

Chapter #4
PUBLIC PROTECTION

Part 1. ABANDONED PROPERTY

401.01. Disposition of abandoned property.

Subd. 1. **Procedure.** Except for abandoned and junked vehicles, all property lawfully coming into possession of the city shall be disposed of as provided in this section which is adopted pursuant to M.S. § 471.195, as it may be amended from time to time. Abandoned and junked vehicles shall be disposed of according to the procedures of this ordinance.

Subd. 2. **Storage.** The department of the city acquiring possession of the property shall arrange for its storage. If city facilities are unavailable or inadequate, the department may arrange for storage at a privately-owned facility.

Subd. 3. **Claim by owner.** The owner may claim the property by exhibiting satisfactory proof of ownership and paying the city any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.

Subd. 4. **Sale.** If the property remains unclaimed in the possession of the city for 60 days, the property shall be sold to the highest bidder at a public auction conducted by the City Clerk or his or her designee after one week published notice setting forth the time and place of the sale and the property to be sold.

Subd. 5. **Disposition of proceeds.** The proceeds of the sale shall be placed in the general fund of the city. If the former owner makes application and furnishes satisfactory proof of ownership within six months of the sale, the former owner shall be paid the proceeds of the sale of the property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

401.02. Findings and purpose. M.S. Ch. 168B, and Minn. Rules, Ch. 7035.3000 et. Seq., as they may be amended from time to time, are hereby adopted by reference. Sections 401.02 through 401.18 of this code are adopted under the authority of M.S. § 168B.09, subd. 2, as it may be amended from time to time. If any of these provisions are less stringent than the provisions of M.S. Ch. 168B or Minn. Rules, Ch. 7035, as they may be amended from time to time, the statute or rule shall take precedence.

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

Subd. 1. **Abandoned vehicle.** A motor vehicle that:

a. Has remained illegally:

1. For a period of more than 48 hours on any property owned or controlled by a unit of government, or more than 4 hours on that property when it is properly posted; or
2. On private property for a period of time without the consent of the person in control of the property; and

3. Lacks vital component parts or is in an inoperable condition that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.

b. A classic car or pioneer car, as defined in M.S. § 168.10, as it may be amended from time to time, is not considered an abandoned vehicle.

c. Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with M.S. § 161.242, as it may be amended from time to time, or that are licensed and maintained in accordance with local laws and zoning regulations, are not considered abandoned vehicles.

d. A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ or court order is in effect

Subd. 2. **Department.** The Minnesota Department of Public Safety.

Subd. 3. **Impound.** To take and hold a vehicle in legal custody. There are two types of impounds: public and nonpublic.

Subd. 4. **Impound lot operator or operator.** A person who engages in impounding or storing, usually temporarily, unauthorized or abandoned vehicles. **OPERATOR** includes an operator of a public or nonpublic impound lot, regardless of whether tow truck service is provided.

Subd. 5. **Junk vehicle.** A vehicle that is three years old or older; Is extensively damaged, with the damage including things as broken or missing wheels, motor, drive train or transmission; Is apparently inoperable; Does not have a valid, current registration plate; and Has an approximate fair market value equal only to the approximate value of the scrap in it.

Subd. 6. **Motor vehicle or vehicle.** Has the meaning given “motor vehicle” in M.S. § 169.01, as it may be amended from time to time.

Subd. 7. **Motor vehicle waste.** Solid waste and liquid wastes derived in the operation of or in the recycling of a motor vehicle, including such things as tires and used motor oil, but excluding scrap metal.

Subd. 8. **MPCA or agency.** The Minnesota Pollution Control Agency.

Subd. 9. **Nonpublic impound lot.** An impound lot that is not a public impound lot.

Subd. 10. **Public impound lot.** An impound lot owned by or contracting with a unit of government.

Subd. 11. **Unauthorized vehicle.** A vehicle that is subject to removal and impoundment M.S. § 169.041, as it may be amended from time to time, but is not a junk vehicle or an abandoned vehicle.

Subd. 12. **Unit of government.** Includes a state department or agency, a special purpose district, and a county, statutory or home rule charter city, or town.

Subd. 13. **Vital component parts.** Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including such things as the motor, drive train and wheels.

401.04. Violation to abandon motor vehicle. Any person who abandons a motor vehicle on any public or private property, without the consent of the person in control of the property, is guilty of a misdemeanor and subject to the penalties provided in the ordinances.

401.05. Authority to impound vehicles.

Subd.1. **Abandoned or junk vehicles.** The City Manager-Clerk or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle if the vehicle is on public property. If the abandoned or junk vehicle is located on private property, the vehicle shall not be removed or impounded until the provisions of Subd. 2 are complied with.

