

Chapter 12

ENVIRONMENT AND PUBLIC HEALTH*

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***Cross reference(s)**--Animals, ch. 4; buildings and building regulations, ch. 6; moving buildings, § 6-101 et seq.; parks and recreation, ch. 20; solid waste management, ch. 22; streets, sidewalks and other public places, ch. 24; subdivisions, ch. 26; design standards for erosion and sediment control, § 26-155; utilities, ch. 32; vegetation, ch. 34; zoning, ch. 36; erosion control, § 36-80.

State law reference(s)--Environmental protection, M.S.A. chs. 114C--116I.

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ARTICLE I. IN GENERAL**Sec. 12-1. Definition**

Private residential pool means a pool connected with a single-family residence or owner-occupied duplex, located on private property under the control of the homeowner, the use of which is limited to family members or the family's invited guests. A private residential pool is not a pool used as part of a business.

(Ord. No. 2440-13, 5-6-2013)

Sec. 12-2. Environmental and public health regulations adopted by reference.

(a) *Air quality environmental emissions.* The city adopts and incorporates by reference the air emissions standards adopted by the air quality division of the state pollution control agency as Minnesota Rules Chapters 7011 and 7023, as amended. A copy of the regulations, together with any applicable amendments, shall be marked "St. Louis Park--Official Copy" and shall be kept on file in the office of the city clerk and open to inspection and use by the public.

(Ord. No. 2440-13, 5-6-2013)

Sec. 12-3. Private residential pools.

(a) *Scope.* The requirements of this section shall apply to all private residential swimming pools, wading pools, hot tubs, or spas having a potential water depth greater than 24 inches at any point, and either a surface area exceeding 250 square feet or a potential water volume of over 3,250 gallons.

(b) *Permit required.* No person may install, construct, move, or alter a private residential swimming pool, wading pool, hot tub, or spa without first obtaining a permit.

(c) *Fees.* The applicant for a pool permit must pay the appropriate fee for the type of pool installation or construction requested. Such fee shall be set from time to time by the city and a schedule of such fees is listed in appendix A to this Code.

(d) *Requirements.*

- (1) All new equipment purchased or installed on any swimming pool shall comply with the National Sanitation Foundation Listings for Swimming Pools, Spas, and Hot Tubs, when applicable. Equipment not covered by the standard must be preapproved by the city.
- (2) Pool use is limited to swimming or bathing by the family or their invited guests.

- (3) Fencing a minimum of four feet high from grade or other acceptable barrier, including but not limited to walls or buildings, providing equivalent restriction of access shall be provided to positively control all access to private swimming pools. Fencing shall be without handholds or footholds that would enable a child to climb over it and shall include gates at least four feet in height equipped with self-closing and self-latching apparatus capable of being locked. Openings in the gates or fence shall not allow a four-inch sphere to pass through. Maximum openings under gate and fences shall not exceed two inches.
- (4) Water depth shall be plainly marked at or above the water surface on the vertical pool wall or on the edge of the deck or walk next to inground pools. Depth markings shall be located at the minimum and maximum points, at the points of change of slope between the deep and shallow portions of the pool, and at intermediate increments of depth spaced not more than 25 feet between markers.
- (5) Decking at least three feet wide, measured from the pool water's edge, shall be provided and shall extend completely around inground pools. Aboveground pools may be provided with decking a minimum of four feet by four feet at the pool entry points provided the decking complies with the building code. A self-closing and self-latching gate shall be installed at the top or bottom of the stairs. Openings in the gate or fence shall not allow a four-inch sphere to pass through. Maximum openings under gates and fences shall not exceed two inches.
- (6) All residential private pools with a depth greater than five feet shall be provided with an outlet at the deepest point to permit the pool to be completely emptied and to provide adequate circulation. The outlet opening shall be covered by grating which is securely fastened and not readily removable by bathers. Outlet openings in the floor of the pool shall be at least four times the area of the discharge pipe or provide sufficient area so the maximum velocity of water passing through the grate will not exceed 1 1/2 feet per second. The maximum width of the grate openings shall be one-half inch. An antivortex type drain may be used in lieu of grating.
- (7) No person shall operate, maintain, or permit any swimming pool that creates a nuisance by annoying, injuring, or endangering the safety, health, comfort or repose of the public. The city shall have access to inspect all pools and equipment as deemed necessary to enforce the provisions of this Code. When a private swimming pool is deemed to be in such condition that endangers the health, safety or welfare of the public, the health authority may immediately close the pool and post a placard stating the closure. No one may remove the placard except the health authority.

Secs. 12-4--12-30. Reserved.

(Ord. No. 2440-13, 5-6-2013)

ARTICLE II. NUISANCES*

DIVISION 1. GENERALLY

Sec. 12-31. Creation; declaration of.

