

**CHAPTER 10.
GENERAL WELFARE**

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10.10. Public Nuisance Defined.

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

10.10.1.1. Maintains or permits a condition which unreasonably annoys, injure, or endanger the safety, health, morals, comfort, or repose of any considerable number of members of the public; or

10.10.1.2. Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public, or

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

10.11. Public Nuisances Affecting Health.

10.11.1. The following are hereby declared to be nuisances affecting health:

- (1) Exposed accumulation of decayed or unwholesome food or vegetable matter;
- (2) All diseased animals running at large;
- (3) All ponds or pools of stagnant water;
- (4) Carcasses of animals not buried or destroyed within 24 hours after death;
- (5) Accumulations of manure, refuse, or other debris;
- (6) 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) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;

- (8) All noxious weeds and other rank growths of vegetation upon public or private property;
- (9) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- (10) All public exposure of people having a contagious disease;
- (11) Any offensive trade or business as defined by statute not operating under local license.
- (12) The unauthorized discharge of human or animal waster into the city storm water sewer systems, the public right-of-way or upon the surface of any property, public or private, located within the City of Tyler.

10.12. Public Nuisances Affecting Morals and Decency.

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

- (1) All gambling devices, slot machines, punch boards and other gambling activities except to the extent that such activities are permitted under State law or are exempted from permit requirements by State law;
- (2) Betting, bookmaking, and all apparatus used in such occupations;
- (3) All houses kept for the purpose of prostitution of promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- (4) All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining such a place;
- (5) Any vehicle used for promiscuous sexual intercourse, or any other immoral or illegal purpose:

10.13. Public Nuisances Affecting Peace and Safety.

10.13.1. The following are declared to be nuisances affecting public peace and safety;

- (1) All snow and ice not removed from public sidewalks 12 hours after the snow or other precipitation causing the condition has ceased to fall;
- (2) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
- (3) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- (4) All unnecessary noises and annoying vibrations;
- (5) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this Code or other applicable law;
- (6) Radio aerials or television antennae erected or maintained in a dangerous manner;
- (7) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;
- (8) All hanging signs, awnings, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by Chapter;
- (9) 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;
- (10) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;
- (11) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public; situated or operated on private property as to attract the public;
- (12) Waste water cast upon or permitted to flow upon streets or other public properties;
- (13) Accumulations in the open of discarded or disused machinery,

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

- (14) Any well, hole, or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premise where it is located;
- (15) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash of other materials;
- (16) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance;
- (17) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- (18) All other conditions or things which are likely to cause injury to the person or property of anyone.

10.14. Public Nuisances Affecting Comfort and Repose by Creating Blighting.

10.14.1. The city hereby determines that certain uses, structures and activities that cause or have a tendency to cause blight or blighting factors in the community if they are allowed to exist and which will tend to result in blighted or undesirable neighborhoods so as tend to be harmful to the public welfare, health, and safety are a nuisance. The purpose of this Section is to protect the character and stability of the properties within the City and to avoid blight and blighted conditions. The owner and occupant of all premises shall comply with the regulations contained in this Section 5. All properties failing to meet the standards specified in paragraphs 1 through 4 are declared to be a nuisance:

(1) Exterior property areas; vacant properties.

- (a) All exterior property areas and vacant areas shall be maintained in a clean and sanitary condition, safe and free from any hazard or dangerous condition, and free from any accumulation of refuse or garbage.

