

TITLE IX: GENERAL REGULATIONS

CHAPTER:

90 BUILDING CODE

91 ANIMAL CONTROL

92 HEALTH AND SAFETY; NUISANCES; DISEASED TREES; WEED CONTROL; USE OF FERTILIZERS

93 FENCES

94 SIGNS

95 EXTERIOR STORAGE OF PERSONAL PROPERTY, VEHICLES AND EQUIPMENT

96 GEO-THERMAL HEATING/COOLING SYSTEMS

97 COAL TAR BASED SEALANTS-PROHIBITED

Section:

CHAPTER 90 - BUILDING CODE

90.1 Codes Adopted by Reference.

The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes Chapter 326B, including all amendments, rules and regulations established, adopted and published from time to time by the Commissioner of Labor and Industry, through the Building Codes and Standards Division is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted by this Ordinance. The Minnesota State Building Code is hereby incorporated in this Ordinance as if fully set out herein.

90.2 Policy and Purpose

The State Building Code governs the construction, reconstruction, alteration, and repair of buildings and other structures to which the code is applicable. The commissioner shall administer and amend a state code of building construction which will provide basic and uniform performance standards, establish reasonable safeguards for health, safety, welfare, comfort, and security of the residents of the state and provide for the use of modern methods, devices, materials, and techniques which will in part tend to lower construction costs. The construction of buildings should be permitted at the least possible cost consistent with recognized standards of health and safety.

90.3 Administration Required.

The State Building Code adopts by reference the following codes, which shall be administered and enforced by the City of Dellwood and may be referred to as the Building Code:

Required Enforcement:

1. Chapter 1300
2. Chapter 1301
3. Chapter 1302
4. Chapter 1305
5. Chapter 1307
6. Chapter 1309
7. Chapter 1311

8. Chapter 1315
9. Chapter 1325
10. Chapter 1335
11. Chapter 1341
12. Chapter 1346

13. Chapter 1350
14. Chapter 1360
15. Chapter 1361
16. Chapter 1370
17. Chapter 4715

Administration of the **MN** State Building Code Building Official Certification
 State Construction Approvals
 Adoption of 2006 International Building Code Elevators and related Devices
 Adoption of 2006 International Residential Code Adoption of the Guidelines for the Rehabilitation of Existing Buildings
 Adoption of the 2005 National Electric Code Solar Energy Systems
 Flood Proofing Regulations Minnesota Accessibility Code
 Adoption of the 2000 International Mechanical and Fuel Gas Codes
 Manufactured Homes Prefabricated Buildings
 Industrialized/Modular Buildings
 Storm Shelters (Manufactured Home Parks) Minnesota Plumbing Code
 Minnesota Energy Code: consists of Minnesota Statutes 16B.6'7 (7670) and Minnesota Rules Chapter 7672, 7674, 7676 and 7678.

90.4 Organization and Enforcement.

The enforcement of the Code shall be conducted within the guidelines established by the Uniform Building Code. The Code shall be enforced within the corporate limits of the City

The Building Code shall be enforced and administered by a State Certified "Building Official" designated by the City Council.

90.5 Permits, Inspections and Fees.

A. The issuance of permits, conduction of inspections, and collection of fees shall be as provided for by resolution of the City Council from time to time. See attached schedule for current fees.

B. The Council of the City of Dellwood has adopted by resolution fees to compensate the City for the expenses of administrating and enforcing the Building Code. Fee schedules as may be amended from time to time by resolution of the Council, are on file in the office of the Clerk and are hereby made a part of this Ordinance by reference.

C. Surcharge . In addition to the permit fees required by the City, the Applicant shall pay a surcharge in the amount fixed by law. The amount required by law shall be remitted quarterly by the City to the Minnesota Department of Labor and Industry .

90.6 Certificates of Occupancy.

No building or structure may be used or occupied, and no change in the existing occupancy classification of a building or structure or portion of a building or structure may be made until the building official has issued a certificate of occupancy for it as provided in the State Building Code Chapter 1305.1000. Issuance of a certificate of occupancy shall not be construed as approval of a violation of the provisions of this Ordinance or any Ordinance of the City. Any certificate that presumes to give authority to violate or cancel provisions of this Ordinance or any other Ordinance of

the City is not valid, unless granted under a waiver, variance, or conditional use permit approved by the City Council.

90.7 Violations.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this Ordinance. Any violation of this Ordinance shall be punishable as a misdemeanor . Each day a violation is permitted to occur shall be treated as a separate violation.

SCHEDULE OF FEES TO BE COLLECTED BY THE CITY OF DELLWOOD

PERMIT FEES.

The applicant for a permit shall provide an estimated construction value at the time of application, except for fixed fees. Permit valuations shall include total value of all construction work , including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. The Building Official shall make the final determination of value.

Valuation is based on the most current building valuation data provided by the State of Minnesota Building Codes and Standards Division or contract bid price. The Building Official shall make the final determination.

PLAN REVIEW FEES.

When submittal documents are required by the Building Official, a plan review fee shall be paid. Said plan review fee shall be 65 percent of the building permit fee. The plan review fees are separate fees from the permit fees and are in addition to the permit fees. When submittal documents are incomplete or changed so as to require additional plan review, fees shall be charged at the rate shown on Table 1-A. Plan review fees for similar plans falling under 1300.0160, Subpart 6, shall be 25 percent of the building permit fee.

FIXED FEES.

- Plumbing (residential) Mechanical (residential)
- Air Conditioning Installation
- Air Conditioning that is part of mechanical installation Gas piping (that is not part of mechanical installation
- Fireplace (gas or wood)
- Demolition
- Other maintenance of minor projects as determined by the Building Official.

\$100.00 & 5.00 surcharge
 \$100.00 & 5.00 surcharge
 \$100.00 & 5.00 surcharge
 \$100.00 & 5.00 surcharge
 \$100 .00 & 5.00 surcharge
 \$100.00 & 5.00 surcharge
 \$100.00 & 5.00 surcharge
 \$80.00 & 5.00 surcharge

All other permit fees based on valuations (labor and material) using the fee schedule.

PAYMENT OF FEES.

A permit shall not be issued until the fees prescribed by the City have been paid.

WORK COMMENCING BEFORE PERMIT ISSUANCE.

If work for which a permit is required by the code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for the work. An investigation fee shall be collected and is in addition to the required permit fee, and equal to the permit fee.

FEE REFUNDS.

The Building Official may authorize refunding of any fees paid hereunder which was erroneously paid or collected.

The Building Official may authorize refunding of not more than 80% of the permit fee or plan review fee paid when no work has been done under a permit issued .

The Building Official shall not authorize refunding of any fee paid except on written application fled by the original permittee not later than 180 days after the date of fee payment.

RE-INSPECTIONS .

A re-inspection fee may be assessed for each inspection or re-inspection when such portion of which for which inspection is called for is not complete or when corrections called for are not made.

To obtain a re-inspection, the permit applicant shall be the re-inspection fee in accordance with Table 1-A in the fee schedule adopted by the City of Dellwood.

In instances where re-inspection fees have been assessed , no additional inspection of work will be performed until the required fees have been paid.

EXPIRATION.

Every permit issued by the Building Official shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days fro the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at ay time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one-half the amount required for a new permit for such work, excluding plan review fee, provided no changes have been made or will be made in the original plans and specifications for such work.

The Building Official may grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated .

EXPIRATION OF PLAN REVIEW.

Application for which no permit is issued within 180 days following the date of application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee. In the event of a hardship and at the discretion of the Building Official a new plan review fee may be waived.

TABLE 1-A BUILDING PERMIT FEES
(Extracted from 1997 Uniform Building Code)

TOTAL VALUATION FEE

\$1.00 to \$500.

\$501.to \$2,000.

\$2,001.to \$25,000.

\$23.00

\$23.50 for the first \$500. plus \$3.05 for each additional \$100. or fraction thereof, to and including \$2,000.

\$69.25 for the first \$2,000. plus \$14. for each additional \$1,000. or fraction thereof, to and including \$25,000.

\$25,001.to \$50,000. \$391.25 for the first \$25,000. plus \$10.10 for each additional \$1,000. or fraction thereof, to and including \$50,000.

\$50,001.to \$100,000. \$643.75 for the first \$50,000. plus \$7. for each additional \$1,000. or fraction thereof, to and including \$100,000.

\$100,001.to \$500,000.