(a) Any person who shall knowingly cause or create any nuisance, or permit any nuisance to be created, or to be placed upon, or to remain upon, any premises owned or occupied by the individual shall be guilty of a misdemeanor.

(b) Conditions declared to be a nuisance in other sections of this Code are subject to all conditions relating to penalties and abatement unless otherwise stated in the section specific to the nuisance.

(Code 1976, § 11-101)

***Cross reference(s)**--Certain dogs declared public nuisance, § 4-83; certain cats declared nuisance, § 4-131; abatement of nuisance when owner of cat is unknown, § 4-133; litter nuisance defined, § 22-151; excavations nuisances, § 24-194; diseased trees declared public nuisance, § 34-52.

State law reference(s)--Environmental impact statements, M.S.A. § 116C.01 et seq.; authority to define and abate nuisances, M.S.A. § 412.221, subd. 23.

Sec. 12-32. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Nuisance means a thing, act, occupation or use of property which shall:

- (1) Annoy, injure or endanger the safety, health, comfort or repose of the public.
- (2) Offend public decency.

- (3) Unlawfully interfere with, obstruct or tend to obstruct or render dangerous for passage, a lake, stream, basin, public park, square, street, alley or highway.
- (4) In any way render the public insecure in life or in use of property.

Cross reference(s)--Definitions generally, § 1-2.

Sec. 12-33. Nuisances affecting health.

In addition to those conditions identified elsewhere, the following are declared to be nuisances affecting health:

- (1) All diseased animals running at large.
- (2) Carcasses of animals not buried or destroyed or otherwise disposed of within 24 hours after death.
- (3) Accumulations of decaying animal or plant material, animal or human feces, trash, refuse, yard waste, rubbish, garbage, rotting lumber, packing material, scrap metal, tires or any other substances which can be breeding places for flies, mosquitoes or vermin, except compost maintained in compliance with chapter 22, article III.
- (4) Privy vaults and garbage cans which are not fly tight.
- (5) All noxious weeds and other rank growths of vegetation upon public or private property.
- (6) Dense smoke, noxious fumes, gas and soot, dust or cinders in such quantities as to render the occupancy of property uncomfortable to a person of ordinary sensibilities.
- (7) All public exposure of persons having a contagious disease.
- (8) All other acts, omissions of acts, occupations and uses of property which are a menace to the public health.
- (9) The intentional or negligent discharge of items including but not limited to refuse, leaves, grass clippings, solvents, antifreeze, oil, gas, fireplace ashes, paint, swimming pool water or cement rein sate into a street, storm sewer system, or water resource such as a wetland, creek, pond or lake. This includes illegal discharge or discard of any item on to any land within the City limits.
- (10) Improper sewage disposal to such degree that sewage or effluent is discharging onto the surface of the ground, backing up into a structure or discharging into a body of water.
- (11) Infestations of flies, fleas, cockroaches, lice, rats, mice, fly larvae or hookwork larvae.
- (12) Breeding grounds not naturally occurring which support mosquito larvae or mosquitoes carrying West Nile Virus, La Crosse Encephalitis Virus or any other disease causing microorganism.
- (13) Outdoor burners of fuel, including, but not limited to, wood, trash, corn, pellets and biomass, that are detached from or exterior to a principal building and intended for use as a water or space heating source are considered to produce excessive smoke and therefore prohibited.

(Code 1976, § 11-102; Ord. No. 2491-16, 5-2-16)

Sec. 12-34. Nuisances affecting peace and safety.

In addition to those conditions identified elsewhere, the following are declared to be nuisances affecting public peace, welfare and safety:

- (1) All limbs of trees, shrubs, bushes, weeds or any other vegetative growth which are less than eight feet above the surface of any street or sidewalk.
- (2) All wires which are strung less than 15 feet above the surface of the ground.
- (3) All buildings, walls and other structures which have been damaged by fire, decay or otherwise, and which are situated as to endanger the safety of the public.
- (4) All explosives, inflammable liquids and other dangerous substances stored in any manner or in any amount other than that provided by ordinance or state or federal law.
- (5) All use or display of fireworks except as provided by ordinance or state or federal law.
- (6) All loud or unusual noises and annoying vibrations which offend the peace and quiet of persons of ordinary sensibilities or which violate article IV of this chapter.
- (7) Obstructions and excavations affecting the ordinary use by the public of streets, alleys and sidewalks, or public grounds, except under such conditions as are provided by ordinance.
- (8) Radio aerials strung or erected over streets or alleys or attached to poles of public service companies.
- (9) Any use of the public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the streets or sidewalks.
- (10) All hanging signs, awnings and other similar structures over the streets or sidewalks, and so situated as to endanger public safety.
- (11) All barbed wire fences except for barbed wire on top of non-residential fences, where barbed wire is at least six (6) feet above grade and at least three (3) feet from all public sidewalks.
- (12) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.
- (13) All other acts, omissions of acts, occupations and uses of property which are a menace to safety as determined by the Director of Inspections.
- (14) Feeding of deer, raccoons, wild turkeys, coyotes, opossum, Canada goose or prohibited animals identified in Section 4-42.
- (15) The existence and creation of graffiti. For the purpose of this subsection, the term "graffiti" shall mean any unauthorized inscription, word, figure, painting, printing, marks, signs, symbols, figures, designs, inscriptions, or other drawings or other defacement which are written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise placed or affixed to any surface of objects such as buildings, walls, fences, sidewalks, curbs, vehicles, trees, rocks, or other structures or objects on public and private property or the interior surfaces of those parts of buildings accessible to the general public and which has the effect of defacing the property.