- (b) All exterior property areas and vacant areas shall be kept free from species of weeds or plant growth, rodents, vermin, or other pests, which are noxious or detrimental to the public or other pests, which are noxious or or detrimental to the public health. Any weeds or grasses growing upon any lot or parcel of land, or boulevard abutting such land; within an area of the City zoned as a residential or commercial in which the weeds or grasses grow to a height greater than six (6) inches, or which have gone or are about to go to seed, are a nuisance. The owner or occupant shall abate or prevent such nuisance on such property.
- (c) Junk automobiles and junk equipment. In any area zoned residential, the storage or keeping of junk automobiles or junk equipment is prohibited. For the purpose of this Chapter, the term “**junk automobiles**” shall include any motor vehicle, part of a motor vehicle, or former motor vehicle, stored in the open, which is currently unlicensed, unregistered or inoperable. The term “**junk equipment**” shall include equipment such as farm equipment and other machinery, all terrain vehicles, snowmobiles, motorcycles, lawnmowers, snowblowers, and all other machinery or equipment powered by a motor and shall include any part of machinery or equipment, stored in the open, which is not currently licensed for use upon the highways of the State of Minnesota or is not required to be so licensed, and it is either:
1. Unusable or inoperable because of a lack of or defects in component parts; or
 2. Unusable or inoperable because of damage from collision, deterioration, or having been cannibalized; or
 3. Beyond repair and therefore not intended for future use in the capacity for which it was manufactured; or
 4. Being retained on the property for possible use of salvageable parts.

(2) Exterior of structures

- (a) The exterior of all structures and accessory structures including

detached garages, shall be maintained in a workman-like state of maintenance and repair.

- (b) Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, falling or loose stucco.
- (c) All doors and windows shall be maintained in good repair, fit reasonably well with their frames, and be free of open breaks or holes.
- (d) No structure shall be permitted to have broken windows.
- (e) The structure shall be maintained in such a way that there are not holes, breaks, loose or rotting boards or other methods by which birds, animals, or other creatures may gain access to the structure.
- (f) Structure shall be maintained and suitable painted so as to not annoy, anger, or arouse resentment with citizens or adjoining property owners.
- (g) The perimeter of foundation of structures shall be free of debris, rubbish, and brush. Volunteer trees or shrubs shall not be permitted, although properly planted and pruned ornamental plants, trees and shrubs are permitted when they are utilized to attractively display the structure or foundation and add to the esthetics of the structure and community. An unmaintained growth of volunteer trees or unmaintained ornamental plants, trees or shrubs are a nuisance.

(3) Interior areas of structures, including residential dwellings.

- (a) The interior of every structure shall be maintained in clean and sanitary condition, free of accumulations of garbage and refuse.
- (b) The interior of every structure shall be maintained free from infestation of noxious insects, rodents and other pests.
- (c) All plumbing systems shall be properly installed, connected, and maintained in good working order, and must be kept free from obstructions, leaks and defects.
- (d) The storage of excessive or unreasonable amounts of hazardous, flammable liquids shall be prohibited in areas not zoned for such use.

(4) The following items are declared and determined to be nuisances affecting safety, comfort and repose and are hazards when located on private property which is zoned residential and if said items are not stored within a building:

- (a) Parts of motor vehicles or machinery.
- (b) Used appliances.
- (c) Furniture.
- (d) Used, decayed or weathered or broken construction materials.
- (e) Any construction materials not presently saleable for construction purposes.
- (f) Tires not mounted on a motor vehicle.
- (g) Any motor vehicle or part of a motor vehicle not meeting all of the following requirements:
 - 1. A vehicles that currently has attached to it a valid license plate issued by the proper state agency.
 - 2. A vehicle for which the owner does not have proof of insurance as required by Minnesota Statutes.
 - 3. A vehicle in operable condition.

10.14.2. As used in this Section, a Building means an enclosed structure with four sides, a roof, and one or more doors that it may be locked so as to restrict the access to the subject Building.

10.15. Duties of City Officers.

10.15.1. Police Department or other designated officer shall enforce the provisions of this Chapter relating to nuisances. The Police Department shall enforce provisions relating to nuisances and shall assist the other designated officer in the enforcement of provisions relating to nuisances affecting public safety. Such officer shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

10.16. Enforcement.

10.16.1. **Alternatives.** For the purpose of enforcement, the City may proceed to seek enforcement as to any activity or condition which constitutes a violation of this Chapter by proceeding through a series of civil procedures to provide notice to the owner or occupant of the premises and require the removal of the nuisance or may proceed through a criminal proceeding or may pursue both civil and criminal enforcement as hereinafter provided.

