

CHAPTER 40. PUBLIC NUISANCES

40.01. Legislative Findings and Definitions. Subdivision 1. The Common Council finds poorly maintained buildings and structures, and the prolonged presence of dumpsters filled with construction debris is a growing problem of concern and a direct threat to the health, safety and welfare of the citizens of this City. The Council finds these matters to be public nuisances and adopts this chapter in an effort to regulate them.

Subd. 2. For purposes of this chapter, the term “dumpster” shall mean any portable container (typically open on top), compactors, roll-offs or recycling containers used on a temporary basis for the collection or storage of construction waste from active and ongoing permitted construction projects, house cleans, or other temporary use on a site zoned for residential use. The term “dumpster” does not include any portable, nonabsorbent, enclosed container with a close fitting cover or doors, which is capable of being serviced by mechanical equipment and which is used on a permanent basis to store large volumes of refuse and which serves as the primary method of garbage collection and disposal for a residence, and which is eight cubic yards or less.

Subd. 3. For purposes of this chapter, the term “Site” shall mean land that is zoned R-Sa, R-1, R-1x, R-2, R-3 or R-4, and includes any planned unit development or special district with a residential use.

40.02. Building Maintenance and Appearance. Subdivision 1. Buildings, fences, and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they (a) are unsightly, (b) decrease adjoining landowners' and occupants' enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhood patterns.

Subd. 2. Standards. A building, fence, or other structure constitutes a public nuisance if it satisfies any of the following criteria.

- A. Any part of any exterior surface has deterioration, holes, breaks, gaps, loose or rotting boards or timbers.
- B. Any exterior surface that has had a surface finish such as paint applied is not maintained in order to avoid noticeable deterioration of the finish. Any wall or other exterior surface that has peeling, cracked, chipped or otherwise deteriorated surface finish on more than 25 percent of:

- (1) any one wall or other flat surface; or
  - (2) all door and window moldings, eaves, gutters and similar projections on any one side or surface.
- C. Glass, including windows and exterior light fixtures, are broken or cracked, or screens are torn or separated from moldings.
  - D. Exterior doors and shutters are not hung properly and do not have an operable mechanism to keep them securely shut or in place.
  - E. Cornices, moldings, lintels, sills, bay or dormer windows, and similar projections are not kept in good repair and are not free from cracks and defects that make them hazardous or unsightly.
  - F. Roof surfaces are not tight and have defects that admit water. All roof drainage systems are not secured and hung properly.
  - G. Chimneys, antennae, air vents, and other similar projections are not structurally sound and are not in good repair. These projections are not secured properly, where applicable, to an exterior wall or exterior roof.
  - H. Foundations are not structurally sound and are in bad repair.

40.03. Dumpsters. Subdivision 1. The Common Council finds that dumpsters on residential property are necessary for temporary projects such as remodeling, clean up, landscaping, renovations and construction activities. However, the extended presence of dumpsters on residential property may cause aesthetic, health and safety concerns especially for adjacent property owners and, as such, are declared to be public nuisances. The Council determines it is in the best interests of the public's health, safety, comfort, peace, tranquility and general welfare to limit the use of dumpsters on residential property.

Subd. 2. A dumpster may be temporarily located on a Site so long as it does not obstruct vehicular or pedestrian traffic. A dumpster may remain at a Site for up to 90 days during any calendar year. A dumpster must be removed within five calendar days of the expiration of a building permit, passage of all final inspections or issuance of a certificate of occupancy (whichever is later).

Subd. 3. The Common Council may grant a permit to any person allowing a dumpster to remain on a Site beyond 90 days during a calendar year. The Council has the discretion to fix the amount of time beyond 90 days during which the permit will be valid. In considering the granting of a permit under this subdivision, the Council must consider: (a) whether the applicant has shown sufficient cause that warrants the additional time period; (b) whether there is active

and ongoing construction, remodeling or renovation activity at the Site; (c) whether the dumpster is visible by surrounding properties; and (d) whether there are health, welfare or safety concerns implicated in the request. The Council may attach conditions to the permit as it believes appropriate.

Subd. 4. Any person who allows a dumpster to remain on a Site beyond the time frame provided for in this section, or in violation of any permit granted by the Council pursuant to subdivision 3, is guilty of a misdemeanor.

40.04. Legislative Findings. The maintenance of attractive nuisances and the unsheltered storage of old, unused, stripped or junked automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, equipment, junk or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured is hereby declared to be a nuisance and dangerous to the public health and safety. The continuance of attractive nuisance conditions and 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 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. As such, the Common Council determines that, in order to protect the public health, safety and welfare, such conditions must be regulated, abated or prohibited.