- (16) The exterior storage of firewood that either:
- a. Is infested with rodents, insects or other nuisance animals;
 - b. Is stacked less than six inches or more than five feet above grade;
 - c. Exceeds a maximum ground coverage of 64 square feet for each stack;
 - d. Has stacks on a lot that are within ten feet of each other;
 - e. Is stacked in a disorderly manner; or
 - f. Is otherwise a threat to health and safety.
- (17) Any condition that interferes with, obstructs, or renders dangerous for passage a public roadway, highway or right-of-way or waters used by the public.
- (18) Any construction materials or equipment left in the open on a residential site ninety (90) or more days after authorized work has stopped.
- (19) Discarded construction material or other litter at a construction site that is not placed in an adequate waste container or that is allowed to blow around or off the site.
- (20) Any structure that has become dangerous for further use or occupancy because of structural or sanitary defects or grossly unsanitary conditions.
- (21) Principle, accessory and other structures or improvements that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances affecting the general welfare because they are unsightly, decrease adjoining landowners' and occupants' enjoyment of their property and neighborhood, and adversely affect property values and neighborhood patterns. Nuisances include:
- a. Exterior walls with holes, breaks or loose or rotting materials, or which are not maintained as weatherproof and properly surface coated where required to prevent deterioration.
 - b. Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks or fences not maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, not protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking or chipped paint. All siding or masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights not maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion not coated to inhibit such rust and corrosion. Surfaces with untreated rust or corrosion. Oxidation stains.
 - c. Windows, skylights, doors or frames not kept in sound condition, good repair or weather tight. Glazing materials with cracks or holes.
 - d. Exterior doors, door assemblies or hardware not maintained in good condition. Locks at all entrances to dwelling units, rooming units or guestrooms which do not tightly secure the door.
 - e. Cornices, belt courses, corbels, terra cotta trim, wall facings or similar decorative features not maintained in good repair with proper anchorage or in a safe condition.
 - f. Roof drains, gutters or downspouts not maintained in good repair and free from obstructions. Roof or flashing not sound, tight or having defects that admit rain. Roof drainage inadequate to prevent dampness or deterioration in the walls or interior portion of the structure.

- g. Chimneys, cooling towers, smoke stacks or similar appurtenances not maintained as structurally sound, or in good repair. All exposed surfaces of metal or wood not protected from the elements or against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
 - h. Foundation walls not maintained plumb or free from open cracks or breaks or kept in such condition so as to prevent the entry of rodents or other pests.
- (22) An unsecured hole or opening caused by improperly abandoned cistern, well pit, sewage treatment system, unused or non-maintained swimming pool, foundation, mine shaft or tunnel or any other hole or opening in the ground of sufficient size or depth to pose a danger to the public or an attractive nuisance.
- (23) Accumulations of personal property, rubbish or debris in any residence that could prevent emergency egress.
- (24) Accumulations of animal feces, rubbish or junk remaining in any place as to become dangerous or injurious to the safety of any individual or to the public.
- (25) At single-family and two-family dwelling units, the non-temporary parking or storage of more than four vehicles, including abandoned, junk and inoperable vehicles, per unit outside of a garage or on street.
- (Code 1976, § 11-103; Ord. No. 2117-98, § 1, 5-4-1998; Ord. No. 2174-00, § 1, 8-21-2000; Ord. No. 2257-03, § 3, 11-17-03; Ord. No. 2416-12, § 3, 08-10-2012, Ord. No. 2491-16, 05-02-2016)

Sec. 12-35. Nuisance abatement and assessment.