10.16.2. **Decision Not and Election of Remedies.** A decision by the City to pursue a particular nuisance activity through a civil procedure or a criminal decision by the City not to pursue the other alternative for enforcement. The City may choose to pursue either alternative first. A decision to pursue one does not prevent the City from pursuing the same nuisance for the same violation through the other procedure.

10.17. Civil Procedures Relating to Abatement.

10.17.1. **Notice.** Written notice of violation; notice of the time, date, place and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this subdivision.

- (1) **Notice of violation.** Written notice of violation shall be served by the officer charged with enforcement on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.
- (2) **Notice of council hearing.** Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and the occupant of the premises either in person or by certified or registered mail. If the premises are not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of council hearing, notice of council hearing shall be served by posting it on the premises.
- (3) **Notice of City Council order.** Except for those cases determined by the City to require summary enforcement, written notice of any city council order shall be made as provided in Minn. Stat. 463.17 (Hazardous and Substandard Building Act).

- (4) **Notice of motion for summary enforcement.** Written notice of any motion for summary enforcement shall be made as provided for in Minn. Stat. 463.17 (Hazardous and Substandard Building Act).

10.17.2. **Procedure.** Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the City, the officer shall notify in writing the owner of record or occupant of the premises of such fact and order that such nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated.

- (1) If the nuisance consists of the failing to mow weeds or grasses in the City, and the nuisance is not abated as ordered, the officer may immediately proceed to abate the nuisance.

In all other cases if the notice of violation is not complied with, within the time specified, the enforcing officer shall report the fact forthwith to the City Council or in lieu thereof the enforcing officer may notice the matter for hearing before the City Council at the same time that the notice to abate the nuisance is given.

After notice to the owner of record or occupant, the Council may, after the notice and the opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further direct that the nuisance be abated within a time prescribed by the Council, which time as set by the Council may provide for additional time for compliance or may be the same time as had been previously specified by the enforcing officer. The City Council may order the abatement of the nuisance either immediately, or if compliance has not been obtained within the time specified by the City the City Council may elect to pursue injunctive relief from the District Court of summary enforcement or both.

10.17.3. **Emergency procedure; summary enforcement.** In cases of emergency where delay in the abatement required will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the City Council may order summary enforcement and abate the nuisance if the notice and procedure requirements set forth in subdivisions 1 and 2 above have been followed.

To proceed with summary enforcement, the officer charged with enforcement shall determine that a public nuisance exists or is being maintained on premises in the City and that delay in abatement of the nuisance will unreasonably endanger public health, safety, or welfare.

- (1) The enforcement officer shall notify the occupant or owner of the premises in writing of the nature of the nuisance and of the City's intention to seek summary enforcement and the time and place of the Council meeting to consider the question of summary enforcement.
- (2) The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in 10.16.1 above, and may order that such nuisance be immediately terminated or abated.
- (3) If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

The summary enforcement provisions of this 10.16.3 shall be utilized only in cases when they are provided for by Minnesota Statutes MS 463.15 et.sec.

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

10.17.5. **Injunction.** In addition to the other rights and remedies relating to enforcement and in addition to the criminal penalties as hereinafter provided the City may bring a legal action to enforce the provisions of this Chapter and may obtain an injunction to prevent and prohibit further violations of provisions of this Chapter.

10.18. **Civil Procedures as to the Recovery of Costs.**

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

10.18.2. **Assessment.** If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infested trees, the clerk shall, on or before September 1 following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minn. Stat. 429.101 against each

separate lot or parcel to which the charges are attributable. The Council may then spread the charges against such property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding 10, as the Council may determine in each case.

10.20-10.29. **Reserved.**

10.30. **Abandoned Vehicles & Inoperable Vehicles.**

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

10.31.01. **Abandoned Motor Vehicle.** "Abandoned motor vehicle" means a motor vehicle, as defined in Minnesota State Statutes, Section 169.01, which has been voluntarily surrendered by its owner to the City of Tyler or to a person duly licensed under Minnesota Statutes Section 168B.10 or which has remained for more than forty-eight (48) hours in a condition described by one of the following:

- a. On public property in violation of either the Tyler City Code or Minnesota Statutes;
- b. On private property without consent of the person in control of the property;
- c. Disabled whether located on public property or private property
- d. Not secure from entry whether located on public property or private property
- e. Without license plates conspicuously displayed thereon; or
- f. With license plates which have an expiration date more than thirty (30) days prior to the date of inspection.