Subd. 2. **Unauthorized vehicles.** The City Manager-Clerk, or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any unauthorized vehicle under M.S. § 169.041, as it may be amended from time to time. A vehicle may also be impounded after it has been left unattended in one of the following public or private locations for the indicated period of time:

a. In a public location not governed by M.S. § 169.041, as it may be amended from time to time:

- 1) On a highway and properly tagged by a peace officer, four hours;
- 2) Located so as to constitute an accident or traffic hazard to the traveling public, as determined by a peace officer, immediately; or

b. That is a parking facility or other public property owned or controlled by a unit of government, properly posted, four hours; or

c. On private property, only with the express permission of the owner of the property, a resident or other person in control of the premises:

- 1) That is single-family or duplex residential property, immediately;
- 2) That is private, nonresidential property, properly posted, immediately;
- 3) That is private, nonresidential property, not posted, 24 hours; or
- 4) That is any residential property, properly posted, immediately.

d. If under this section, permission is not granted, then the city shall not remove and impound any vehicle until the procedure established in this section has been followed.

e. If the vehicle is on private property, the City Administrator or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle on private property only with the permission of the owner of the property, a resident, or other person in control of the premises. If permission is denied, the city may declare the existence of the abandoned or junk vehicle to be a nuisance and proceed to abate the nuisance as provided for in these ordinances. Once the abatement procedure has been completed, the city may apply for an order from a court of competent jurisdiction authorizing the removal and impoundment of the vehicle and, after the order has been granted, the city may then remove and impound the vehicle.

401.06. Sale; waiting periods.

Subd. 1. **Sale after 15 days.** An impounded vehicle is eligible for disposal or sale under these ordinances, 15 days after notice to the owner, if the vehicle is determined to be:

- a. A junk vehicle, except that it may have a valid, current registration plate and still be eligible for disposal or sale under this subdivision; or
- b. An abandoned vehicle.

Subd. 2. **Sale after 45 days.** An impounded vehicle is eligible for disposal or sale under these ordinances, 45 days after notice to the owner, if the vehicle is determined to be an unauthorized vehicle.

401.07. Notice of taking and sale.

Subd. 1. **Contents; notice given within five days.** When an impounded vehicle is taken into custody, the city or impound lot operator taking it into custody shall give notice of the taking within five days. The notice shall:

- a. Set forth the date and place of the taking; the year, make, model and serial number of the impounded motor vehicle if the information can be reasonably obtained; and the place where the vehicle is being held;
- b. Inform the owner and any lienholders of their right to reclaim the vehicle; and
- c. State that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under these ordinances shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to these ordinances.

Subd. 2. **Notice by mail or publication.** The notice shall be sent by mail to the registered owner, if any, of an impounded vehicle and to all readily identifiable lienholders of record. The Department makes this information available to impound lot operators for notification purposes. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy.

Subd. 3. **Unauthorized vehicles; notice.** If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent under Subd. 2 of this section, a second notice shall be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lienholders of record.

401.08. Right to reclaim.

Subd. 1. **Payment of charges.** The owner or any lienholder of an impounded vehicle shall have a right to reclaim the vehicle from the city or impound lot operator taking it into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days, as applicable under these ordinances, after the date of the notice required by 401.07. Subd. 2.

Subd. 2. **Lienholders.** Nothing in this chapter shall be construed to impair any lien of a garagekeeper under the laws of this state, or the right of a lienholder to foreclose. For the purposes of this section, **GARAGEKEEPER** 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.

401.09. Disposition by impound lot.

Subd. 1. Auction or sale.

a. If an abandoned or unauthorized vehicle and contents taken into custody by the city or any impound lot is not reclaimed under, it may be disposed of or sold at auction or sale when eligible.

b. The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

Subd. 2. Unsold vehicles. Abandoned or junk vehicles not sold by the city or public impound lots pursuant to this section shall be disposed of in accordance with these ordinances.

Subd. 3. Sale proceeds; public entities. From the proceeds of a sale under this section by the city or public impound lot of an abandoned or unauthorized motor vehicle, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred in handling the vehicle pursuant to this chapter. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in the treasury of the city.

Subd. 4. Sale proceeds; nonpublic impound lots. The operator of a nonpublic impound lot may retain any proceeds derived from a sale conducted under the authority of division (A) of this section. The operator may retain all proceeds from sale of any personal belongings and contents in the vehicle that were not claimed by the owner or the owner's agent before the sale, except that any suspected contraband or other items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency.

401.10. Disposal authority. The city may contract with others or may utilize its own equipment and personnel for the inventory of impounded motor vehicles and abandoned scrap metal and may utilize its own equipment and personnel for the collection, storage and transportation of these vehicles and abandoned scrap metal. The city may utilize its own equipment and personnel only for the collection and storage of not more than five abandoned or unauthorized vehicles without advertising for or receiving bids in any 120-day period.

401.11. Contracts; reimbursement by mpca.

Subd. 1. MPCA review and approval. If the city proposes to enter into a contract with a person licensed by the MPCA pursuant to this section or a contract pursuant to these ordinances, the MPCA may review the proposed contract before it is entered into by the city, to determine whether it conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules. A contract that does so conform may be approved by the MPCA and entered into by the city. Where a contract has been approved, the MPCA may reimburse the city for the costs incurred under the contract that have not been reimbursed. Except as otherwise provided in these ordinances, the MPCA shall not approve any contract that has been entered into without prior notice to and request for bids from all persons duly licensed by the MPCA to be a party to a disposal contract pursuant to M.S. § 116.07, as it may be amended from

time to time; does not provide for a full performance bond; or does not provide for total collection and transportation of abandoned motor vehicles, except that the MPCA may approve a contract covering solely collection or transportation of abandoned motor vehicles where the MPCA determines total collection and transportation to be impracticable and where all other requirements herein have been met and the unit of government, after proper notice and request for bids, has not received any bid for total collection and transportation of abandoned motor vehicles.