(a) *Purpose of section.* The purpose of this section is to provide the city with the authority, pursuant to M.S.A. § 429.101, as may be amended from time to time, to remove or eliminate public health or safety hazards from private property and to provide for the collection of unpaid special charges for all or any part of the costs incurred by the city to remove or eliminate the hazards.

(b) *Notice of need to abate nuisance.* Whenever the existence of any nuisance defined in this article, constituting a public health or safety hazard, within any lots or parcels of real estate situated within the city, shall come to the attention of the Director of Inspections, the Director shall cause an investigation of the reported nuisance. After the investigation, the Director of Inspections shall determine whether a nuisance exists. Upon finding a nuisance, the Director of Inspections shall prepare a written notice and mail the notice to the owner of the property. The term "owner" shall be defined as the person listed as owner according to the current records of the county auditor. Such notice shall contain the name of the owner, his address (if known), the address of the property containing the nuisance and a description of the nuisance which must be abated at the owner's expense, and the time frame within which the nuisance must be abated as determined in the sole discretion of the health official. In determining the time within which owner must abate the nuisance, the Director of Inspections shall consider, among other factors, the following:

- (1) The severity of the threat to public health and safety;
- (2) The size or magnitude of the nuisance; and
- (3) The number of persons affected by the nuisance.

The notice shall further state if owner fails to abate the nuisance within the time provided in such notice, the city may enter onto the owner's property for purpose of abating the nuisance. Noncompliance with the required action will result in city action to abate the nuisance the cost of

which will subsequently be assessed as a lien against the owner's property. If the owner's address is not known, service of the notice may be made upon a tenant, lessee or owner's agent and shall also be posted upon the property. Where no owner or owner's agent can be found, the city clerk shall cause the notice to be published once in the official city newspaper within ten days of issuance of the notice. If publication is required, the city shall allow an additional ten days from the date of publication for owner to comply with the notice of violation and abatement.

(c) *Time to respond.* The owner shall abate the nuisance, at the owner's expense, within the period of time contained within the notice. In the instance of publication of the notice, the owner shall have ten days following the date of publication of the notice, plus the amount of time provided in the notice to abate the nuisance. The Director of Inspections shall cause an inspection of the property containing the nuisance to be made the day after the last day for abatement as stated in the notice or within such other time as may be reasonable and practical.

(d) *Appeal.* The owner shall have a right to appeal the notice as served by presenting the appeal to the city manager within 48 hours of service of the notice or within two days of its publication, excluding weekends and legal holidays. Within 72 hours of presentation of the appeal, the city manager shall meet with the owner and the official to hear the matter. The city manager shall consider the issues and make a final decision within 48 hours following the meeting. The owner shall be served by mail of the manager's decision. The owner may appeal the city manager's decision to the city council. Within ten days of receipt of the mailed decision of the city manager, the owner shall make a request, in writing, to the city manager to be placed on the agenda at the next regularly scheduled city council meeting, to consider the owner's appeal of the city manager's decision. The city council shall consider the appeal and make a final decision. A final decision by the city council is not appealable.

(e) *Enforcement/abatement.* If the owner of the property does not respond to the served, posted or published notice itemizing the nuisance and ordering its abatement, within the given time as specified in such notice, the Director may order the nuisance condition to be abated by either the city or contracted employees. The cost of abating the nuisance shall be compiled and a resolution prepared containing the name of the owner, the address and legal description of the property containing the nuisance, the costs of abating the nuisance, and a recommendation to assess the property, as a special assessment, for the costs. The assessment proceedings shall be conducted as outlined in M.S.A. § 429.101. Upon its passage, the resolution shall be submitted to the county auditor by November 10 of that year for assessment of the costs as a lien against the property with the real estate taxes. The lien may be collected in a single annual installment, or spread over a period of up to ten equal annual installments, to be determined at the sole discretion of the city council.

(f) *Payment of assessment.* Upon passage by the city council of the resolution of approval for assessment of costs incurred by the city to abate such nuisance, the city clerk shall send a bill for the assessment amount to the owner. The owner may then pay the bill in full prior to its submission to the county auditor. If the owner fails to pay the assessment prior to its submission to the county auditor, the city shall forward the assessment information to the county auditor to create a lien against the owner's real estate as per M.S.A. § 429.101.

(g) *Expenses allowed.* Expenses to be included in the abatement and assessment procedure may include the cost of the abatement and any removal, publication of notice or of any notice of action of the city council, posting and service of notices, departmental costs and expenses including legal fees, allowance for city employee time, overtime and expense of any equipment used. Such costs shall be compiled and prepared for presentation to the city council by the official.

(Code 1976, §§ 11-113, 11-115--11-120; Ord. No. 2415-12, 8-10-2012)

Secs. 12-36--12-60. Reserved.