40.05. General Nuisances. Subdivision 1. Any manmade or natural condition on property, including but not limited to open pits, sheer cliffs, standing waters, piles of materials, abandoned excavations and structurally unsound fences, to which a child or other person may be attracted or likely to come upon and that constitutes a safety or health hazard is hereby declared to be a nuisance.

Subd. 2. The unsheltered storage of old, unused, stripped or junked automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, equipment, junk or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured is hereby declared to be a nuisance.

Subd. 3. Nothing in this section shall restrict the activities of duly established junk or salvage yards. This section does not apply to vehicles or property in an enclosed building, on the premises of a business enterprise operated in a lawful manner when necessary to the operation of such business enterprise, or in a storage or depository maintained in a lawful location and manner by the City.

Subd. 4. For purposes of this section, "junk" shall mean worn out or discarded material of little or no value including, but not limited to, household appliances or parts thereof, tools, discarded building materials, tin cans, broken glass, broken furniture, mattresses, box springs, boxes, crates, cardboard, tires or any other unsightly debris the accumulation of which has an adverse effect upon

neighborhood or City property values, health, safety or general welfare.

40.06. Abandoned Motor Vehicles. Subdivision 1. No person shall place, park, permit to remain, store or leave upon an open space area of any premises located anywhere in the City any motor vehicle unless it conforms with all of the following requirements:

- A. The vehicle must have affixed to it a valid current motor vehicle license;
- B. The vehicle must not lack essential parts that would render it inoperable; and,
- C. The vehicle must not be in a rusted, wrecked, partially dismantled or junked condition.

Subd. 2. If a motor vehicle fails to meet any of the above requirements, the owner or possessor of the motor vehicle, shall be responsible to remove the motor vehicle to a duly licensed junk yard or other authorized place of deposit or storage within 10 working days of a demand by the City. In the event the owner or possessor of the motor vehicle cannot be located, then it shall be the responsibility of the owner of the premises to remove the motor vehicle to a duly licensed junk yard or other authorized place of deposit or storage within 10 working days of a demand by the City.

Subd. 3. For purposes of this section, "Motor vehicle" means every vehicle which is self-propelled.

40.07. Violations a Public Health or Safety Hazard. Subdivision 1. A person who creates, maintains or allows to continue a condition on property which poses a risk to the health or safety of the public in violation of section 35.21 or chapter 40 of this Code shall be deemed to have created in the City a public health or safety hazard which is declared to be a nuisance subject to abatement by the City as provided in section 40.08.

Subd. 2. A person must not act or fail to act in a manner that is or causes a public nuisance. A person must not maintain, allow, or permit a public nuisance to exist on property that the person owns, occupies or otherwise controls. Notwithstanding subdivision 1, a violation of this ordinance is a misdemeanor.

40.08. Abatement. Subdivision 1. In all cases of nuisances described in this chapter, the City Administrator, or his designee, shall cause a written notice to be served upon the person or entity that maintains, operates or permits a nuisance. The notice shall be substantially as follows:

NOTICE TO ABATE NUISANCE

The City of Rochester to \_\_\_\_\_.

You are hereby notified that the nuisance maintained, operated or permitted to exist by you located at \_\_\_\_\_, and consisting of \_\_\_\_\_ must be abated by the (removal) (destruction) (discontinuance) of the same and that if you do not comply with this notice, you are directed to appear before the undersigned at the Department of \_\_\_\_\_ on \_\_\_\_\_, 20\_\_, at \_\_\_\_\_ o'clock am/pm to show cause why the same should not be abated. If you fail to appear, the undersigned will take the necessary steps to abate such nuisance. The costs of abatement incurred by the City shall be assessed against you, and a lien may be imposed on the property to secure such payment.

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

\_\_\_\_\_  
(Title of Signer)

A copy of the foregoing notice was served on \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ (describe manner of service).

\_\_\_\_\_  
(Name of Server)

Subd. 2. If such person or entity cannot be found, then a copy of the notice may be served by delivery to any member of the family or upon an officer or agent of the entity over eighteen years of age and found on the premises described in the notice or at the residence of the person named therein, and if service cannot be had in such manner, then by posting a copy in some conspicuous place on the premises described in the notice and sending a copy of certified mail, return receipt requested, to the person or entity at the last known address.