Subd. 2. **The city may perform work.** If the city utilizes its own equipment and personnel pursuant to its authority, and the use of the equipment and personnel conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules, the city may be reimbursed by the MPCA for reasonable costs incurred which are not reimbursed.

Subd. 3. **The city required to contract work.** The MPCA may demand that the city contract for the disposal of abandoned motor vehicles and other scrap metal pursuant to the MPCA's plan for solid waste disposal. If the city fails to contract within 180 days of the demand, the MPCA, through the Department of Administration and on behalf of the city, may contract with any person duly licensed by the MPCA for the disposal.

Part 2. NUISANCES

402.01. Public Nuisance Defined. Whoever does an act or fails to perform a legal duty therefore intentionally doing any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

Subd. 1. Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or

Subd. 2. Interferes with, obstructs, or deposits garbage or refuse upon or otherwise renders dangerous for passage, any public highway or right of way, or waters used by the public; or

Subd. 3. Is guilty of any other act or omission declared by law or this code to be a public nuisance and for which no sentence is specifically provided.

402.02. Public nuisances affecting health. The following are declared to be nuisances affecting health:

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

Subd. 2. All diseased animals running at large;

Subd. 3. Carcasses of animals not buried or destroyed within 24 hours after death;

Subd. 4. Accumulations of manure, refuse, or other debris;

Subd. 5. 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;

Subd. 6. The pollution of any public or private well or cistern, stream or lake, canal or body of water by

sewage, industrial waste or other substances;

Subd. 7. All noxious weeds and other rank growths of vegetation upon public or private property;

Subd. 8. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;

Subd. 9. Open or uncontrolled burning in violation of state statutes and regulations.

Subd. 10. All public exposure of persons having a contagious disease;

Subd. 11. Any offensive trade or business as defined by statute not licensed by the council.

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

Subd. 1. All gambling devices, slot machines, and punch boards kept in violation of law;

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

Subd. 3. All houses kept for the purpose of prostitution of promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses.

Subd. 4. All places where intoxicating liquor and illegal drugs are manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxicating liquor or using illegal drugs, or where intoxicating liquor or illegal drugs are kept for sale or other disposition in violation of law, and all liquor or drugs and other property used for maintaining such a place.

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

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

Subd. 1. All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;

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

Subd. 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;

Subd. 4. All unnecessary noises and annoying vibrations;

Subd. 5. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this code or other applicable law;

Subd. 6. Radio aerials or television antennae erected or maintained in a dangerous manner;

Subd. 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 uses of the streets or sidewalks;

Subd. 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 ordinance

Subd. 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;

Subd. 10. Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;

Subd. 11. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

Subd. 12. Waste water cast upon or permitted to flow upon streets or other public property;

Subd. 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 to fire, health or safety hazards from such accumulation or from the rank growth of vegetation among the items so accumulated;

Subd. 14. Any well, hole, or similar excavation which is left uncovered or is such other condition as to constitute a hazard to any child coming on the premises where it is located;

Subd. 15. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials;

Subd. 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;

Subd. 17. Entry upon the premises of another if the person entering has been given oral or written notice not to, or if the premises are clearly marked with "no trespassing" signs posted so as to be in plain view along all routes of access to the premises, unless such entry is upon official business of a government agency or public utility.

Subd. 18. The depositing of garbage, construction debris, or other refuse on a public right of way or on adjacent private property;

Subd., 19. All other conditions or things which are likely to cause injury to the person or property of anyone.

402.05. Duties of the city officers. The police department or other designated official shall enforce the provisions relating to nuisances affecting public health, morals, and decency. The police department shall enforce provisions relating to nuisances affecting public safety. Such officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

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

402.07. Recovery of Cost.

Subd. 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. As soon as the work has been completed and the cost determined, the city clerk or other officer 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 clerk.

Subd. 2. **Assessment.** If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infested trees, any unpaid charges by the city for the cost of elimination of the nuisance may be collected as a special assessment pursuant to this code.

Part 3. TREE DISEASES

403.01. Declaration of Policy. The council 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, good order, general welfare and convenience of the public. It is declared to be the intention of the council to control and prevent the spread of those diseases and this ordinance is enacted for that purpose.

403.02. Tree Inspector.

Subd. 1 **Position created.** The position of tree inspector is hereby created under the immediate supervision of the city council.

Subd. 2 **Duties of inspector.** It is the duty of the tree inspector 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. The inspector shall recommend to the council the details of a program for the control of such diseases; and perform the duties incident to such a program adopted by the council

403.03. Nuisances declared.

Subd. 1. **Trees constituting nuisances.** The following are public nuisances whenever they may be found within the city.

- a Any living or standing elm tree or part thereof infected to any degree with the Dutch elm disease fungu *Ceratocystis Ulmi* (Buisman) Moreau or which harbors any of the elm bark beetles *Scolytus Multistriatus* (Eichh.) Or *Hylungopinus Rufipes* (March);
- b Any dead elm tree or part thereof, including 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;
- c Any living or standing oak tree or part thereof infected to any degree with the oak wilt fungus *Ceratocystis fagacearum*;
- d Any dead oak tree or part thereof which in the opinion of the inspector constitutes a hazard, including but not limited to, logs, branches, stumps, roots, firewood, or other oak material, which has not been stripped of its bark and burned or sprayed with an effective fungicide;
- e Any other shade trees with an epidemic disease.