DIVISION 2. JUNK VEHICLES***Sec. 12-61. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Junk car means any motor vehicle which is not in street operable condition, or which is partially dismantled, or which is used for sale of parts or as a source of repair or replacement parts for other vehicles, or which is kept for scrapping, dismantling or salvage of any kind, or which is not properly licensed for operation within the state.

Junk car parts means abandoned, old or unattached automotive equipment, or parts thereof not currently being used as an integral part of a vehicle or trailer. This includes, but is not limited to, batteries, tires, snow plow attachments, car racks and toppers, or other car parts normally found on a vehicle or trailer.

Racing car means any motor vehicle designed or intended for operation on a speedway, race track or other facility used or designed for high speed contests between two or more vehicles or for timing of speed.

Stock car means any motor vehicle of standard design and construction which is modified, adapted or altered in any manner to increase its speed or safety, and designed or intended for operation on a speedway, race track or other facility used or designed for high speed contests between two or more vehicles or for timing of speed.

(Code 1976, § 11-710)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 12-62. Parking and storage.

No person shall park, keep, place or store, or permit the parking or storage of a stock car, racing car, junk car or junk car parts on a public street or alley, or on any private lands or premises which he owns, occupies or controls unless it shall be within a building on such private premises. Such acts are hereby declared a nuisance under this article.

(Code 1976, § 11-711; Ord. No. 2491-16, 5-2-16)

Sec. 12-63. Repair, service or maintaining.

No person shall service, repair, replace parts or do maintenance work on a stock car, racing car or junk car on a public street nor on any private lands or premises unless it shall be within a building on such private premises. Such acts are hereby declared a nuisance under this article.

(Code 1976, § 11-712; Ord. No. 2491-16, 5-2-16)

Secs. 12-64--12-90. Reserved.

***Cross reference(s)**--Traffic and vehicles, ch. 30.

ARTICLE III. LITTER***Sec. 12-91. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authorized private receptacle means a litter storage and collection receptacle as required and authorized in article II of this chapter.

Garbage means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Litter means garbage, refuse and rubbish, and all other waste material which, if thrown or deposited as prohibited in this article, tends to create a danger to public health, safety and welfare.

Newspaper means any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

Handbill means any printed or written matter, sample, device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature.

Park means a park, reservation, playground, beach, recreation center or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

Private premises means any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

Public place means any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

Refuse means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, trash, ashes, street cleanings, dead animals, junk, abandoned automobiles, and solid market and industrial wastes.

Rubbish means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, wood, glass, bedding, crockery and similar materials.

***State law reference(s)**--Littering from a vehicle, M.S.A. § 169.42; unlawful deposit of garbage or litter, M.S.A. § 609.68.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

(Code 1976, § 11-401)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 12-92. Littering prohibited.

No person shall, throw, sweep, scatter, drop or otherwise deposit litter in or upon any public or private lands, parks, roadways, sidewalks, fountains, shorelines or waters in the city.

Sec. 12-93. Public and private garbage receptacles.

Persons placing litter in public or authorized private receptacles shall do so in such a manner as to prevent the litter from being scattered by the elements. Where receptacles are not provided, all litter shall be carried away by the person responsible for its presence and properly disposed of elsewhere.

Sec. 12-94. Truck loads causing litter to be deposited on any public place.

No person shall drive or move any truck or other vehicle within the city unless such vehicle is equipped with covers or is so constructed or loaded as to prevent any load, contents or litter from being blown from or otherwise deposited upon any street, alley or other public place.

Sec. 12-95. Owner to maintain premises free from litter.

The owner or person in control of any private property shall at all times maintain the premises free of litter.

Sec. 12-96. Commercial and noncommercial handbills allowed.

Commercial and noncommercial handbills may be distributed in the city if handed to or transmitted directly to a person willing to accept it.

Sec. 12-97. Commercial and noncommercial handbills; prohibitions.

No person shall throw, deposit or post any commercial or noncommercial handbill in or upon any vehicle; uninhabited or vacant premises; occupied private property; vacant lot; lamppost, public utility pole or shade tree, public structure or building except as may be authorized or required by law.

Sec. 12-98. Commercial and noncommercial handbills at inhabited private premises.

(a) No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises if requested by anyone thereon not to do so, or if there is a sign placed in a conspicuous position indicating that the occupants do not wish to receive solicitations.

(b) In the case of an inhabited private premises which is not posted, handbills may be placed or deposited in such a manner as to secure or prevent the handbill from being blow or drifted about.

Sec. 12-99. Merchant equally liable.

Any merchant who advertises his goods, wares or merchandise by causing advertising material to be thrown or deposited in violation of any of the provisions of this article shall be guilty of violating this article along with the person throwing or depositing the litter.

Sec. 12-100. Nuisance declared.