10.31.02. **Abandoned Motor or Inoperable Vehicle - Exemptions.** For the purposes of this Section, the following vehicles shall not be considered abandoned motor vehicles:

- a. A classic or pioneer car, as defined in Minnesota Statutes, Section 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; provided such motor vehicle and parts dealer, junkyard, junk dealer, motor vehicle salvage dealer, automobile repair garage, or body shop and has all licenses and permits required by the City of Tyler, and the State of Minnesota;
- c. A vehicle kept inside an enclosed garage or storage building;
- e. A vehicle that is the subject of 30 day permit issued by the City Administrator.

10.31.02.01 **Inoperable Vehicle Permit & Appeal.** Application for the issuance of a permit pursuant to 10.31.02(e) shall be made to the City Administrator. The City Administrator will review all applications and may designate conditions and require guarantees for the granting of the permit. Denial of the permit are appealable to the City Council.

10.31.02.02. **Fees.** The fees for a permit and any extension shall be set in the fee schedule found at Chapter 18 of this code, subject to modification from time to time by Resolution the City Council.

10.31.02.03. **Expiration.** All special use permits shall expire thirty (30) days after issuance. Extensions for up to one (1) month may be granted. The applicant must make application and pay a fee for the extension prior to the expiration of the original permit.

10.31.02.04. **Conformance.** At all times while in possession of a special use permit, the applicant shall be in conformance with all provisions of the permit.

10.31.04. **Inoperable Vehicle.** A vehicle, other than a “restorable automobile”, including, but not limited to, any automobile, truck, trailer, marine craft, snowmobile, motorcycle, all terrain vehicle, mobile home, pickup camper, camping trailer, and other equipment for motorized transportation, which is in a condition which is described by one of the following

- a. has a missing or defective part that is necessary for the normal operation of the vehicle including, but not limited to the (a) motor, (b) drive train (c) a wheel or wheels;
- b. is stored on blocks, jacks, or other supports;

- c. does not display a license, or displays a license that is 30 days or more past its required renewal date;
- d. unmounted pickup campers or vehicles which are towed shall not be deemed inoperable vehicles if they otherwise possess all parts and are capable of normal operation and, if a license is required, display a license that is not more than 30 days past its required renewal date.

10.32. **Abandoning a Motor Vehicle.** No person shall abandon a motor vehicle on any public property or on private property without the consent of the person in control of such property.

10.33. **Abandoned Motor Vehicle or Inoperable Vehicle on Private Property.** No person in charge or control of private property, whether as owner, tenant, occupant, lessee or otherwise, shall allow an abandoned motor vehicle or inoperable vehicle to remain on such property.

10.34. Custody of Abandoned Motor Vehicles or Inoperable Vehicles.

10.34.01. The City Police are is authorized to remove or have removed and impounded any motor vehicle or vehicle left at any place within the city which reasonably appears to be in violation of this chapter or which reasonably appears to be a stolen vehicle or unclaimed vehicle. In the performance of his or her duties under this section the Police Officer is authorized to contract with such service providers as are necessary to facilitate the purposes of this section, including but not limited to tow-truck operators.

10.34.02. The impounding and taking into custody of a motor vehicle or vehicle pursuant to this chapter may be done by a Police officer. The Police officer for the city may enter upon private property at all reasonable hours for the purpose of inspecting such vehicle and impounding such vehicle. It shall be unlawful for any person to prevent a Police officer from entering on private property for the purposes of carrying out the duties hereunder or to interfere in the performance of the duties imposed on the Police.