Subd. 2. **Abatement.** It is unlawful for any person to permit any public nuisance as defined in Subd. 1 to remain on any premises the person owns or controls within the city. Such nuisances may be abated in the manner prescribed by this part.

403.04. Inspection and Investigation.

Subd. 1. **Inspection .** As often as practicable, the inspector shall inspect all public and private premises within the city which might harbor any harmful plant pest as defined in Minn. State. 18G,02 Subd. 12 to determine whether any condition described in Section 403.03 of this code exists thereon. The inspector 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.

Subd. 2. **Entry on private premises.** The inspector or the duly authorized agents of the inspector may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned under this code.

403.05. Abatement of diseases creating nuisance. In abating a nuisance defined in this code, the inspector 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. The inspector shall also take such steps as are necessary to prevent root graft transmission of the diseases. Such abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the State Commissioner of Agriculture.

403.06. Procedure for removal of infected trees and wood.

Subd. 1. **Action by inspector.** Whenever the inspector finds with reasonable certainty that the infestation defined in this code exists in any tree or wood in any public or private place in the city, the inspector shall in writing notify the owner of the existence of a nuisance, which notice shall state that the owner has 60 days to abate the nuisance and avoid city action. A copy of the notice shall be transmitted to the City clerk for the information of the council. If within the 60 day period the property owner has not abated the nuisance, the inspector shall report all the facts surrounding the unabated nuisance to the council.

Subd. 2. **Action by council.** Upon receipt of the inspector's report required in Subd. 1, the council shall by resolution order the nuisance abated. Before action is taken on such 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 such 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 such 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 such modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

Subd. 3. **Record.** The inspector shall keep a record of the costs of abatement done under this section and shall report monthly to the city clerk (or other appropriate officer) 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.

Subd. 4. **Assessment.** On or before September 1 of each year the clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this part. The council may then spread the charges or any portion thereof against the property involved as a special assessment under Minn. Stat. 429.101 and other pertinent statutes for certification to the county auditor and collection the following year along with current taxes.

403.07. Interference prohibited. It is unlawful for any person to prevent, delay, or interfere with the inspector or the inspector's agents while they are engaged in the performance of duties imposed by this part.

403.08. Penalty. Violations of this part 3 shall constitute a petty misdemeanor.

Part 4. WEEDS

404.01. Jurisdiction. This part shall be in addition to any state statute or county ordinance presently in

effect, subsequently added, amended or repealed.

404.02. Definitions; Exclusions. For the purpose of this part, the following definitions shall apply unless the content clearly indicates or requires a different meaning.

Subd. 1. **Destruction Order.** The notice served by the City Council or designated city official on the property owner of the ordinance violation.

Subd. 2. **Property Owner.** The person occupying the property, or in cases of appeal the person the holder of legal title to the property.

Subd. 3. **Weeds, Grasses and Rank Vegetation.** Includes but is not limited to the following: Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf, Curly Dock, Duddle

404.03. Nuisances declared.

Subd. 1. **Weeds constituting nuisances.** The following are public nuisances whenever they may be found within the city.

- a Poison ivy, poison oak or poison sumac and all vegetation at any state of maturity which:
 1. Exceeds 12 inches in height, except healthy trees, shrubs or produce for human consumption grown in a tended and cultivated garden unless such trees and shrubbery by their density or location constitute a detriment to the health, benefit and welfare of the public and community or a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of the weeds;
 2. Regardless of height, harbors, conceals or invites deposits or accumulation of refuse or trash;
 3. Harbors rodents or vermin;
 4. Gives off unpleasant or noxious odors;
 5. Constitutes a fire or traffic hazard; or
 6. Is dead or diseased.

Subd. 2. **Abatement.** It is unlawful for any person to permit any public nuisance as defined in Subd. 1 to remain on any premises the person owns or controls within the city. Such nuisances may be abated in the manner prescribed by this part.

404.04. Weed Inspector.

Subd. 1. **Position created.** The position of weed inspector is hereby created under the immediate supervision of the city council.

Subd. 2. **Duties of inspector.** It is the duty of the weed inspector to coordinate, under the direction and control of the council, all activities of the municipality relating to the control weeds. The inspector shall recommend to the council the details of a program for the control of such weeds; and perform the duties incident to such a program adopted by the council.

404.05. Inspection and Investigation.

Subd. 1. **Inspection** . As often as practicable, the inspector shall inspect all public and private premises within the city which might harbor any harmful plant pest as defined in Minn. Stat. 18G.02, Subd. 12 and to determine whether any condition described in part of this code exists thereon. The inspector shall investigate all reported incidents of Noxious weed infestations.

Subd. 2. **Entry on private premises.** The inspector or the duly authorized agents of the inspector may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned under this code.

404.06. Abatement. It is unlawful for any person to permit any public nuisance as defined in this code to remain on any premises the person owns or controls within the city. Such nuisances may be abated in the manner prescribed by this part.

404.07. Procedure for removal noxious weeds, grasses and rank vegetation

Subd. 1. **Action by inspector.** Whenever the inspector finds with reasonable certainty that the infestation defined in Part 4 exists in any public or private place in the city, the inspector shall prepare a report for the Council listing all properties regarding this condition.