Each of the acts forbidden by this article are hereby declared a nuisance under article II of this chapter.

Secs. 12-101--12-120. Reserved.

ARTICLE IV. NOISE, NOISE POLLUTION AND VIBRATION

Sec. 12-121. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section. Any other word or phrase used in this article, and defined in regulations of the state pollution control agency noise pollution control rules, chapter 7030, has the meaning given in those regulations.

Air circulation device means a mechanism designed and used for the controlled flow of air used in ventilation, cooling or conditioning, including, but not limited to, central and window air conditioning units.

City means the City of St. Louis Park or any representative of the department of inspections, department of public safety or any other representative of the city designated by the city manager.

Cut-out, bypass and similar device means any mechanism which varies the exhaust system gas flow so as to discharge the exhaust gas and acoustic energy to the atmosphere without passing through the entire length of the exhaust system including all exhaust system sound attenuation components.

Exhaust system means a combination of components, which provides for enclosed flow of exhaust gas from engine parts to the atmosphere.

Highway means any street, road, alley or public way in the city.

Holiday means any day fixed by the United States or by state law for suspension of business, in whole or in part.

Noise means any sound not occurring in the natural environment, including, but not limited to, sounds emanating from aircraft and highways, and industrial, commercial and residential sources.

Noise pollution means the presence of any noise or combination of noises in such quantity, at such levels, or of such nature and duration or under such conditions as could potentially be injurious to human health, safety, welfare or property, or to animal life, or could interfere unreasonably with the enjoyment of life or property.

Sound means an oscillation in pressure, stress, particle displacement, particle velocity, etc., in an elastic or partially elastic medium, or the superposition of such propagated alterations.

Sound level means a weighted sound pressure level obtained by the use of a sound level meter having characteristics, including the "A" weighting, as specified in ANSI Specifications for Sound Level Meters S1.4-1971. The reference pressure is 20 micronewtons per square meter.

Sound receiving unit means a unit of property or a building containing a person, business, activity, animal life, or property, which is affected by noise or noise pollution.

Vibration means the oscillation of a solid body or material, including, but not limited to, earth, concrete, machinery, building structures, or other similar materials. Within this article, the term vibration shall refer to those oscillations, which are disturbing, injurious, damaging or dangerous.

Cross reference(s)--Definitions generally, § 1-2.

Sec. 12-122. Source requirements.

(a) *Maximum noise levels by receiving land use districts.* No person shall operate or cause or permit to be operated any source of noise in such a manner as to create a noise level exceeding the limit set in table I for the receiving land use category specified when measured at the location identified in subsection (c) of this section. The source sound levels in any zoning district shall be the responsibility of any person who owns or operates a sound source contributing to the sound level, whether or not such sound source is in the zoning district in question.

Table I. Sound Levels by Receiving Land Use Districts

<i>Zoning District</i>	<i>Day</i> <i>(7:00 a.m. to 10:00 p.m.)</i>		<i>Night</i> <i>(10:00 p.m. to 7:00 a.m.)</i>	
	<i>L50</i>	<i>L10</i>	<i>L50</i>	<i>L10</i>
Residential	60	65	50	55
Industrial	75	80	75	80
Others	65	70	65	70

(b) *Exemptions.* The levels prescribed in subsection (a) of this section do not apply to noise generated by railroads or the travel of motor vehicles on state and county highways, but such noise shall be subject to other applicable sections of this article.

(c) *Measurement of noise level.*

- (1) Except as otherwise provided in this article, the source sound level requirements of this section shall apply at the area of human activity or, if such area is ill-defined, at the property or zoning lines of the receiving unit. If a receiving unit changes its area of human activity, the source sound level requirements of this section shall apply at the new area of human activity or, if such area is ill-defined, at the property or zoning lines of the receiving unit. Measurements may be made at any location in zoning districts for evaluation purposes and to aid the enforcement of other sections of this article.
- (2) All sound levels originating in any development or property which contains one or more buildings and which is without property lines for each building shall not exceed the source requirements for the applicable zoning district measured at the area of human activity or, if this is ill-defined, at any point on a line, all of whose points are equidistant from any two buildings.

Sec. 12-123. Requirements for air circulation devices.

Any person installing or placing any air circulation device including, but not limited to, window or central air conditioning units, in any location which results in or contributes to a violation of section 12-122, shall attenuate the excessive sound level by means deemed appropriate to bring the equipment or device into compliance with this Code, including but not limited to sound barrier screening, new equipment meeting city and state noise requirements, or relocation of such units or devices.

Sec. 12-124. Hourly restrictions on certain operations.

(a) *Recreational vehicles* No person shall drive or operate any minibike, snowmobile, or other similar recreational vehicle, not licensed for travel on public highways, between the hours of 10:00 p.m. and 7:00 a.m.