\$993.75 for the first \$100,000. plus \$5.60 for each additional \$1,000. or fraction thereof, to and including \$500,000.

\$500,001.to \$1,000,000. \$3,233.75 for the first \$500,000. plus \$4.75 for each additional \$1,000.or fraction thereof, to and including \$1,000,000.

\$1,000,001.and up

\$5,608.75 for the first \$1,000,000. plus \$3.15 for each additional \$1,000. or fraction thereof.

Other Inspections and Fees:

1. Inspections outside of normal business hours.
2. Re-Inspection fees.
3. Inspections for which no fee is specifically indicated. (minimum charge one-half hour)

\$47.00 per hour*

\$47.00 per hour*

\$47.00 per hour*

4. Additional plan review required by changes, additions or revisions to plans. \$47.00 per hour*

5. For use of outside consultants for plan checking and inspections or both. Actual costs **

* Or the total hourly cost to the jurisdiction,whichever is the greatest. The cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

** Actual costs including administrative and overhead costs.

CHAPTER 91: DOMESTIC ANIMALS

Section: 91.01

DEFINITIONS.

The following words , terms and phrases when used in this article, shall have the meaning ascribed to them in this section:

ANIMAL shall mean any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as part of the animal kingdom. Animals shall be classified as follows:

a. Domestic. "Domestic Animals" shall mean those animals commonly accepted as domesticated household pets. Unless otherwise defined, such 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.

b. Non-Domestic. "Non-Domestic Animals" shall mean those anima ls 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, such animals shall include:

1) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars , but excluding commonly accepted domestic house cats.

2) Any naturally wild member of the canine family (family canidae) including wolves, foxes , coyotes, dingoes, and jackals , but excluding commonly accepted domesticated dogs.

3) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

4) Any member or relative of the rodent family, including any skunk (whether or not de-scented) , raccoon, squirrel, or ferret , but excluding those members otherwise defined or commonly accepted as domesticated pets.

5) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

6) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart , including but not limited to bears, deer, monkeys and game fish.

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

CAT shall be intended to mean both male and female of the felidae species commonly accepted as domesticated house pets.

DOG shall be intended to mean both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

ANIMAL CONTROL OFFICER (Animal Warden) A person or persons, or organization designated by the City to enforce the provisions of this Ordinance.

AT LARGE means any animal shall be deemed at large when the animal is off the property of the owner and not under leash, restraint or confinement as defined herein.

EXPOSED TO RABIES. An animal has been exposed to rabies if it has been bitten by, or has been exposed to, any animal known to have been infected with rabies.

KENNEL means any place where four (4) or more dogs or cats or other domestic animals over age three (3) months of age are kept, raised, sold, boarded, bred, shown, treated or groomed.

OWNER means any person who owns, harbors or keeps or has custody of any domestic animal, or the parents or guardians of a person under eighteen (18) years of age who owns, harbors, keeps or has custody of a domestic animal.

RESTRAINT. A dog is under restraint if the dog is on a leash, cord, chain or other restraint or confinement of a type sufficient to control the animal and held by the owner or other responsible person.

91.02

LICENSE REQUIRED.

No person shall own or keep or harbor any domestic animal more than three (3) months of age without securing a license therefore from the City Clerk, who shall keep a record of all licenses issued and shall issue a durable identification tag for each license. Upon receipt of an application reciting the name and address of the owner, the address of where the domestic animal will be kept, and the sex, breed, age, color and markings of the domestic animal for which a license is sought, and upon payment of a license fee to be established by Council Resolution from time to time, the Clerk shall issue a license in the form of an identification tag for such animal. The term of such license shall be for two (2) years. No license shall be issued without the Certificate of Vaccination being presented at the time of application for said license. Each license tag shall bear the identification number of the application.

91.03

RESTRAINT OF DOMESTIC ANIMALS.

The owner shall keep his animal under restraint at all times and shall not permit such animal to be at large.

- a. The owner shall confine within a building or other secure enclosure, every fierce, dangerous or vicious dog, and not take such dog out of such confinement unless such dog is securely muzzled.
- b. Every female dog or cat in heat shall be kept confined in a building or in a veterinary hospital or boarding kennel, in such manner that such female dog or cat cannot come into contact with another animal, except for breeding purposes within such building.
- c. No wild animal may be kept within the City. except under such conditions as shall be fixed by the City Council.

91.04

OPERATION OF KENNELS.

It shall be unlawful to operate a kennel in any area of the City unless a permit to operate the same has been secured from the City Council. The term "kennel" shall mean any place where four (4) or more dogs over three (3) months of age are boarded, bred, or offered for sale. Any person who keeps or operates a kennel shall, in lieu of the license of each dog, apply for a kennel license for which he shall pay a fee to be established by Council Resolution from time to time.

91.05

APPOINTMENT OF ANIMAL CONTROL AUTHORITY .

The City may contract with a designated Animal Control Officer and establish compensation for such services. Said officer shall be an independent contractor .

91.06

SEIZURE OF DOMESTIC ANIMALS: IMPOUNDING.

The Animal Control Officer, any Peace Officer, or any other person may seize, impound or restrain any unlicensed domestic animal or any domestic animal found at large. The fact that a domestic animal is without a license attached to its collar shall be presumptive evidence that it is unlicensed. Any person or officer, other than the Animal Control Officer, impounding or restraining such domestic animal shall immediately deliver the same to the Animal Control Officer. The Animal Control Officer shall thereupon give notice to the owner of the same, or, of the owner is unknown, shall post notice of the impounding at the City office. If such domestic animal is not claimed within ten (10) days of such posted notice and all fees and charges paid, the Animal Control Officer shall humanely dispose of such domestic animal in such manner as he sees fit. The Animal Control Officer shall house and feed in a humane manner any domestic animal restrained or impounded.

91.07

IMPOUNDING AND BOARDING FEES.

The Animal Control Officer may charge such reasonable impounding fees for the care and board of any

domestic animal restrained or impounded and any and all such fees so imposed shall be paid to the Animal Control Officer at the time of reclaiming the domestic animal. The City Council shall, from time to time, review all fees to be imposed by the Animal Control Officer to determine their reasonableness, and may by resolution impose such additional fees reasonably related to the necessary and reasonable expenses incurred by the City for the capture, transportation, and/or care of the domestic animal. All such fees must be paid to the City Clerk to release the animals by the Animal Control Officer and the City Clerk shall issue a certificate to the Animal Control Officer evidencing such payment.

91.8 - A

DOMESTIC ANIMAL NUISANCES .

The owner or custodian of any domestic animal shall prevent the domestic animal from committing in the City any act which constitutes a nuisance. It is a nuisance for any domestic animal to frequently or habitually bark or cry at any time of the day or night, to damage any lawn, garden, or other property or habitually worry, chase or molest people or other animals, or habitually chase automobiles. Failure of the owner or custodian of a domestic animal to prevent the animal from committing such nuisance is a violation of this Ordinance.

91.09

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 and disposing of such feces in a sanitary manner whether on their own property, on the property of others or on public property.

91.10

INOCULATION.

All domestic animals in the City over the age of six months shall be inoculated for rabies, and shall be re-inoculated once every two years thereafter .

All dogs and cats kept harbored, maintained, or transported within the City shall be vaccinated at least once every two years by a licensed veterinarian for:

1. Rabies - with a live modified vaccine; and
2. 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 by the Clerk or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the Clerk or police officer. Failure to do so shall be deemed a violation of this section.

A certificate of the veterinarian inoculating said domestic animal shall be exhibited to the Clerk each time the license is issued to said domestic animal.

91.11

FEMALES IN HEAT.

Every female domestic animal in heat shall be confined in a building or other secure enclosure in such manner that such females cannot come into contact with another animal, except for the express purpose of planning breeding.

91.12

RABIES CONTROL.

a. Every animal which bites a person shall be promptly reported to the Animal Warden and shall thereupon be securely quarantined at the direction of the Warden for a period of ten (10) days and shall not be released from such quarantine except by written permission of the Animal Warden. Such quarantine may be on the premises of the owner, at the animal shelter or at the owner's option an expense in a veterinary hospital of his choice.

b. Upon demand made by the Animal Warden , the owner shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for supervised quarantine, which expense shall be borne by the owner , and may be reclaimed by the owner if adjudged free of rabies, upon payment of fees set forth in Section 7 of this Ordinance , and upon compliance with licensing procedures set forth in Section 2 of this Ordinance.

c. When a laboratory report gives a positive diagnosis of rabies, the City Health Officer may declare a City wide quarantine for a period which he deems advisable, and during such period the local health officer shall be empowered to provide for a program of mass immunization of all animals within the City. Any animal bitten by an animal adjudged to have been rabid shall be forthwith destroyed , or at the owner's expense and option, treated for rabies infection by a licensed veterinarian.