Subd. 3. At the same time and place specified in the notice, the City Administrator, or his designee, shall hear the matter. The person or entity so complained of shall have the right to appear in person or by counsel. At the conclusion of the hearing, the City Administrator, or his designee, may vacate the notice or may declare such condition to be a nuisance and order it abated summarily.

Subd. 4. In all cases where the City Administrator, or his designee, shall have determined, after hearing or notice of hearing and default, that any nuisance shall be abated, he shall issue an order requiring the abatement of the nuisance within a time named in the order, and shall serve the order of abatement upon the

person or entity who maintains, operates or permits the nuisance. In the event the nuisance is not abated by the party within the time provided in the order, the City Administrator, or his designee, shall cause the nuisance to be abated.

Subd. 5. Any person aggrieved by an order of abatement may appeal the order to the Common Council. An appeal shall be taken within ten days from the date of the order of abatement by filing with the City Administrator and the City Clerk a notice of appeal which shall specify the grounds of appeal. The matter shall be placed on the Common Council's next regularly-scheduled meeting for a public hearing. An appeal stays all proceedings in furtherance of the action appealed from.

Subd. 6. The Common Council may reverse or affirm, in whole or in part, or may modify, the order of abatement and may issue and order, requirement, decision or determination as is consistent with city ordinances.

Subd. 7. Any person or entity who fails to remove and abate any nuisance after proper notice, the opportunity to be heard, and final order shall be liable to the City for all expenses incurred in the removal and abatement of the nuisance. The City shall have the right to recover all such costs and a lien may be imposed upon the property to secure payment of such costs. The procedure for establishing such lien shall be in accordance with Minn. Stat. §429.101.

Section 2. Sections 85.20, 85.21, 85.22, 85.23 and 85.24 of the Rochester Code of Ordinances are hereby repealed.

40.09. Backyard Composting. Subdivision 1. In order to promote and encourage the process of Composting so as to reduce waste while at the same time protecting the public's health, safety, and welfare, the City adopts these regulations governing Backyard Composting.

Subd. 2. Definitions. As used in this section, the following terms shall have the meaning ascribed to them:

- A. "Backyard Composting" means the on-site process of Composting, at the household level, of organic material using a Compost Bin or Contained Area where the biological decomposition of organic material is processed into the soil at the same location.
- B. "Composting" means the process of depositing decayed or decaying organic matter into a Compost Bin or Contained Area in order to encourage decomposition as a result of the action of aerobic bacteria, fungi, and other organisms for the purpose of improving soil structure and providing nutrients.

- C. "Compost Bin" means an enclosed container used for the particular purpose of Composting.
- D. "Contained Area" means a location enclosed within a durable material that prevents the contents from blowing or otherwise separating from the other contents including, but not limited to, sturdy woven wire fencing, rot-resistant wood, or a Compost Bin, which will provide for adequate aeration. The area shall not exceed 100 cubic feet (for example, 5ft x 5ft x 4ft) in volume.

Subd. 3. No person shall engage in Backyard Composting unless the person complies with all of the following requirements of this section:

- A. Backyard Composting shall take place only in a Contained Area or Compost Bin.
- B. The Compost Bin must be 50 inches or less from the ground.
- C. The total on-site Backyard Composting volume in a residential zone may not exceed 100 cubic feet.
- D. The Compost Bin and Contained Area must be located in the rear yard of the property as defined in the Land Development Manual and Zoning Ordinance, at least two feet from any property line and 20 feet from any habitable building off of the subject property. If a rear yard location is unavailable or impractical, the compost bin may be placed in another location approved by the Zoning Administrator.
- E. The Compost Bin must be closed at all times except when they are being filled or emptied.
- F. Only organic materials, such as grass clippings, leaves, flowers, dried weeds, sawdust, wood ash and plant trimmings, lake plants, straw, raw vegetables and fruit scraps, coffee grounds, egg shells and commercially available compost ingredients, may be placed in the compost bin.
- G. The following materials are not permitted in compost bins: meat, bones, fat, oils, whole eggs, dairy products, whole branches or logs, plastics, synthetic fibers, human or pet wastes, diseased plants, or paper.
- H. Backyard Composting must occur so as to not unreasonably annoy, disturb, injure, or endanger the comfort, convenience, safety, health, welfare, or repose of persons in the vicinity thereof. Backyard Composting must occur so as to not attract insects, vermin, or

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animals. No offensive odor shall be permitted to emanate from the Compost Bin or Contained Area. (4260, 9/7/16)

(3899, 12/15/08; 4260, 9/7/16)