404.08. Action by the Council. The City Council shall upon concluding that there is a probable belief that this part has been violated, shall forward written notification in the form of a "Destruction Order" to the property owner or the person occupying the property of that information contained within the report. The notice shall be served in writing by certified mail. The notice shall provide that within seven regular business days after the receipt of the notice that the designated violation shall be removed by the property owner or person occupying the property. All notices are to be in writing and all reports are to be filed with the City Clerk. Certified mailing to the City Clerk or others is deemed filed on the date of posting to the United States Postal Service.

404.09. Appeals.

Subd. 1. The property owner may appeal by filing written notice of objections with the City Council within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the council. It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants or crops or is not otherwise in violation of this sub-chapter, and should not be subject to destruction under the part.

Subd. 2. An appeal by the property owner shall be brought before the council and shall be decided by a majority vote of the council members in attendance and being at a regularly scheduled or special meeting of the council.

404.10. Abatement by City. In the event that the property owner shall fail to comply with the Destruction Order within seven regular business days and has not filed a notice within 48 hours to the City Clerk of an intent to appeal, the council may employ the services of city employees or outside

contractors and remove the weeds to conform to this sub-chapter by all lawful means.

404.11. Liability.

Subd. 1. The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this part.

Subd. 2. The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorney's fees and interest on any unpaid amounts incurred by the city. If the city uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.

Subd. 3. All sums payable by the property owner are to be paid to the City Clerk and to be deposited in a general fund as compensation for expenses and costs incurred by the city.

Subd. 4. All sums payable by the property owner may be collected as a special assessment as provided by Minn Statutes 429.101 et. Seq., as it may be amended from time to time.

Part 5. PROHIBITION OF OPEN BURNING & REGULATION OF CAMPFIRES & LEAVES

405.01. Purpose. The purpose of this Section is to prohibit open burning for residences and farms within the City of Pierz, except when such open burning is defined as a Recreational/Campfire as prescribed in this code or when such open burning is defined as the burning of leaves as defined in this code or is necessary to thaw ground for utility work or grave opening.

405.02. Definitions. For the purposed of the Section, the terms in this Section have the meaning given to them.

Subd. 1. **Open Burning.** Open burning means the burning of any matter if the resultant combustion products are emitted directly into the atmosphere without passing through a stack, duct or chimney, except a recreational/campfire as defined herein or ground thawing for grave opening and utility work.

Subd. 2. **Recreational/Campfire.** Recreational/Campfire means a fire set with approved starter fuel no more than three (3) feet in height, contained within the border of a recreational/campfire site using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation of social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality son that nuisance, health or safety hazards will not be created.

Subd. 3. **Recreational/Campfire Site.** A recreational/campfire site means an area of no more than three (3) foot diameter circle completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks of ferrous material only and which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood-burning fireplaces. Recreational/campfire sites shall not be located closer than fifty (50) feet to any structure.

Subd. 4. **Starter Fuels.** Starter fuels mean dry, untreated, unpainted wood or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas-burning devices causing minimal pollution must be used to start an open burn.

Subd. 5. **Wood.** Wood means dry, clean fuel only such as twigs, branches, limbs, presto logs, charcoal, cordwood or untreated dimensional lumber. Wood does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three (3) foot lengths.

405.03. Prohibited Materials. No person shall conduct, cause or permit open burning of oils, petro fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood, composite shingles, tar-paper, insulation, composition board, sheetrock, wiring or paint fillers. No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, or open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures. No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.

405.04. Open Burning Prohibited. No person shall start or allow any open burning of any property in the City of Pierz except for fire which is recreational/campfire as defined herein, or is used for the purpose of thawing ground for utility work or grave opening. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers and propane of natural gas devices are not affected by this ordinance.

405.05. Open Burning Exceptions. Fire training and controlled burns by the fire department are allowable activities with burning permits issued, if necessary, by the Minnesota Department of Natural Resources.

405.06. Burning or Air Quality. No recreational/campfire or open burn will be permitted when the City of DNR has officially declared a burning ban due to potential hazardous fire conditions or when the Minnesota Pollution Control Agency has declared an air quality alert.

405.07. Penalty. A person violating any provision of the ordinance is guilty of a misdemeanor and upon conviction shall be punished by fine and/or imprisonment.

Part 6. FISHING PROHIBITED

406.01. Intent. An ordinance promoting public safety and welfare inside a certain area in the Pierz Municipal Park by prohibiting fishing or the taking of fish in any manner in that certain areas and providing penalty for the violation thereof.

406.02. Violation. The taking of or the attempt of taking fish in any manner whatsoever is prohibited in the following described area in the Pierz Municipal Park:

Subd. 1. From the dam proper, inside the park limits, running in an easterly direction for a distance of approximately five (5) hundred feet to the confluence of Hillman Creek with the Skunk River.

406.03. Penalty. A violation shall be punishable by a fine not to exceed \$100.00 or 90 Day in the County Jail and confiscation of equipment used while violating this ordinance.

Part 7. ACCESSORY BOILERS

407.01. Intent. An ordinance of the City of Pierz concerning the construction, use and maintenance of outdoor wood fired boilers;

407.02. Definitions.

Subd. 1. **Accessory Boiler.** An accessory structure, separate device, or an addition to the exterior of an existing structure which contains a firebox and is designed to heat a structure or provide hot water through conveyance of heated fluids or gasses.