91.13

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 limits. Any owner of such an animal at the time of the adoption of this Code shall have thirty days in which to remove the animal from the City after which time the City may impound the animal as provides for in this Section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to handicapped or disabled persons.

91.14

CRUELTY .

No owner shall fail to provide any domestic animal with sufficient, good and wholesome food and water , property shelter and protection from the weather , veterinary care when needed to prevent suffering, and with humane care and treatment. No person shall beat, cruelly ill treat, torment or otherwise abuse any domestic animal, or cause or permit any domestic animal to fight or other combat between domestic animals or between humans. No person shall abandon any domestic animal in the said person's possession.

91.15

DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS .

No person may own, keep or harbor a dangerous or potentially dangerous animal in the City of Dellwood unless the dog has been licensed, registered, and a certificate issued in compliance with Minnesota Statute, Section 347.51 and 347.53. The provisions of Minnesota Statutes, Section 347.50 through 347.55, inclusive, as amended, are hereby adopted and incorporated into this Ordinance by reference and made a part hereof as if fully set forth herein.

91.16

POTENTIALLY DANGEROUS OR DANGEROUS DECLARATIONS.

All cases involving bites or any other cases involving behavior considered to be potentially dangerous or dangerous by the Animal Control Officer will be reviewed by a Hearing Officer designated by the City.

(1) Determination of Potentially Dangerous. After review of cases involving bites or other behaviors, the Officer shall determine that an animal is Potentially Dangerous, if the Officer believes, based on the Officer's professional judgment that a animal has:

- a. When unprovoked, inflicted bites on a human being or domestic animal on public or private property, or
- b. When unprovoked, chased or approached a person, including a person on a bicycle, upon the streets, sidewalks , or any private property other than the animal owner's property, in an apparent attitude of attack; or
- c. A known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

(2) Notice of Potentially Dangerous Animal. Upon determination that an animal is potentially dangerous pursuant to M.S. 347.50, Subd. 3, and this Ordinance, the City shall provide a Notice of Potentially Dangerous Animal to the owner of such animal by personally serving the owner or

person of suitable age at the residence of such owner. The Notice

shall describe the animal deemed to be potentially dangerous and shall give the owner the potential restrictions under the order and their rights to a hearing on the matter. The appeal shall be made in writing and filed with the City Clerk together with the appeal fee of \$100 .00, within 10 days of such Notice. The Clerk shall arrange for a hearing before an impartial hearing officer.

(3) Determination of Dangerous Animal. After review of all information presented, the officer shall determine that an animal is dangerous if the officer believes, based on the officer's professional judgment , that the animal has:

- a. Without provocation, inflicted substantial bodily harm on a human being on public or private property; or
- b. Killed a domestic animal without provocation while off the owner's property; or
- c. Been determined to be a potentially dangerous animal and after the owner has notice that the animal is potentially dangerous , the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(4) Exemption. Animals may not be declared dangerous if the threat, injury or damages was sustained by a person:

- a. Who was committing, at the time, a willful trespass or other tort upon the premises occup ied by the owner of the animal; or
- b. Who was provoking, tormenting, abusing or assaulting the animal or who can be shown to have repeatedly , in the past, provoked, tormented, abused or assaulted the animal, or
- c. Who was committing or attempting to commit a crime at the time.

(5) Notice of Dangerous Animal: Upon determination that an animal is dangerous pursuant to M.S. 347.50, Subd. 2, and this Ordinance, the City shall provide a Notice of Dangerous Animal to the owner of such animal by personally serving the owner or a person of suitable age at the residence of such owner. The Notice shall describe the animal deemed to be dangerous. The Notice shall also inform the owner of the right to appeal the determination by requesting a hearing within 14

days after receipt of the Notice. Immediately upon receipt of the Notice the owner shall confine the animal in a proper enclosure or shall

muzzle the animal whenever outside. If no timely appeal is received by the City, the owner of the dangerous animal shall comply with the

requirements set forth in Minnesota Statutes, including but not limited to the registration of the dangerous animal with the designated animal control authority of the location where the animal resides. The Hearing Officer shall make such order as the officer deems proper including, but not limited to, destruction of the animal, consistent with State and federal law, transfer of the animal to a zoo or other facility, and reimbursement by the owner of the reasonable costs of temporary impoundment and transportation of the animal. After the owner of an animal is given notice and an opportunity for a hearing as provided in this subsection, the City Animal Control Officer is authorized to order the destruction or disposition of any animal which is determined to be a Dangerous Animal. The Animal Control Officer is authorized to take the animal into custody for destruction in which case the owner shall immediately make the animal available to the Animal Control Officer.

91.16

DISEASED ANIMALS. RUNNING AT LARGE.

A. No person shall keep or allow to be kept on his or her premises, or on premises occupied by the, 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 licenses under this Section.

B. CONFINMENT 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 or police officer. The police officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in such a manner so as to be a danger to the health and safety of the City, the officer shall cause such 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 for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations .

RELEASE. If the animal, upon examination, is not found to be diseased within the meaning of this Section, the animal shall be released to the owner or keeper free of charge.

**91.17
PENALTY.**

Any person, firm or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof , shall be punished by a fine of not more than \$1,000.00 or by imprisonment in the County Jail for not more than ninety (91) days, or both.

**91.18
EXEMPTIONS.**

The licensing and vaccination requirements of this Ordinance shall not apply to any dog belonging to a non-resident of the City and kept within the City for a period not to exceed thirty (30) days, provided such dog shall at all times be kept within a building, enclosure or vehicle, or be under the restraint of the owner .

**91.19
CONSTITUTIONALITY .**

If any portion of this Ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate , distinct and independent provision, and such holding shall not affect the validity of the remaining provisions thereof.

Section:
92.01

92.02

92.03

92.04

92.05

92.06

92.07

92.08

92.09-

92.10

92.11 92.12

CHAPTER 92: HEALTH AND SAFETY; NUISANCES; DISEASED TREES, NOXIOUS WEEDS USE OF FERTILIZERS

Assessable current services

Nuisances

Public nuisance

Public nuisances affecting health

Public nuisances affecting peace and safety Noises prohibited

Lighting

Nuisance parking and storage Inoperable motor vehicles

Building maintenance and appearance Duties of city officers

Abatement Recovery of cost

92.13 Nuisance Tree Ordinance

Trees

92.14

92.15

92.16

Weed Control Jurisdiction

Definitions; exclusions

Weeds

92.17

92.18

92.19

92.20

92.21

92.22

92.23

Owners responsible for trimming, removal and the like Filing complaint

Notice of violations Appeals

Abatement by city Liability

Fertilizers

92.1 ASSESSABLE CURRENT SERVICES.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CURRENT SERVICE. Shall mean one or more of the following: weed elimination from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S 463 . 15 through 463 .26 as they may be amended from time to time; dust treatment of streets, trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

(B) *Public health and safety hazards.* When the City removes or eliminates public health or safety hazards from private property under the following provisions of this chapter the administrative officer responsible for doing the work shall keep record of the cost of the removal or elimination against each parcel of property affected and annually deliver that information to the City clerk.

(C) *Damage to public property.* Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment, object or contrivance, but is operating, driving or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien

under
M.S. 514.67 , as it may be amended from time to time.

D) *Assessment.* On or before October 31 of each year, the City Clerk shall list the total unpaid charges for each type of current service and charges under this section against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges against property benefited as a special assessment under the authority of M.S. 429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

NUISANCES

92.2 PUBLIC NUISANCE.

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

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

(B) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or

(C) Is guilty of any other act or omission declared by law or any other part of this code to be a public nuisance and for which no penalty is specifically provided.

92.3 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

(A) Exposed accumulation of decayed or unwholesome food or vegetable matter;

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

(D) Carcasses of animals not buried or destroyed within 24 hours after death;

(E) Accumulations of manure, refuse or other debris;

(F) Vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

(G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, household waste or other substances .

(H) All noxious weeds or other rank growths of vegetation upon public or private property.

(I) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities.