(b) *Domestic power equipment.* No person may operate any domestic power implement including, but not limited to, a power lawnmower, power hedge clipper, power saw or other such implement except between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and between the hours of 9:00 a.m. and 10:00 p.m. on weekends and holidays. The operation of equipment for snow removal shall be exempt from the provisions of this section when initiated within 12 hours of the completion of the most recent snowfall.

(c) *Power equipment used in construction activities.* No person shall engage in, permit, or allow construction activities involving the use of power equipment, manual tools, movement of equipment, or other activities except between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and between the hours of 9:00 a.m. and 10:00 p.m. on weekends and holidays.

(d) *Garbage collection.* Except in a general industrial zoning district, no person shall collect or remove garbage or refuse except between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and between the hours of 9:00 a.m. and 10:00 p.m. on weekends and holidays.

(e) *Participation in noisy parties or gatherings.* No person shall, between the hours of 11:00 p.m. and 7:00 a.m. on Sunday through Thursday and between 12:00 midnight and 7:00 a.m. on Friday and Saturday, participate in any party or gathering of people which creates noise pollution or which unreasonably disturbs the peace, quiet, or repose of another person as determined at the property line of a building, structure, rental unit, or other enclosure or area in which such party or gathering occurs. If such party or gathering is declared to be a noise pollution nuisance by a city official, all persons except the owner, renter, lessee, or other occupant shall promptly leave the premises in an orderly manner. 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.

Sec. 12-125. Prohibited noises.

(a) *Internal combustion engine, fuel-operated device or electrically powered device.* No person shall operate, permit, or allow the operation of any internal combustion engine, fuel-operated device, or electrically powered device associated with construction, home improvement, or other similar activity unless it is operated or in repair according to the manufacturer's specifications. Any internal combustion engine or fuel-operated devices, which is designed to have a muffler, shall be maintained in good working order to prevent noise pollution.

- (1) No person shall operate, permit or allow the operation of any portable air compressor or similar device which produces a sound level in excess of 81 dBA, measured at 50 feet from the compressor when the compressor is operating at its maximum related capacity. Portable air compressors with a rated capacity equal to or above 75 cubic feet per minute, which deliver air at pressures greater than 50 psig, and which are manufactured on or after July 1, 1978, shall not produce a sound level in excess of 70 dBA, measured at 50 feet from the compressor when the compressor is operating at its maximum rated capacity.
- (2) No person shall operate, permit or allow the operation of any powered, walk behind lawnmower or other similar device which produces a sound level in excess of 72 dBA, measured at 50 feet from the mower. No person shall operate, permit, or allow the operation of any powered, sit down lawnmower or other similar device, which produces a sound level in excess of 82 dBA, measured at 50 feet from the mower.

(b) *Blower, power fan or exhaust unit.* No person shall operate, permit, or allow the operation of any blower, power fan, exhaust unit or other similar device which produces noise pollution due to improper maintenance or due to operation or repair which does not conform to the manufacturer's specifications.

(c) *Cut-out, bypass or similar device.* No person shall use a cut-out, bypass, or similar device upon an internal combustion engine or its exhaust system. No person shall modify, alter, or repair any exhaust system or any internal combustion engine in any manner that amplifies or otherwise increases engine sound above that emitted by the engine as equipped according to the manufacturer's specifications.

(d) *Motor vehicles.*

- (1) No person shall operate a motor vehicle in the city in violation of the motor vehicle noise limits established by state law or the Minnesota Pollution Control Agency as set forth under Minn. Rules Chapter 7030.
- (2) No person shall operate any motor vehicle or any minibike or other similar vehicle or device in any way which results in the squealing of tires or the creation of any other noise pollution on any highway, private road, public or private parking lot, driveway, or other property in the city, except when there is reason to do so for the safe operation of the vehicle.
- (3) No person shall repair, build, rebuild, or test any motor vehicle or other internal combustion engine within the city in such a manner as to create noise pollution.

(e) *Horn, siren or other signaling device.* No person may sound or permit the sounding of any horn, siren or other signaling device on any motor vehicle within the city except in cases of imminent danger or emergency. The modification or installation of signaling devices on any motor vehicle or emergency vehicle which amplifies or otherwise increases the level of sound beyond that emitted by the signaling device installed or designed for the vehicle is prohibited. Burglar alarms, sirens, or similar devices, installed and operated for the use specified by the manufacturer, are exempt from the provisions of this subsection.

