliance deadline, the city has the authority to enter upon the property and abate the public nuisance. In abating the nuisance, the city may go to whatever extent necessary to complete the abatement of the public nuisance, including obtaining a court order. The city may call upon any of the city departments or divisions for whatever assistance is deemed necessary or may by private contract cause the abatement of the public nuisance. If any material derived from the abatement is salvageable, and no notice of appeal is received by the city as provided in City Code § 95.96 B. 6 below, the city may treat the property as abandoned pursuant to City Code § 32.04.B. and sell the salvaged material at private or public sale.

- 5. *Abatement Invoice.* If the city performs the work pursuant to City Code § 95.96 B. 4(b) above, the city will maintain a record showing the cost of the work attributable to each separate lot and parcel, including administrative costs. Abatement costs shall include, but are not limited to, the cost of the abatement, the cost of investigation, such as title searches, inspection and testing, the cost of notification, filing costs and administrative costs, including an overhead charge of up to 25% for administrative costs.
- 6. *Appeals.* An owner or responsible party may appeal by following the procedures set forth in City Code § 10.25 C. Any personal property of value or salvageable property coming into possession of the city during the course of the abatement pursuant to City Code § 95.96 B. 4(b) above will be stored by the city pending the outcome of the appeal.

SECTION 7. ENACTMENT. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 95, Section 95.97 Violations shall be enacted as follows:

95.97. Violations

- A. No person shall, directly or indirectly or by omission, create a nuisance.
- B. No responsible party shall allow a nuisance to remain upon or in any property, structure or vehicle under that person’s control.
- C. Violations of this Chapter shall be deemed to be a public nuisance subject to abatement pursuant to City Code §95.96, an administrative citation pursuant to City Code § 10.25 or any other enforcement action pursuant to City Code § 10.99.

SECTION 8. 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 9. 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 by owner.* 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. *Enforcement and Penalty.* Inoperable and abandoned motor vehicles are deemed to be a public nuisance, subject to abatement pursuant to City Code §95.96, administrative citations pursuant to City Code §10.25 or any other penalty provided in City Code §10.99.
6. *Disposition of impounded/abated vehicles.* In all cases of impoundment or abatement as 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, 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 P158.04 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.~~ Number of Vehicles.

~~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.~~ HIn 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.~~ ___

~~3.~~ For those vehicles allowed in this division, the following conditions shall apply:

~~3.~~ ___

~~a.~~ In all residential zoning districts, no vehicle shall be parked in a front yard or in a side yard that is adjacent to a street unless parked on an asphalt or concrete surface.

~~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.~~ ___

~~b.c.~~ 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.

~~e.d.~~ 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.e.~~ 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.f.~~ Except as provided in (B)(~~43~~)(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.

~~g.~~ Except as provided in (B)(~~43~~)(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.

- h. No more than one non-oversized (less than 25 feet, as measured from the tongue to the rear) travel camper, house trailer, motor home, motor vehicle designed, constructed or used to provide temporary movable living quarters or slip-in camper top attached or detached from a pick-up truck may be parked or stored on single-family residential property.
- i. 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.
- j. No recreational vehicle shall be permanently affixed to the parking surface in a manner that would prevent its removal.
- k. All recreational vehicles shall be in good, operable condition and properly licensed for operation.
- l. All recreational vehicles shall be registered to the property owner or occupant on which the recreational vehicles are stored.
- m. 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.b. *Storage Of Miscellaneous Materials And Equipment.*

1. ~~Screened~~No Unsheltered Storage. 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 shall comply with City Code §95.25.~~
2. *Exceptions.* Hot tubs, clothes lines, playground type equipment, construction, agricultural, landscaping materials or equipment currently being used to perform work on the premises.

d.c. *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.d. 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.e. 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.f. 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.g. 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 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.
- 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.~~
- ~~d.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.~~

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, AMENDING CH. 34,
SECTION 34.03 FEE SCHEDULE**

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 34.03 Fee Schedule, is hereby amended by adding the following fees:

Administrative Citation Fine Schedule

City Code Section	Description of Violation	Penalty Amount ¹
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 - Single-Family Residential	\$200
City Code § 158	Property Maintenance Violations - Multi-Family or Commercial Properties/Uses	\$500
City Code §10.25	Appeal Filing Fee	\$100
General	Except as otherwise stated herein, all other violations of City Code or Zoning Ordinance	\$200

¹ 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

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, REPEALING SECTIONS REGARDING CRIMINAL PENALTIES, VIOLATIONS AND CITATIONS FOR VARIOUS CITY CODE SECTIONS**

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. AMENDMENT. The Code of the City of Hastings, County of Dakota, State of Minnesota, Section 113.09 Citations and Fines shall be repealed and replaced as follows:

113.09 Citations And Penalties. 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.

SECTION 18. 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 19. 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].