92.4 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

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

(A) All trees, hedges, signs, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

(B) All wires and limbs of trees which are so close to the street as to constitute a danger to pedestrians or vehicles;

(C) All obnoxious noises in violation of Minn. Rules Ch. 7030, as they may be amended from time to time which are hereby incorporated by reference into this code;

(D) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle, snowmobile or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;

(E) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby. Operation of any device referred to above between the hours of 10:00 p.m. and 7:00

a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section;

(F) No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped;

(G) Obstructions and excavations affecting the ordinary public use of streets, or public grounds except under conditions as are permitted by this code or other applicable law;

(H) Radio aerials or television antennae erected or maintained in a dangerous manner;

(I) Any use of property abutting on a public street or any use of a public street which causes large crowds of people to gather, obstructing traffic and the free use of the street

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

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

(L) Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;

(M) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials;

(N) The placing or throwing on any street, or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;

(O) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

(P) All other conditions or things which are likely to cause injury to the person or property of anyone.

92.5 Noises prohibited.

(a) *General prohibition*. No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of this section.

(b) *Defective vehicles or loads*. No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.

(c) *Loading, unloading, unpacking*. No person shall create loud or excessive noise in loading, unloading, or unpacking any vehicle.

(d) *Radios, phonographs, paging systems, and the like*. No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, speaker, amplifier, machine or other device for the production or reproduction of sound in a distinct and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.

(2) Hourly restriction of certain operations.

(a) *Domestic power equipment*. No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

(b) *Refuse hauling*. No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(c) *Construction activities*. No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

(3) *Noise impact statements*. The Council may require any person applying for a permit or license for any structure, operation, process, installation, alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. It shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

92.6 LIGHTING.

Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the

property line of the property where the lighting is located when abutting any residential parcel

92.7 NUISANCE PARKING AND STORAGE.

(A) *Declaration of nuisance.* The outside parking and storage on residentially zoned property of large numbers of vehicles and vehicles, materials, supplies or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it (a) obstructs views on streets and private property, (b) creates cluttered and otherwise unsightly areas, (c) prevents the full use of residential streets for residential parking, (d) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (e) decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood, and (f) otherwise adversely affects property values and neighborhood patterns.

(B) Unlawful parking and storage.

(1) A person must not place, store, or allow the placement or storage of ice fish houses, skateboard ramps, playhouses or other similar non-permanent structures outside in the front-yard area of residential property.

(2) A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in connection with a business, outside on residential property.

(3) A person must not cause, undertake, permit or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements:

(a) No more than four vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property except as permitted by Conditional Use Permit.

(b) Vehicles that are parked or stored outside in the front-yard area must be on a paved or graveled parking or driveway area.

(c) Vehicles, watercraft and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property.

92.8 INOPERABLE MOTOR VEHICLES.

(A) It shall be unlawful to keep, park, store or abandon any motor vehicle which is not in operating or which is not properly licensed for operation with the state, pursuant to M.S. 1688.01 1, Subd. 3, as it may be amended from time to time.

(B) This section does not apply to a motor vehicle entirely enclosed in a building.

(C) Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that such vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin and present physical danger to the safety and well-being of children and citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.

92.9 BUILDING MAINTENANCE AND APPEARANCE.

(A) *Declaration of nuisance.* 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.

(B) *Standards.* A building, fence or other structure is a public nuisance if it does not comply with the following requirements:

(1) No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers .

(2) Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:

(a) Any one wall or other flat surface ; or

(b) All door and window moldings, eaves, gutters, and similar projections on any one side or surface.

(3) No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.

(4) Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.

(5) Cornices, moldings, lintels, sills, bay or dormer windows and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.

(6) Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.

(7) Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.

(8) Foundations must be structurally sound and in good repair.

92.10 DUTIES OF CITY OFFICERS.

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

92.11 ABATEMENT.

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

(1) *Notice of violation.* Written notice of violation shall be served by a peace officer or designated person on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied,

the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

(2) *Notice of City Council hearing.* Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.

(3) *Notice of City Council order.* Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be made as provided in M.S.463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time, or other applicable law.

(4) *Notice of motion for summary enforcement.* Written notice of any motion for summary enforcement shall be made as provided for in M.S.463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time, or other applicable law.

(A) *Procedure.* Whenever a peace officer or designated person determines that a public nuisance is being maintained or exists on the premises in the city, the officer or person designated shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer or designated person shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

(B) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer or designated person shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer or designated

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

(C) *Immediate abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

92.12 RECOVERY OF COST.

(A) *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 official 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.

(B) *Assessment.* After notice and hearing as provided in M. S. § 429 .06 1, as it may be amended from time to time, 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-infected trees, the City Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. § 429 . 101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

92.13 NUISANCE TREE ORDINANCE:

a) Purpose. It is the purpose of this Ordinance to promote and protect the public health, safety and general welfare by providing for regulations of the planting, maintenance, and removal of trees, shrubs, and other plants within the City, to the extent found by the City Council to be practical within available financial and staff resources.

b) Definitions.

1) City. The City of Dellwood.

2) Public Property. Any area or building owned by the City including, but not limited to: boulevards, streets, sidewalks, alleys and open space.

3) Public Right-of-Way. Portion of property reserved for public use and accepted for such use by the City to provide circulation and travel to abutting properties, including: streets, boulevard, sidewalks, provisions for public utilities and cut and fill slopes.

4) Tree. Tree means any tree, shrub, hedge or woody vegetation.

5) Public Trees. All trees growing on public property or public right-of-way owned by the City or other governmental entity.

6) Private Trees. All trees growing on private property within the City limits.

7) Nuisance Trees. Any public or private tree or part thereof which:

a) has an infectious or destructive disease, insect problem, or other pestilence which endangers the growth, health, life or well being of trees in the City, or which threatens to or is capable of causing a spread of disease, pestilence, or insect infestation;

b) is dead, dying, broken, or decayed;

c) obstructs street lights, traffic signs, or the view of any street intersection or street

sign and so that there shall be a clear space of at least 12 feet above the street;

d) obstructs the free passage of pedestrians or vehicles;

e) is cause the surface of a public street, curb or sidewalk to be up-heaved or otherwise disturbed.

f) injuries or poses an imminent threat of injury to the storm sewer system, electric power lines, gas lines, cable lines or other public utility; or

g) constitutes and imminent danger to the health, safety or well-being of the general public.

8) Boulevard. The publicly owned area between the improved surface of the road and the private property line.

9) Public Utility. Any public or private facility or system for producing, transmitting or distributing communications, electricity, gas, oil products, water, waste or storm water, which directly or indirectly serves the public or any part thereof within the corporate limits of the City.

10) Authority and Power. There is hereby created and established a City Tree Inspector whom shall be appointed for the City.

11) Applicability. This Ordinance provides full power and authority over all trees, plants and shrubs located within the street rights-of-way, parks, along trails, and in other public places of the City; and to trees, plants and shrubs located on private property that constitute a nuisance or threat as described herein.

12) Tree Care and Protection. The City Tree Inspector has the authority to enter onto private property upon which there is located a tree, shrub, plant, or plant part that is suspected to be a public nuisance or a nuisance tree. Before making any inspection on private property within the City, it shall be the duty of the municipality to give notice of said inspection to all property owners either through an individual oral or written notice or by posting said notice in three (3) public places within the City.

Upon the discovery of any nuisance tree, the City Tree Inspector shall at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated, and the notice shall require such property owner to eradicate, remove or otherwise control such condition not less than fourteen (14) days from the date of the notice. It shall be unlawful for an owner of property receiving such an order to fail to comply with the order in the time specified .

If the required action is not taken by the property owner within the specified time, the City Council may cause the trees, shrubs or plants concerned to be removed, trimmed or treated with the costs being borne by the property owner. If not voluntarily paid to the City by such owner, the costs of such trimming or treatment may be recovered by the City by special assessment upon the property owner.

F) Abuse or Mutilation of Trees. No person shall intentionally damage , cut, carve, transplant or remove any public tree; attach any rope, wire, nails, advertising poster, or other contrivances to any public tree; allow any gaseous liquid, or solid substance which is harmful to such trees to come into contact with them; or set any fire or permit any fire to burn when such fire or heat thereof will injure any portion of the tree; or to direct or authorize such activity or circumstance .

G) Landscaping. In new subdivisions or when the redevelopment of property occurs, the City Council and the Tree Inspector will review landscaping plans and may require trees to be planted in any of the streets and other public places abutting lands henceforth developed and/or subdivided .