407.03. Violation. No Accessory Boiler shall be permitted in any zoning district in the City of Pierz; Boilers installed prior to the adoption of this ordinance are subject to random inspection by the City for fire safety compliance checks, and compliance with City Nuisance Ordinances.

407.04. Penalty. A violation shall be punishable by a fine not to exceed \$100.00 or 90 Day in the County Jail and confiscation of equipment used while violating this ordinance.

Part 8. ANIMALS

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

Subd. 1. **Animal.** Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry), or other member commonly accepted as a part of the animal kingdom. **ANIMALS** shall be classified as follows:

Subd. 2. **Domestic animals.** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, **DOMESTIC ANIMALS** shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous, and non-constricting reptiles or amphibians, and other similar animals.

Subd. 3. **Farm animals.** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, **FARM ANIMALS** shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stable.

Subd. 4. **Non-domestic animals.** Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, **NON-DOMESTIC ANIMALS** shall include:

- a Any member of the large cat family (family *Felidae*) including lions, tigers, cougars, bobcats, leopards, and jaguars, but excluding commonly accepted domesticated house cats;
- b Any naturally wild member of the canine family (family *Canidae*) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs;
- c Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet;
- d Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets;
- e Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles, and alligators; or
- f Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys, and game fish.

Subd. 5. **Animal control officer.** The Chief of Police or designee.

Subd. 6. **At large.** Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

Subd. 7. **Cat.** Both the male and female of the feline species commonly accepted as domesticated household pets.

Subd. 8. **Dog.** Both the male and female of the canine species commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

Subd. 9. **Owner.** Any person or persons, firm, association, or corporation owning, keeping, or harboring an animal.

Subd. 10. **Release permit.** A permit issued by the Animal Control Officer or other person in charge of the pound for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee to the City Manager-Clerk in accordance with the regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established by the City, as it may be amended from time to time.

408.02. Dogs and cats.

Subd. 1. **Running at large prohibited.** It shall be unlawful for the 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. 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."

408.02. Dogs and Cats.

Subd. 2. **License required.** All dogs over the age of four months kept, harbored, or maintained by their owners in the city, shall be licensed and registered with the city. Dog licenses shall be for a period of one year and shall be issued by the City Manager-Clerk upon payment of the license fee as established by the City, as it may be amended from time to time. The annual renewal date of said dog licenses will be July 1st of each year. Dog owners that are registered with the City will receive renewal applications and will be required to apply for a new dog license, submit the fee, and provide proof of vaccination prior to the July 1st renewal date in order to be supplied a dog license that complies with this ordinance. The owner shall state, at the time application is made for the license and upon forms provided, his or her name and address and the name, breed, color, and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against distemper and rabies, as evidenced by a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated. Upon payment of the license fee as established by the City, as it may be amended from time to time, the Manager-Clerk shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it the year for which it is issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, the City Manager-Clerk shall issue a duplicate. A charge shall be made for each duplicate tag in an amount established in the City, as it may be amended from time to time. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the city before the expiration of the license period.

- a The licensing provisions of this division shall not apply to dogs whose owners are non- residents temporarily within the city, nor to dogs brought into the city for the purpose of participating in any dog show, nor shall this provision apply to seeing eye dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place.
- b The funds received by the City Manager-Clerk from all dog licenses and metallic tags fees as established by Chapter 34 of this code, as it may be amended from time to time, shall first be used to defray any costs incidental to the enforcement of this chapter;

including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs.

Subd. 3. **Cats.** Cats shall be included as controlled by this division insofar as running at large, pick-up, impounding, boarding, licensing, and proof of anti-rabies vaccine is concerned. All other provisions of this section shall also apply to cats unless otherwise provided.

Subd. 4. **Vaccination.** All dogs and cats kept harbored, maintained, or transported within the city shall be vaccinated at least once every three years by a licensed veterinarian for rabies, with a live modified vaccine; and Distemper. A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Manager-Clerk, the Animal Control Officer, or a police officer, the owner shall present for examination the required certificate of vaccination for the animal. In cases where certificates are not presented, the owner or keeper of the animal shall have seven days in which to present the certificate to the City Manager-Clerk or officer. Failure to do so shall be deemed a violation of this section.

408.03. Non-domestic animals. It shall be illegal for any person to own, possess, harbor, or offer for sale any non-domestic animal within the city. Any owner of a non-domestic animal at the time of adoption of this code shall have 30 days in which to remove the animal from the city, after which time the city may impound the animal as provided for in this chapter. Owners may, however, take the non-domestic animal to and from a veterinary clinic within the city for care or treatment. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

408.04. Farm animals. Farm animals shall only be kept in an agricultural district of the city, or on a residential lot of at least ten acres in size provided that no animal shelter shall be within 300 feet of an adjoining piece of property. An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition. The owner shall be obligated to meet any other zoning requirements. Property that currently has farm animals is permitted to continue to have the existing animals. Farm facilities shall not be enhanced to permit additional animals, nor shall any additional animals be brought into a current operation, unless they comply with the provisions of this section.

408.05. Impounding.

Subd. 1. **Running at large.** Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division below, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

Subd. 2. **Biting animals.** Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the city pound for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the county in which this city is located, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

Subd. 3. **Reclaiming.** All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined under these ordinances in which case it shall be kept for seven regular business days or the times specified in these ordinances, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

- a Payment of the release fee and receipt of a release permit as established by the City, as it may be amended from time to time;
- b Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in the pound; and
- c If a dog is unlicensed, payment of a regular license fee as established by the City, as it may be amended from time to time, and valid certificate of vaccination for rabies and distemper shots is required.