10.34.03. If a vehicle is located on private property, before it is taken into custody by the City Police, notice that the vehicle is going to be taken into custody shall be given by regular mail to the person in whose name the title to vehicle is registered and to the owner or occupant of the private property on which the vehicle is located. Seven days after the notice is mailed the vehicle may be taken into custody by the City Police. If the notice is returned as undeliverable, the vehicle shall be posted with a notice that the vehicle will be taken into custody by the City Police three days from the date of the

notice. In lieu of mailing notice to the last registered owner or the owner or occupant of the private property, the vehicle may be posted with a notice that the vehicle will be taken into custody by the City Police three days from the date of the notice.

10.35. Immediate Sale. When an abandoned motor vehicle or inoperable vehicle is more than seven (7) model years of age, is lacking vital component parts, and does not display a license plate currently valid in Minnesota or any other state or foreign country, it shall immediately be eligible for sale at public auction and shall not be subject to the notification, reclamation or title provisions of this chapter or other statutory or ordinance provisions

10.36. Notice.

10.36.01. When an abandoned motor vehicle or inoperable vehicle does not fall within the provisions of Section 10.35, the Police Department shall give notice of the taking within ten (10) days. The notice shall set forth the date and place of the taking, the year, make, model and serial number of the abandoned motor vehicle or inoperable vehicle and the place where the vehicle is being held, shall inform the owner and any lien holders of their right to reclaim the vehicle under Section 10.37. and shall state that failure of the owner or lien holders to exercise their right to reclaim the vehicle shall be deemed a waiver by them of all right, title and interest in the vehicle and a consent to the sale of the vehicle at a public auction pursuant to Section 10.38.

10.36.02 The notice shall be sent by mail to the registered owner, if any, of the abandoned motor vehicle or inoperable vehicle and to all readily identifiable lien holders of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was abandoned. Published notices may be grouped together for convenience and economy. The notice, whether mailed or published, shall describe the vehicle sufficiently so the vehicle can be identified.

10.37. Right to Reclaim.

10.37.01. Within fifteen (15) days after the date of the notice required by Section 10.36, the owner or any lien holder of an abandoned motor vehicle or inoperable vehicle shall have a right to reclaim such vehicle from the City of Tyler upon payment of all towing, administrative fees and storage charges resulting from taking the vehicle into custody.

10.37.02. Nothing in this chapter shall be construed to impair any lien of a garage keeper under the laws of this state or the right of a lien holder to foreclose. For the purposes of this section, "garage keeper" is an operator of a parking place or

establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

10.38. Public Sale.

10.38.01. An abandoned motor vehicle or inoperable vehicle taken into custody and not reclaimed under Section 10.37. shall be sold to the highest bidder at public auction or sale following reasonable published notice thereof. The purchaser shall be given a receipt in a form prescribed by the agency which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership.

10.38.02. From the proceeds of the sale of an abandoned motor vehicle or inoperable motor vehicle, the City of Tyler shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all notice and publication costs, including administrative fees, incurred pursuant to this chapter. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for ninety (90) days and then shall be deposited in the state treasury.

10.39. Disposal of Vehicles Not Sold. Where no bid has been received for an abandoned motor vehicle or an inoperable motor vehicle, the City of Tyler may dispose of it pursuant to the provisions in Minnesota Statutes, Section 168B.10.

10.40. Cost Reimbursement. Any of the costs incurred pursuant to the enforcement of this chapter not recovered and reimbursed to the City of Tyler from the sale of a motor vehicle under section 10.38 may be charged against the property where the motor vehicle was removed from and treated as a special assessment to be collected in the manner provided by the ordinances of the City of Tyler.

10.41. Storage or Parking. It is unlawful for any person to park, keep, place, or store or permit the parking or storage of an inoperable vehicle on a public street or alley, or on any private lands or premises the person owns, occupies, or controls unless it shall be within a building.

10.42. Service and Repair. It is unlawful for any person to service, repair, replace parts or do maintenance work on a stock car, racing car, or inoperable car on a public street or on any private land or premises unless it shall be stored within a building on such private premises when such vehicle is not in the process of being serviced, repaired or maintained.