H) SHADE TREE PEST CONTROL.

1. Declaration of Policy. The health of the trees in the City is threatened by shade tree pests, and the loss or ill health of trees growing upon public and private property substantially depreciates the value of property within the City and impairs the safety, good order, general welfare and convenience of the public. In addition to and in accordance with M.S. §§ 89.001, 89.01 and 89.51 through 89.64, the provisions of this

section are adopted to attempt to control and prevent the spread of these shade tree pests.

2.) Jurisdiction. The City shall have control of all street trees, shrubs, and other plantings now or hereafter in any street, park, public right-of-way or easement, or other public place within the City limits, and shall have the power to plant, care for , maintain, remove, and replace such trees, shrubs and other plantings. *[Note: This may already be provided in another city ordinance.]*

3.) Declaration of a Shade Tree Pest. The Council may by ordinance declare any vertebrate or invertebrate animal, plant pathogen, or plant threatening to cause significant damage to a shade tree or community forest in the community, to be a shade tree pest and prescribe control measures to effectively eradicate, control or manage the shade tree pest including necessary timelines for action.

4.) Public Nuisances Declared. A shade tree pest declared by Council occurring within the City is a public nuisance.

5.) Shade Tree Pest Nuisances Are Unlawful. It is unlawful for any person to permit any public nuisance as defined in this section to remain on any premises the person owns or controls within the City. The nuisance may be abated as provided in this section.

6.) Tree Inspector. The Council may appoint a Tree Inspector to coordinate the activities of the City relating to the control and prevention of damage by shade tree pests. The Tree Inspector will recommend to the Council the details of any program for the declaration, control and prevention of shade tree pests. The Tree Inspector is authorized to enforce or cause to be enforced the duties incident to such a program adopted by the Council. The term "Tree Inspector" includes any person designated by Council or the Tree Inspector to carry out activities authorized in this section.

7.) Abatement of Shade Tree Pest Nuisances.

(a) In abating a nuisance declared by ordinance under Subdivisions 3 and 4 above, the organism, condition or plant and any tree, wood or material identified as injurious to the health of shade trees shall be removed or effectively treated so as to destroy and prevent as fully as possible the spread of the shade tree pest. Such abatement procedures shall be carried out in accordance with the control measures and areas prescribed by ordinance according to Subdivisions 3 and 10 and 14.

(b) In addition, should the appropriate abatement procedure be removal and the tree(s) and/or hedge(s) be within the limits of a highway under the City's jurisdiction , M.S. § 160.22 shall be complied with as necessary.

8.) Reporting Discovery of Shade Tree Pest. Any owner or occupier of land or any person engaged in tree trimming or removal who becomes aware of the existence of public nuisance caused by a shade tree pest as defined under Subdivision 3 shall report the same to the City.

9.) Registration of Tree Care Firms. Any person, firm or corporation that provides tree care, tree

trimming or removal of trees, limbs, branches, brush, or shrubs for hire must be registered with the Minnesota Commissioner of Agriculture under M.S. § 18G.07.

10.) Inspection and Application of Control Measures.

(a) The Tree Inspector is authorized to cause premises and places within the City to be inspected to determine whether shade tree pests exist thereon and to investigate all reported incidents of shade tree pests. The Tree Inspector shall have the power to take all reasonable precautions to prevent the maintenance of public nuisances and may enforce the provisions relating to abatement in this section. Diagnosis of shade tree pests may be by the presence of commonly recognized symptoms or by tests as may be recommended by the Commissioner of the Minnesota Department of Agriculture or the Commissioner of the Minnesota Department of Natural Resources.

(b) Except in situations of imminent danger to human life and safety, the Tree Inspector shall not enter private property for the purpose of inspecting or preventing maintenance of public nuisances without the permission of the owner, resident or other person in control of the property, unless the Tree Inspector has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.

(c) No person, firm, or corporation shall interfere with the Tree Inspector acting under his authority while engaged in activities authorized by this section.

11.) Standard Abatement Procedure. Whenever a Tree Inspector determines with reasonable certainty that a public nuisance as described by this ordinance is being maintained or exists on premises in the City, the Tree Inspector is authorized to abate a public nuisance according to the following procedure.

(a) The Tree Inspector will notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice must be given in person or by mail. Failure of any party to receive the mail does not invalidate the service of the notice. A copy of the notice shall be filed with the City Clerk.

(b) The notice of abatement shall state that unless the public nuisance is abated by the owner or occupant, it will be abated by the City at the expense of the owner or occupant. The notice shall specify the control measures to be taken to abate the nuisance, and provide a reasonable amount of time to abate the nuisance. The notice will also state that the owner or occupant has the right to appeal the determination that a public nuisance exists by submitting a request in writing to the City Clerk within seven (7) days after service of the notice, or before the date by which abatement must be completed, whichever comes first.

(c) If no timely appeal is submitted, and the notice of abatement and its prescribed control measures are not complied with within the time provided by the notice or any additional time granted, the Tree Inspector or designated person shall have the authority to obtain permission or an administrative search warrant, enter the property and carry out abatement in accordance with the notice of abatement.

12.) Appeal Procedure. If the City Clerk receives a written request for a hearing on the question of whether a public nuisance in fact exists, the City Council shall hold a hearing within seven (7) calendar days following receipt by the Clerk of the written request. At least (3) days notice shall be given to the individual who made the written request for the hearing. The Council may modify the abatement notice or extend the time by which abatement must be completed. Each owner, agent of the owner, occupant and lienholder of the subject property or properties in attendance, if any, shall be given the opportunity to present evidence at the hearing. After holding the hearing, the City Council may issue an order requiring abatement of the nuisance.

13. Abatement Procedure in Event of Imminent Danger; Summary Enforcement.

(a) If the Tree Inspector determines that the danger of infestation to other shade trees is imminent and delay in control measures may put public health, safety or welfare in immediate danger, the Tree Inspector may provide for immediate abatement without following Subdivision 11. The Tree Inspector must reasonably attempt to notify the owner or occupant of the affected property of the intended action and the right to appeal the abatement and any cost recovery at the next regularly scheduled city council meeting.

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

14.) Recovery of Cost of Abatement; Liability and Assessment.

(a) 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 official 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.

(b) After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, the City Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. § 429 .101 against each separate lot or parcel to which the charges are attributable. The City Council may then certify the charges against the property under that statute and other pertinent statutes to the County Auditor for collection along with current taxes the following year or in annual installments as the City Council may determine in each case.

15.) Penalty.

(a) Any person, firm, or corporation who violates any provision of this section shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this section, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(b) Upon conviction of a misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(c) The failure of any officer or employee of the City to perform any official duty imposed by this section shall not subject the officer or employee to the penalty imposed for a violation.

(d) In addition to any penalties provided for in this section, if any person, firm or corporation fails to comply with any provision of this section, the City Council or any official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

16.) Severability. Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part held to be invalid.

I) DECLARED SHADE TREE PESTS, CONTROL MEASURES AND CONTROL AREAS

1) Oak Wilt.

Oak Wilt Disease is declared a shade tree pest and is defined as any living or dead tree, log, firewood, limb, branch, stump or other portion of a tree from any species of the genus *Quercus* existing within the control area defined that has bark attached and that exceeds three

inches in diameter or ten inches in circumference and contains to any degree any spore or reproductive structures of the fungus *Ceratocystis fagacearum*.

2) Dutch Elm Disease is declared a shade tree pest and is defined as any living or dead tree, log, firewood , limb, branch, stump or other portion of a tree from any species of the genus *Ulmus* existing within the control area defined that contains to any degree the fungus *Ceratocystis ulmi*, or which harbors any of the elm bark beetles, *Scolytus multistriatus* or *Hypurgopinus refipes*.

3) Control measures prescribed for abating Oak Wilt Disease and Dutch Elm Disease are:

(a) Installation of a root graft barrier

A root graft barrier can be ordered installed to prevent the underground spread of the Disease. The City will mark the location of the root graft barrier. The barrier disrupts transmission of the fungus within the shared vascular systems of root grafted trees. The barrier is created by excavating or vibratory plowing a line at least forty two inches deep between any tree infected with Disease and each nearby and apparently healthy tree within fifty feet of the infected tree.

If, however, after the City prescribes the location for a root graft barrier, the City determines that installation of the barrier is impossible because of the presence of pavement or obstructions such as a septic system or utility line, the City may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier location . These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

(b) Removal and disposal of trees.