Subd. 4. **Unclaimed animals.** At the expiration of the times established above, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the animal by complying with all provisions in this section, or the officer may sell the animal to the University of Minnesota, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Manager-Clerk.

408.06. Kennels. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

Subd. 1. **Kennel.** The keeping of three or more dogs or no more than three domestic animals on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a **KENNEL**; except that a fresh litter may be kept for a period of three months before that keeping shall be deemed to be a **KENNEL**.

Subd. 2. **Kennel as a nuisance.** Because the keeping of three or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of three or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the city.

408.07. Nuisances.

Subd. 1. **Habitual barking.** It shall be unlawful for any person to keep or harbor a dog which habitually barks, bays, howls, cries, or makes any other noise continuously or incessantly for a period of 10 minutes or barks intermittently for 30 minutes or more at any time between the hours of 8:00 p.m. and 8:00 a.m. Between the hours of 8:00 a.m. and 8:00 p.m. a barking dog is a dog which barks, bays, cries, howls, or makes any other noise continuously or incessantly for a period of 20 minutes or barks intermittently for 60 minutes or more. The barking must also be audible off of the owner or caretaker's premises.

Subd. 2. **Damage to property.** It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property of another, whether or not the owner has knowledge of the damage.

Subd. 3. **Cleaning up litter.** The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal, whether on their own property, on the property of others, or on public property, and disposing of the feces in a sanitary manner.

Subd. 4. **Other.** Any animals kept contrary to this section are subject to impoundment as provided in the ordinances.

408.08. Seizure of animals. Any police officer or Animal Control Officer may enter upon private property and seize any animal provided that the following conditions exist:

Subd. 1. There is an identified complainant other than the police officer or Animal Control Officer making a contemporaneous complaint about the animal;

Subd. 2. The officer reasonably believes that the animal meets either the barking dog criteria set out in the ordinances, the criteria for cruelty set out in the ordinances, or the criteria for an at large animal set out in the ordinances;

Subd. 3. The officer can demonstrate that there has been at least one previous complaint of a barking dog, or inhumane treatment of the animal, or that the animal was at large at this address on a prior date;

Subd. 4. The officer has made a reasonable attempt to contact the owner of the dog and the property to be entered and those attempts have either failed or have been ignored;

Subd. 5. The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other authorized person to have that key shall not be considered unauthorized entry; and

Subd. 6. Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

408.09. Animals presenting a danger to health and safety of city. If, in the reasonable belief of any person or the Animal Control Officer or police officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under these ordinances. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with these ordinances.

408.10. Diseased animals.

Subd. 1. **Running at large.** No person shall keep or allow to be kept on his or her premises, or on premises occupied by him or her, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of the city, even though the animal be properly licensed under this chapter.

Subd. 2. **Confinement.** Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person, the Animal Control Officer or a police officer. The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

Subd. 3. **Release.** If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.

408.11. Dangerous animals.

Subd. 1. **Attack by an animal.** It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

Subd. 2. **Destruction of dangerous animal.** The Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

Subd. 3. **Definitions.** For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

a **Dangerous animal.** An animal which has:

- 1) Caused bodily injury or disfigurement to any person on public or private property;
- 2) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;
- 3) Exhibited unusually aggressive behavior, such as an attack on another animal;
- 4) Bitten one or more persons on two or more occasions; or
- 5) Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

b **Potentially dangerous animal.** An animal which has:

- 1) Bitten a human or a domestic animal on public or private property;
- 2) When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
- 3) Engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

c **Proper enclosure.** Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal 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 animal 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 animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance.

d **Unprovoked.** The condition in which the animal is not purposely excited, stimulated, agitated, or disturbed.

Subd. 4. **Designation as potentially dangerous animal.** The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in these ordinances. When an animal is declared potentially dangerous, the Animal Control Officer shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

Subd. 5. **Evidence justifying designation.** The Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

- a. The animal has when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in the definition in these ordinances or
- b. The animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in these ordinances.

Subd. 6. **Authority to order destruction.** The Animal Control Officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:

- a. The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning, or multiple attacks; or
- b. The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

Subd. 7. **Procedure.** The Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner:

- a. The Animal Control Officer shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. The owner shall be notified as to dates, times, places, and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing before the City Council for a review of this determination.
- b. If no appeal is filed, the orders issued will stand and the Animal Control Officer may order the animal destroyed.
- c. If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than three weeks after demand for the hearing. The records of the Animal Control or City Manager-Clerk's office shall be admissible for consideration by the Animal Control Officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the Animal Control Officer take the animal into custody for destruction, if the animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Animal Control Officer.
- d. No person shall harbor an animal after it has been found to be dangerous and ordered into custody for destruction.

Subd. 8. **Stopping an attack.** If any police officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

Subd. 9. **Notification of new address.** The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Animal Control Officer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification shall be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any.

408.12. Basic care. All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating his or her pet in a humane manner will be subject to the penalties provided in this part.

408.13. Breeding moratorium. Every female dog or female cat in heat shall be confined in a building or other enclosure in a manner so that it cannot come in contact with another dog or cat except for planned breeding. Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new owner.