10.43. Cleanup of Clandestine Drug Lab Sites Ordinance.

10.40.1 City of Tyler does hereby consent to the enforcement by Lincoln County,

Minnesota to the enforcement by the County Officials of Lincoln County Ordinance No. 40 Amending Lincoln County Ordinance 39 adding Section 15. Titled Cleanup of Clandestine Drug Lab Sites Ordinance within the corporate limits of the City of Tyler, Minnesota.

10.43. **Trees.**

10.43.01. **Declaration of Policy.** The City Council hereby determines that the health of the elm and oak trees within the municipal limits is threatened by fatal diseases known as Dutch elm and oak wilt diseases, and other trees may be threatened by other epidemic diseases of shade trees. It further determines that the loss of elm, oak and other trees growing upon public and private property would substantially depreciate the value of property within the City and impair the safety, food order, general welfare and convenience of the public. It shall be the intention of the Council to control and prevent the spread of those diseases and this Section shall be enacted for that purpose.

10.43.02. **Setback and Other Regulations.** In all new subdivisions, street and yard trees shall be planted three (3) to five (5) feet inside the property line and not in the, boulevard. The setback provisions shall not apply to tree plantings on City parkways or streets where the City Council may permit the planting of trees in landscaped median or boulevard areas. No tree shall be planted within thirty (30) feet of the intersection of curb lines on corner lots. No trees shall be planted or set out on any different line than as above designated on the public streets or highways of the City. The Public Works Department shall have the power in their discretion to cause the removal of all trees hereafter planted in violation of this Chapter. The City shall not be responsible for the destruction of any private improvements located within the setback..

10.44. **Forester.**

10.44.01. **Position Created.** The powers and duties of the City forester as set forth in this Section shall be conferred upon the Director of Public Works and as designated by the Council.

10.44.02. **Duties of Forester.** It shall be the duty of the forester to coordinate, under the direction and control of the Council, all activities of the municipality relating to the control and prevention of Dutch elm disease and oak wilt disease and other epidemic diseases of shade trees. He or she shall recommend to the Council the details of a program for the control of the disease; and perform the duties incidental to such a program adopted by the Council.

10.45. **Epidemic Disease Program.** It shall be the intention of the Council to conduct a program of plant pest control pursuant to all the powers of this City including the authority granted by Minnesota Statutes Section 18.022. This program shall be concentrated on, but not limited to, the control and elimination of Dutch elm disease fungus, elm bark beetles and the oak wilt fungus and is undertaken at the recommendation of the Commissioner of Agriculture. The forester shall act as coordinator between the Commissioner of Agriculture and the Council in the conduct of this program.

10.46. **Nuisances.**

10.46.01. **Trees Constituting Nuisances.** The following are public nuisances whenever they may be found within the City:

10.46.01.01. Any living or standing elm tree or part thereof infected to any degree with the Dutch elm disease fungus CERATOCYSTIS ULMI (Buisman) Moreau or which harbors any of the elm bark beetles SCOLYTUS MULTISTRIATUS (Eichh.) Or HYLUNGOPINUS RUFIPES (Marsh).

10.46.02. Any dead elm tree or part thereof, including legs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide.

10.46.02.01. Any living or standing oak tree or part thereof infected to any degree with the oak wilt fungus CERATOCYSTIS FAGACEARUM.

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

10.46.02.03. Any other shade trees with an epidemic disease.

10.46.02.04. Any dead or dying tree, or any part of such a tree, that is endangering the safety and welfare of the public, or which poses a serious threat of damage to property.

10.46.03. **Abatement.** It shall be unlawful for any person to permit any public nuisance as defined in section 10.46 to remain on any premises owned or controlled by him or her within the City. The nuisances may be abated in the manner prescribed by this Section.

10.47. **Inspection and Investigation.**

10.47.01. **Annual Inspection.** As often as practicable, the forester shall inspect all public

and private premises within the City which might harbor any plant pest as defined in Minnesota Statutes Section 18.46, Subdivision 13, or this Code to determine whether any condition described in this Section exists thereon. He or she shall investigate all reported incidents of infestation by Dutch elm fungus, elm bark beetles, oak wilt fungus, or any other epidemic disease of shade trees.