Those trees that are dead, barren, or have extensive disease (30 percent or more of the tree is diseased) may be removed within 20 days of notification of the property owner . Those trees in earlier stages of infestation in June or subsequently during the growing season with those symptoms not progressing beyond the 30 percent disease point shall be removed by the owner with in 20 days of notification and may be removed by the City no later than April 1 of the year following the appearance of the symptoms .

All wood more than three inches in diameter or ten inches in circumference from such felled trees must be disposed of by burying or debarking or chipping or sawing into wane-free lumber or by splitting into firewood , stacking the firewood and immediately covering the woodpile with unbroken 4-mill or thicker plastic sheeting that is sealed into the ground until October 1 of the calendar year following the calendar year in which the tree was felled or by burning before May 1 of the year following infection.

92. 14 WEED CONTROL.

This subchapter shall be cited as the "Weed Ordinance."

92.15 JURISDICTION .

This subchapter shall be in addition to any state statute or county ordinance presently in effect, subsequently added, amended or repealed.

92.16 DEFINITIONS; EXCLUSIONS.

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

DESTRUCT/ON ORDER. The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the ordinance violation.

PROPERTYOWNER. The person occupying the property, the holder of legal title or a person having control over the property of another , such as a right-of-way, easement, license or lease.

WEEDS, GRASSES and RANK VEGETATION. Includes but is not limited to the following :

(1) Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop , Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass , Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass , Russian Knapweed, Russian Thistle, Serrated Tussock , Shatter Cane, Sorghum , Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip;

(2) Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years;

(3) Bushes of the species of tall, common, or European barberry, further known as *berberis vulgaris* or its horticultural varieties ;

(4) Any weeds , grass, or plants, other than trees, bushes, flowers , or other ornamental plants, growing to a height exceeding 12 inches;

(5) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants;

(6) The term **WEEDS** does not include shrubs, trees, cultivated plants or crops, except those which have been defined by state statute or administrative rule as being noxious or detrimental plants.

92.17 OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.

All property owners shall be responsible for the removal, cutting, or disposal and elimination of weeds , grasses and rank vegetation or other uncontrolled plant growth on their property.

92.18 FILING COMPLAINT .

Any person, including the city, who believes there is property located within the corporate limits of the city which has growing plant matter in violation of this subchapter shall make a written complaint signed , dated and filed with the City Clerk. If the city makes the complaint, an employee, officer or Council Member of the city shall file the complaint in all respects as set out above.

92.19 NOTICE OF VIOLATIONS.

(A) Upon receiving notice of the probable existence of weeds in violation of this subchapter , a person designated by the City Council shall make an inspection and prepare a written report to the City Council regarding the condition. The City Council, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in the form of a "Destruction Order" to the property owner or the person occupying the property as that information is contained within the records of the City Clerk or any other city agency . The notice shall b e 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.

(B) (1) All notices are to be in writing and all filings are to be with the City Clerk.

(2) Certified mailing to the City Clerk or others is deemed filed on the date of posting to the United States Postal Service.

92.20 APPEALS.

(A) 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 City 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 subchapter, and should not be subject to destruction under the subchapter.

(B) An appeal by the property owner shall be brought before the City 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 City Council.

92.21 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 City Council may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means. No person shall enter the property to abate the nuisance, except with the permission of the owner, resident or other person in control of the property.

92.22 LIABILITY.

(A) The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subchapter.

(B) 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.

(C) 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.

(D) All sums payable by the property owner may be collected as a special assessment as provided by M.S. 429.101, as it may be amended from time to time.

92.23 Adoption of Minnesota Statute Chapter 18C - Governing Use of Phosphorous Fertilizers.

92.231 The terms and provisions of Minnesota Statutes Chapter 18C, as the same may be amended from time to time, which regulates the use of fertilizers, soil amendment and plan amendment, are hereby adopted as to the Ordinance of the City of Dellwood as if set forth herein in their entirety.

92.232 A copy of Minnesota Statutes Chapter 18C is maintained on file in the office of the Clerk of City of Dellwood.

93.233 This Ordinance supersedes any and all provisions contained in any other Ordinance or Rule of the City of Dellwood which may be in conflict with the provisions of this Ordinance.

CHAPTER 93 FENCE REGULATIONS

Section:

93.01 FENCES

- a) Fences shall be constructed in such a manner as to allow at least thirty percent (30%) open space through the structure to allow passage of light, air and wind.
- b) The side of the fence which is considered to be the face (finished side as opposed to structural supports) shall face the abutting property.
- c) No fences are permitted upon public right-of-way except those placed by public authority.
- d) Where the property line is not clearly defined, a Certificate of Survey may be required to establish the property line.
- e) All fences over six (6) feet in height from the finished grade require a Building Permit, Site Plan and a Conditional Use Permit.
- f) Chain link fences used for enclosure of courts or pools or other recreational purposes shall not exceed ten (10) feet in height and may be located in a rear yard only, and are allowed only under a Conditional Use Permit.
- g) No barbed-wire fences or electrical fences shall be allowed except by Conditional Use Permit.
- h) Every fence shall be constructed in a substantial, workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be reason of age, decay, accident or otherwise be allowed to become and remain in a state of disrepair so as to tend to be a nuisance to the injury of the public or any abutting property. Any fence which is dangerous by reason of its construction or state of disrepair or is otherwise injurious to the public safety, health or welfare is a nuisance, and any such fence which has become or tends to be a nuisance, upon order of a competent Court, shall be repaired or removed as necessary to abate the nuisance caused.

93.02

Fencing in excess of six (6) feet in height and/or encroaching into restricted required yard areas may be allowed under a Conditional Use Permit provided that:

- 1. Placement, height, or design does not create a safety hazard with regard to access to and from or on a public street.
- 2. Placement, height or design does not negatively affect adjoining properties or use.

93.3 CORNER FENCING AND SCREENING.

No fencing other than a split rail or similar fence which does not obstruct view and maintains a 75% opening or screening (plant material) not to exceed 12 inches in height shall be permitted within 25 feet of any corner formed by the intersection of street property lines or the right-of-way of a railway intersecting a street. The twenty-five (25) feet referred to above shall be in the form of a triangle with two (2) sides formed by the property lines and the third side formed by a straight line connecting the two (2) twenty five (25) foot points on both sides of the corner.

CHAPTER 94

Section:

SIGN ORDINANCE

94.01

SIGNS: The following signs are allowed subject to the conditions stated herein: All other signs are prohibited by this Ordinance.

94.02

REAL ESTATE SIGNS:

Signs for the purpose of selling or leasing individual residential lots or buildings within the City of Dellwood shall be permitted, provided that:

- a) Such signs shall not exceed nine (9) square feet in area.
- b) Only one such sign is permitted, and it must be placed on the property being offered for sale or lease. If the property for sale or lease abuts two or more public streets, one sign may be placed at each street frontage.
- c) Such signs shall be removed within seven (7) days following the closing of a lease or purchase agreement.
- d) No part of such sign shall be closer than six (6) feet to the traveled portion of the roadway, including the shoulder, nor closer than two (2) feet to the edge of any sidewalk located in the public right of way.
- e) Temporary directional signs for "Open House" purposes are permitted under the following conditions:
 - 1) No sign shall exceed three (3) square feet in area.
 - 2) No sign may be placed more than two (2) hours prior to a scheduled open house showing and must be removed within one (1) hour after the close of the open house showing.
 - 3) No more than three (3) temporary directional signs may be placed.
 - 4) All such signs must state the times between which the property is open for showing.
 - 5) Signs may not be left in place overnight.
 - 6) Multiple signs for one open house showing may not be placed at the same location.
 - 7) The sign must contain the name and current address of the person who placed the sign.
- f) A sign advertising a property for sale or lease may be placed on the subject property for a period of 120 days following the initial placement of the sign. A sign may not continue in place on the property beyond the 120-day period without a use permit from the City of Dellwood. Application for a Use Permit shall be made to the City Clerk.

Governmental signs placed by authority of the State of Minnesota, County of Washington, or City of Dellwood.

94.03

OTHER SIGNS:

- A) Yard sales, rummage sales, garage sales, rummage sales:

One temporary on-site sign not exceeding two square feet in area may be displayed on the property where the sale is being conducted, only during the time when the sale is being conducted and must be removed immediately upon its termination. No banners, pennants, streamers, balloons or other similar attention attracting devices are permitted.
- B) "No Solicitation" / "No Trespassing" / "Private Road" signs are permitted on the property provided that no more than one sign, not exceeding two square feet in area, may be placed at each driveway access from the public street.
- C) Security System Signs. No more than one sign not exceeding two square feet in area may

be placed stating that the property is protected by an electronic security system.