408.14. Enforcing officer. The Council is hereby authorized to appoint an Animal Control Officer(s) to enforce the provisions of this chapter. In the officer's duty of enforcing the provisions of this chapter, he or she may from time to time, with the consent of the City Council, designate assistants.

408.15. Pound. Every year the Council shall designate an official pound to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary, for destruction.

408.16. Interference with officers. No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs, cats, or other animals and convey them to the pound while engaged in that operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this chapter, or in any other manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter.

Part 9. FIRE PROTECTION

409.01. Purposes and Intent. This ordinance is adopted for the purpose of authorizing the City of Pierz to charge for fire service as authorized by Minn. Stat. §§ 366.011, 366.012, and 415.01.

409.02. Definitions.

Subd. 1. **"Fire service"** means any deployment of firefighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life, or property in an area threatened by fire. It also includes the deployment of firefighting personnel and/or equipment to provide fire suppression, rescue, extrication, and any other services related to fire and rescue as may occasionally occur.

Subd. 2. **“Fire service charge”** means the charge imposed by the City for receiving fire service.

Subd. 3. **“Motor vehicle”** means any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways, and not operated exclusively upon railroad tracks. It includes semi-trailers. This includes but is not limited to snowmobiles, manufactured homes, all-terrain vehicles, park trailers, golf carts, farm equipment, and/or farm machinery.

Subd. 4. **“Fire protection contract”** means a contract between the City and a town or other city or association for the City to provide fire service.

Subd. 5. **“Mutual aid agreement”** means an agreement between the City and a town or other city for the City’s fire department to provide assistance to the fire department of a town or other city.

409.03. Parties Affected. The parties affected are any and all owners of property within the City who receive fire service, anyone who receives fire service as a result of a motor vehicle accident or fire within the City, and Owners of property in towns or cities to which the City provides fire service pursuant to a fire protection contract and receive fire services.

409.04. Rates.

Subd. 1. The rate schedule is as of the date of the approval of this Ordinance and any future rate changes are hereby approved through this document:

<u>Vehicle/Supply</u>	<u>Terms</u>	<u>Rate</u>
Pumper #1	First Hour, Per Hour	\$250
Pumper #1	Every Hour after First Hour, Per Hour	\$150
Tanker #1	First Hour, Per Hour	\$250
Tanker #1	Every Hour after First Hour, Per Hour	\$150
3rd Truck	First Hour, Per Hour	\$250
3rd Truck	Every Hour after First Hour, Per Hour	\$150
4th Truck	First Hour, Per Hour	\$250
4th Truck	Every Hour after First Hour, Per Hour	\$150
Equipment Van	Per Hour	\$100
Rescue # 1	Per Hour	\$100
Grass Rig	Per Hour	\$100
Motor Veh. W/ Extrication	Per Incident	\$1000
Motor Veh. W/O Extrication	Per Incident	\$500
Medical Assist	Per Hour	\$300
Water	First 3500 Gallons	\$72
Water	Anything 3500+ Gallons, Per 1,000 Gallon	\$3
Foam	Per Gallon	\$25

409.05. Billing and Collections.

Subd. 1. Parties requesting and receiving fire services may be billed directly by the Pierz Area Rural Fire Protection Association. Additionally, if the party receiving fire services did not request services but a fire or other situation exists which, at the discretion of the fire department personnel in charge requires fire service, the party will be charged and billed. All parties will be billed whether or not the fire service is covered by insurance. Any billable amount of the fire charge not covered by a party's insurance remains a debt of the party receiving the fire service.

Subd. 2. Parties billed for fire service will have 30 days to pay. If the fire service charge is not paid by that time, it will be considered delinquent and the City will send a notice of delinquency.

Subd. 3. If the fire service charge remains unpaid for 30 days after this notice of delinquency is sent, the City will use all practical and reasonable legal means to collect the fire service charge. The party receiving fire service shall be liable for all collection costs incurred by the City including, but not limited to, reasonable attorney fees and court costs.

Subd. 4. If the fire service charge remains unpaid for 30 days after the notice of delinquency is sent, the City Council may also, on or before October 15 of each year, certify the unpaid fire service charge to the county auditor in which the recipient of the services owns real property for collection with property taxes. The county auditor is responsible for remitting to the city all charges collected on behalf of the city. The City must give the property owner notice of its intent to certify the unpaid fire service charge by September 15.

Subd. 5. False alarms will be billed as a fire call if it is the third call within one calendar year at any respective address within City limits. False alarms will be billed as a fire call on the first call within one calendar year at any respective address not within City limits.

409.06. Mutual Aid Agreement. When the City fire department provides fire service to another fire department pursuant to a Mutual Aid Agreement, the billing will be determined by the Mutual Aid Agreement.

409.07. Billing Procedure for Fire Protection Contractors with Towns, Townships, Associations, or Other Cities. When the City fire department provides fire service to another town, township, association, or city in partnership with said town, township, association, or city the billing will be determined by the contract. When the City Fire Department provides services to the area outside the Pierz city limits in partnership with Pierz Rural Area Fire Protection Association, billing for services will be determined by the contract with the Pierz Rural Area Fire Protection Association.

409.08. Application of Collections to Budget(s). All collected fire charges will be applied to the respective agency (City, Township, and Association) budget.