10.47.02. **Entry on Private Premises.** The forester or his or her duly authorized agents may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned him or her under this Section.

10.47.03. **Diagnosis.** The forester shall, upon finding conditions indicating Dutch elm, oak wilt, or other infestation, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis, or take such other steps for diagnosis as may be recommended by the Commissioner. Except as otherwise provided in this Section, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

10.48. **Abatement of Nuisance.** In abating a nuisance defined in this Section, the forester shall cause the infected tree or wood to be sprayed, removed, burned, or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of epidemic diseases including Dutch elm disease and oak wilt disease. He or she shall also take such steps as are necessary to prevent root graft transmission of the diseases. He abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the Commissioner of Agriculture.

10.49. Procedure for Removal of Infected Trees and Wood.

10.50. **Action by Forester.** Whenever the forester finds with reasonable certainty that the infestation defined in this Section exists in any tree or wood in any public or private place in the City, he or she shall proceed as follows:

10.50.01. If the forester finds that the danger of infestation of other elm, oak or other trees is not imminent because of the dormancy of the infected trees he or she shall make a written report of his or her finding to the Council which shall proceed by (a) abating the nuisance as a public improvement under Minnesota Statutes Ch. 429 or (b) abating the nuisance as provided in Subdivision 2 of this Subsection.

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

nuisance.

10.51. **Action by Council.** Upon receipt of the foresters report required by 10.50.02, the Council shall by resolution order the nuisance abated. Before action is taken on the resolution, the Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one week prior to the meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At the hearing or adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed project. The Council shall thereafter adopt a resolution confirming the original resolution with the modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

10.52. **Record.** The forester shall keep a record of the costs of abatements done under this Section and shall report monthly to the City Administrator all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.

10.52. **Assessment.** On or before November 30 of each year the Administrator shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Section. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the county auditor and collection the following year along with current taxes.

10.53. **Interference Prohibited.** It shall be unlawful for any person to prevent, delay or interfere with the forester or his or her agents while they are engaged in the performance of duties imposed by this Chapter.

10.54. **Open Burning.**

10.54.01. **Yard Waste.** Except at the City approved burn site, the burning of dried leaves and other yard waste is hereby prohibited within the City.

10.54.02. **Burn Permits.** Special burning permits shall be allowed only for practice fires of the Tyler Fire Department. Permits shall be issued by the Fire Chief only and shall meet all requirements of State law.

10.54.03. **Recreational Fires.** Recreational fires shall be permitted without a permit but must follow the guidelines set forth by the Minnesota Department of Natural Resources. For the purpose of this Section, a recreational fire shall mean any fire set for cooking, warming, or ceremonial purposes, which is not more than three feet in diameter by three feet high, and has had the ground five feet from the base of the fire cleared of all combustible material.

10.55. Criminal Penalties.

10.55.01. **Petty Misdemeanor.** A violation of this Chapter shall constitute a petty misdemeanor. A petty misdemeanor is punishable by a fine of up to \$300.00.

10.55.02. **Continuing Violation.** Each day that a violation occurs after notice is given to a landowner or occupant of property of the need to abate a nuisance shall constitute a separate offense.

10.55.03. **Minimum Penalty.** That the minimum penalty for a violation of this Chapter shall be a fine of \$100.00.

10.55.04. **Enhanced Penalty.** In event that a violation of this Chapter occurs on the same premises on more than one occasion within 365 days of the last documented offense or as to the same owner on multiple properties the matter may be charged as a misdemeanor. If a matter is charged as a misdemeanor, the maximum penalty shall be a fine of up to \$1,000.00 and incarceration for a period of up to 90 days. The officer charging such a violation or the prosecuting attorney may certify that a subsequent violation, which under this provision may be enhanced, has not been charged as an enhanced offense in which case the matter shall be a petty misdemeanor as provided in 10.55.

10.56. **Severability.** In event that any provision of this Chapter is determined to be unenforceable, it shall not affect the enforcement of any other provision of this Chapter.