D) Property Identification Signs. Signs not exceeding two (2) square feet in area displaying only the owner's name and location of the property or premises upon which said sign is displayed.

94.04

MAINTENANCE :

All signs placed under the provisions of this Ordinance, together with all supports shall be kept in repair, in a clean, sanitary and inoffensive condition, free and clear of rubbish and weeds . Any sign which is not kept in a safe and orderly condition, or which has become rotted, deteriorated, unsafe or otherwise defaced or altered shall be immediately repainted, repaired or replaced upon notice from the City.

No private sign may be placed which by reason of its location, color or design, creates a hazard to the safe and efficient movement of vehicular or pedestrian traffic, or otherwise creates a hazard to the health, safety or welfare of the public.

Every sign must contain the name and current address of the person placing the sign. No private sign may be placed which purports to control traffic of any kind.

The City may, without notice of any kind, remove and destroy any sign placed in violation of this Ordinance.

Violation of this Ordinance constitutes a misdemeanor offense punishable as provided by law.

CHAPTER 95

EXTERIOR STORAGE OF PERSONAL PROPERTY, BOATS, RECREATIONAL VEHICLES AND EQUIPMENT

Section:

95.01

(1) Definitions:

(a) Personal Property and Equipment:

The term "Personal Property and Equipment" shall include all items of tangible personal property which are not part of the land or buildings attached to the land.

(b) "Recreational Vehicles and Equipment" shall include all types of personal property, designed or used primarily for recreational purposes.

(c) "Home Play Sets" means any equipment designed primarily for playtime use by children including swing sets, slides and play houses.

(d) "Truck" means any motor vehicle designed, used or maintained primarily for the transportation of property and not for the carrying of passengers, excluding pickup trucks.

(e) "Truck-Tractor" means any motor vehicle designed and use primarily for drawing other vehicles and trailers.

(f) "Semi-Trailer" means a vehicle so designed and used in conjunction

with a truck-tractor and shall include a trailer drawn by a truck-tractor semi-trailer combination.

(g) "Special Mobile Equipment" means every vehicle not designed or used primarily for transportation of persons or property, including, but not limited to: ditch digging apparatus, moving dollies, asphalt spreaders, bituminous mixers, bucket loaders, tractors, graders, rollers, scrapers, each moving equipment, power shovels, draglines, cranes, and other such machinery or equipment.

95.02

(2) Storage and Screening Requirements:

(a) All personal property shall be stored within a building or be fully concealed by screening so as not to be visible from any public road or street, or from any nearby dwelling. (Screening shall consist of a green belt planting strip consisting of evergreen shrubs or trees and/or deciduous trees and plants, which shall be of sufficient

width, height and density to provide an effective visual screen. Earth mounding berms may be used to achieve not more than three

(3) feet of the required height of the screen.) Other types of screening may be allowed under a Conditional Use Permit approved by the City.

95.03

The following exceptions and provisions shall apply:

a) Exceptions: Landscaping materials; patio furniture, hammocks, lawn chairs and outdoor cooking equipment ; currently being used on the property.

b) Children's playsets are allowed provided they meet the setback requirements of the Zoning Ordinance and the Shoreland Management Ordinance.

c) Small boats and trailers not exceeding twenty-two (22) feet in length, docks and dock sections, boat lifts and similar water orientated equipment may be stored alongside the shoreline of that part of the property owner's property upon which the owner's principal dwelling is situated.

95.04

No person shall park or store any recreational vehicles or equipment in the required front yard in any residential district. In the case of a corner lot, both yards abutting a street shall be considered a front yard.

95.05

Subject to paragraph 95.02 (a) above, no more than two (2) recreational vehicles, only one of which may be a motor home, may be parked or stored outside in the side or rear yard of a residential lot. A recreational vehicle and the trailer upon which it is normally transported are to be considered as being one recreational vehicle.

95.06

Recreational vehicles and equipment must be maintained in a clean, well-kept, operable condition at all times.

95.07

Recreational vehicles and equipment shall be mobile and shall not be permanently affixed to the ground in a manner that would prevent immediate removal.

95.08

Unmounted slide-in pickup campers, trucks, tractor trailers, semi-trailers and special mobile equipment may not be stored outside except in the Farm-Estate Zoning District with a Conditional Use Permit.

95.09

Recreational vehicles, if so designed for such purposes, may be occupied or used for living, sleeping or housekeeping purposes, for no more than seven (7) consecutive days during any one calendar month between May 1st and October 31st.

95.10

Except for routine maintenance or during emergency conditions when power supply is interrupted, the operation of a power generator plant shall not be permitted in residential districts. Routine maintenance periods shall not exceed sixty (60) minutes per month and shall not take place between the hours of 10:00 p.m. and 8:00 a.m.

95.11

It shall be illegal to park, store, or permit to be parked or stored, any motor vehicle, recreational vehicle or equipment upon any undeveloped residential property, unless approved in writing by the City.

95.12

No temporary garages or storage buildings will be permitted.

95.13

Regulations of Storage of Wood:

(a) On residential zoned property no person shall keep or store wood or allow wood to be kept or stored outside on property owned or controlled by that person, unless said wood is kept or stored in compliance with the provisions of this Ordinance.

(b) The wood storage regulations of this Section shall not apply to:

a. Persons having property on which new construction is taking place and the wood on said property is being used for said construction, unless the wood has remained on the property for more than thirty (30) days and is not a permanent part of the new construction at the end of that time; and

b. Persons storing or keeping wood on property when said wood is stored within an enclosed structure which otherwise conforms to the zoning requirements of the district.

(c) Wood stored or kept in the City shall be stored or kept as follows:

1. In neat and secure stacks (maximum of 4 stacks), each of which shall be no higher than five feet (5') high by ten feet wide.

2. Stacks shall not be closer than twenty (20) feet from the property line.

3. The wood stacks shall not at any time be infested or inhabited with rats, rodents, vermin, or insects noxious or dangerous to persons or property.

4. The wood shall not be stored or kept in the front yard or yard that is commonly

considered the front yard of any lot.

5. Temporary storage of logs for up to twenty (20) days outside of required areas of setback from property lines and street is allowed for the purpose of cutting and splitting logs to a size usable in the residence's wood burning device.

95.14

Removal by City; Administrative Action:

(a) **Written Notice of Nuisance Movable Property:**

Upon issuance of a citation for the removal of any nuisance movable property or any nuisance junk car from any public place or private property by any authorized City official, the City Clerk shall give written notice to the owner of said nuisance movable property thereof as shown by the records of the Washington County Tax Assessor or in records of the state Registrar of Motor Vehicles or other pertinent registered agency. Such notice shall be sent by registered or certified mail or delivered by any City Police Officer or Deputy Sheriff of Washington County to the address as indicated on said records. Such notice shall include a description of said movable property.

(b) **Removal Contractor :**

The City Council may contract with one or more persons, firms, or corporations to provide to the City removal services required to enforce this and other City and County Ordinances and State law.

(c) **Impounding, Removal and Release:**

The City removal contractor shall take immediate possession of any nuisance motor vehicle or any nuisance movable property duly ordered impounded and ticketed for any traffic or parking violation and shall tow such movable property to the designated storage pound. The City removal contractor shall take possession of any nuisance movable property from any public place or private properties after a citation has been issued by any City Police Officer and has ordered the removal and impoundment of such nuisance removable property and seventy-two (72) hours after written notification has been sent to the address of the owner of said nuisance movable property, and shall tow such movable property to the designated storage pound. No such movable property shall thereafter be released without authorization of the City Clerk or Washington County Sheriff. The removal contractor shall immediately after impounding said movable property notify the City Clerk and the authorized City Official who orders the impoundment of all such impounded movable properties including description, license number, and any other pertinent information.

(d) **Notification to the Owner:**

The City Clerk shall give notice of the impounding of any such movable property to the owner thereof as shown upon or in records of the State Registrar of Motor Vehicles or other pertinent registering agency. Such notice shall be by registered or certified mail and shall be sent or delivered by the City Clerk or authorized City Official to the address as indicated on said records. Such notice shall include a description of the movable property impounded and a statement of the intent of the City to dispose of such movable property after thirty (30) days unless such movable property is released.

(e) **Removal and Impounding Charges and Removal and Storage Charges:**

The removal and storage charges in connection with impounding any movable property shall not exceed the amount agreed upon in the contract between the City and the duly appointed removal contractor.

(f) **Storage of Impounded Movable Properties:**

The removal contractor during the time the movable property is impounded shall not permit the movable property to be removed or released to the owner until the impounding and storage fees hereinafter

provided have been paid. At the time of the return of the movable property the removal contractor shall release the same by a release in writing which shall state the date of such release together with the charges enumerated thereon and the purpose for which such charges were made.

(g) Report of the Authorized City Official:

Any authorized City Official directing the impounding of any nuisance movable property shall prepare a written report of such movable property which report shall among other things include the following: make and type of movable property, license number, motor number, number of tires or other form of propulsion, tools, and other separate articles of personal property, general description of the movable property with regard to condition, damaged parts, and other such information as may be necessary to describe adequately the movable property and such property delivered to the removal contractor. The removal contractor shall receipt for and verify such report and his signature thereon shall be considered a receipt for the movable property and the property described therein.

(h) Sale of Movable Properties:

Any movable property which is impounded pursuant to this or any other Ordinance or Statute and which is not released within thirty (30) days of mailed notice to the owner, may be sold by the City to the highest bidder at public auction or sale following reasonable published notice thereof.

The proceeds of such sale shall first be applied towards the cost of handling, storing, and sale of such movable property. The net proceeds shall be placed in the general fund. If within *six* (6) months of such sale the former owner applies to the City Clerk for payment of such net proceeds and if satisfactory proof of ownership is presented, the net proceeds shall be paid to the former owner.

(i) Sale of Movable Property Where Owner of Movable Property Cannot be Identified:

If any such movable property is found and removed under circumstances which do not give the authorized City Official directing the impoundment or the removal contractor knowledge or means of inquiry as to the true owner thereof, the authorized City Official shall immediately report such facts to the City Clerk. Any such movable property or property unclaimed or abandoned by any owner for a period of thirty (30) days from the after such

impounding shall be sold by the City Clerk or the City of Dellwood at a public sale.

95.15

Required Screening and Landscaping.

(1) Refuse containers for non-residential use shall be covered and shall be screened by either a screening fence or green belt planting strip.

(2) All areas where grading has occurred shall be landscaped within a period of one year after such grading. Landscaping shall consist at a minimum of a finished grade and a soil retention cover generally used in landscaping.

(3) In all districts, all waste, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse and weeds . . .

95.16

The provisions of this Ordinance may be enforced by citations for violations hereof issued by the Washington County Sheriff's Office or by Community Service Officers so authorized by the City, provided that no Community Service Officer may require a person to sign a promise to appear in Court with respect to any such citation.

95.17

Severability. It is hereby declared to be the intention of the City of Dellwood that the provisions of this Ordinance are severable. If any provision or the application thereof to any person or circumstances is held to be illegal or invalid by any Court of competent jurisdiction, such invalidity or illegality shall not affect other provisions of this Ordinance or the application of said provisions to any other property.

CHAPTER 96

REGULATIONS FOR THE INSTALLATION OF GEO-THERMAL HEATING SYSTEMS, WATERFED HEAT EXTRACTORS AND WATERFED AIR CONDITIONING EQUIPMENT IN THE CITY OF DELLWOOD.

Section:

96.01

Geo-thermal Heating Systems, Water fed Heat Extractors and Water fed Air Conditioning Units.

A. Geo-thermal heating systems, also known as watered heating systems and air conditioning units are prohibited, except those systems which are constructed and installed with a closed, recirculating ground loop water system, and charged with a non-toxic solution approved by the Building Coordinator.

8. No system shall be permitted which allows discharge of water onto the surface, or into a seepage pit/drainfield system, or into any natural or artificial drainage-ways.

96.2 PERMIT REQUIRED.

A. No person shall erect, construct, or alter any geo-thermal or water fed heating system, in the City of Dellwood without first securing a building permit therefore and paying the permit fee as established by the Council from time to time.

8. The information to be submitted with the application for a permit shall include a description of the system clearly showing that the system employs a closed loop recirculating water system with property equipment to prevent discharge of any water in the ordinary use of the system.

96.3 PENALTY.

Any person violating any provision of this Ordinance shall upon conviction thereof, be guilty of a misdemeanor and be punished according to law.

96.4 DISCLAIMER.

The provisions of this Ordinance are severable. If any provision or application thereof is held to be illegal or invalid by any Court of competent jurisdiction, such illegality or invalidity shall not effect any other provision or application of this Ordinance.

CITY OF DELLWOOD

ORDINANCE NO. 9 7

SECTION 1. PURPOSE

The Council of the City of Dellwood has determined that lakes, rivers, streams and other bodies of water are natural assets which enhance the environmental , recreational, cultural and economic resources and contribute to the general health and welfare of the community.

The use of sealers on asphalt droways is a common practice. However, reliable scientific studies on the use of driveway sealers have demonstrated a relationship between stormwater runoff and certain health and environmental concerns.

The purpose of this Ordinance is to regulate the use of sealer products within the City of Dellwood, in order to protect, restore and preserve the quality of its lakes, wetlands and subsurface waters.

SECTION 2. DEFINITIONS

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

ASPHALT-BASED SEALER. A petroleum-based sealer material that is commonly used on driveways, parking lots, and other surfaces and which does not contain coal tar.

COAL TAR. A byproduct of the processed used to refine coal.

UNDILUTED COAL TAR-BASED SEALER. A sealant material containing coal tar that has not been mixed with asphalt and which is for use on driveways, parking lots and other surfaces.

CITY. The City of Dellwood.

MPCA. The Minnesota Pollution Control Agency.

PAHs. Polycyclic Aromatic Hydrocarbons. A Group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances, present in coal tar and found to be hannful to humans, fish, and other aquatic life.

SECTION 3. PROHIBITIONS.

- A. No person shall apply any undiluted coal tar-based sealer to any driveway, parking lot or other surface within the City of Dellwood.
- B. No person shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any undiluted coal tar-based sealer to any driveway, parking lot or other surface within the City.
- C. No commercial sealer product applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any undiluted coal tar-based sealer to any driveway, parking lot or other surface within the City.

SECTION 4. EXEMPTION.

Upon the express written approval from both the City and MPCA, person conducting bona fide research on the effects of undiluted coal tar-based sealer products or PAHs on the environment shall be exempt from the prohibitions provided in Section 3.

SECTION 5. ASPHALT-BASED SEALCOAT PRODUCTS.

The provisions of this Ordinance shall only apply to use of undiluted coal tar-based sealer in the City and shall not affect the use of asphalt-based sealer products within the City.

SECTION 6. PENALTY.

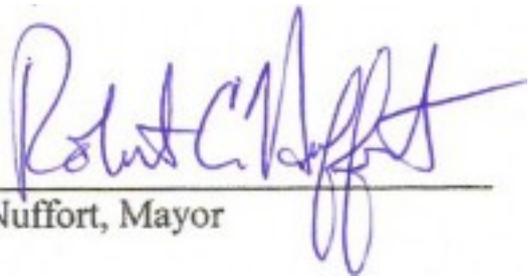
Any person convicted of violating any provision of this Ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed \$1,000.00 or imprisonment for not more than 90 days, or both, plus the costs of prosecution in either case. Said fine shall apply for each and every day that the undiluted coal tar-based sealant shall be allowed to remain in place, and each day shall constitute a separate violation of this Ordinance. Furthermore, the City shall have the authority to remove all such material placed in violation of this Ordinance, and to enter onto the private property for such purposes, and to assess the costs of such removal against the property.

SECTION 7. ADOPTION OF ORDINANCE.

This Ordinance becomes effective on the date of its publication, or upon the publication of a summary of the Ordinance as provided by M.S. 412.191, Subd. 4, as it may be amended from time to time, which meets the requirements of M.S. 331A.01, Subd. 10, as it may be amended from time to time.

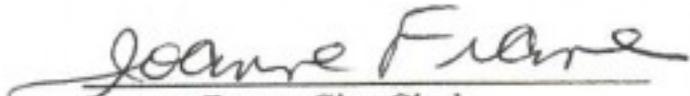
PASSED AND ADOPTED this L day of AUG 8 - V

' 2012.



Robert Nuffort, Mayor

Attest:


Joanne Frane, City Clerk