(f) *Radios, phonography, paging system, etc.* No person may use, operate, or permit to be used or operated any radio receiving set, musical instrument, phonograph, stereo or other machine or device used for the production or reproduction of sound in such a manner as to disturb the peace, quiet or comfort of a person in its vicinity. The operation of any receiving set, instrument, phonograph, stereo machine, or device between 10:00 p.m. and 7:00 a.m. shall be prima facie evidence of a violation of this section if done in such manner as to be plainly audible at:

- (1) The real property boundary of the building, structure, or residence, or other area in which it is located;
- (2) The property line of the area or premises owned, rented, leased, or used within a multiuse or apartment building; or
- (3) A distance of 50 feet from any motor vehicle in which it is located.

(g) *Loudspeakers, amplifiers, etc., for advertising.* Except as permitted by section 12-127, no person shall advertise or attract the attention of the public to any commercial establishment, business, vehicle or other area by creating noise pollution, including but not limited to crying out, sounding a horn, ringing a bell, or use or operation of any loudspeaker, sound amplifier, or other device for the production or reproduction of sound on a street or other public place. In addition, no person shall create noise pollution through the use of any such sound production or reproduction devices in any activities or proceedings of his business, including, but not limited to, the use of loudspeakers for communication.

(h) *Apartment or multiuse building.* No person may cause, allow, or permit any noise pollution in any multiuse or apartment building as determined beyond the property line of the area or premises owned, rented, leased, or used by such person.

(i) *Loading and unloading.* No person shall load or unload any motor vehicle or handle any bales, boxes, crates, or containers in such a manner as to cause noise pollution.

(j) *Schools, churches, hospitals, etc.* No person shall create or allow the creation of noise pollution on any street adjacent to any school, learning institution, religious institution, or court, or adjacent to any hospital, or home for the aged, or other similar institutions which unreasonably interferes with the working of such institution or disturbs or annoys an inhabitant in the institution, provided that conspicuous signs indicated the presence of such institutions or buildings are displayed in such streets by such institutions.

(k) *Snowmobiles.* No person shall operate a snowmobile unless it is equipped with a muffler in good working order, which will prevent noise pollution and will meet the source requirements in section 12-122. However, this shall not apply to snowmobiles which are designed and used for organized races or similar competitive events which are held with the permission of the city council and in areas designated by the city council.

(l) *Railways.* Except as otherwise required by federal law, no person driving or operating a locomotive or other powered vehicle adapted for travel on any railway in the city may ring a bell or sound a whistle upon such locomotive or vehicle, or cause the same to be rung or sounded at any time other than in cases in which the locomotive or vehicle is at or within 1,320 feet before any place where the railway crosses a traveled highway on the same level or in cases of imminent danger.

Sec. 12-126. Prohibiting vibration.

Any vibration discernible to the human sense of feeling or any vibration producing a particle velocity of more than 0.035 inches per second for five minutes or more duration (cumulative) in any one hour at the property line are prohibited. For properties abutting an "R" use district, no vibration producing a particle acceleration velocity of more than 0.035 inches per second at the property line are permitted between the hours of 7:00 p.m. and 7:00 a.m.

Sec. 12-127. Exceptions to article.

(a) *Emergency work.* Operations and acts performed exclusively for emergency work not exceeding a period of 24 hours to preserve the safety, welfare, or public health of the citizens of the city or for emergency work necessary to restore a public service or to eliminate a public hazard shall be exempt from the noise and vibration limitations under this article. Any person performing emergency work under this section shall inform the city at the time of the need to initiate such work or, if during nonbusiness hours of the city offices, then upon resumption of business hours of the city. Any person responsible for such emergency work shall take all reasonable actions to minimize the amount of noise pollution or vibration.

(b) *Exception for food/beverage vehicles.* Notwithstanding any other provisions to the contrary, food/beverage vehicles may sound a bell between 12:00 noon and 9:00 p.m. daily which produces a noise level measured at a distance of 50 feet from the source no greater than 65 decibels in all zoning districts.

Sec. 12-128. Inspections.

A city official shall inspect existing or potential noise, noise pollution, and vibration sources, and noise pollution control measures as frequently as may be necessary to ensure compliance with this article.

Sec. 12-129. Access to premises and records.

The person on the premises who is responsible for any noise pollution control measure or allowing or causing any noise, noise pollution or vibration shall, upon request of the city official, permit access to all parts of the area at any reasonable time for purposes of inspection and monitoring and shall exhibit and allow copying of any records relating to noise, noise pollution or vibration, or noise pollution control as is necessary to determine compliance with this Code. A city official shall be permitted access to any sound receiver unit affected or potentially affected by a sound source under inspection in order to determine compliance with this Code.

Sec. 12-130. Removal and correction of violations.

Any person responsible for noise, noise pollution or vibration control measures, or allowing or causing noise, noise pollution, or vibration and having received a report from the city official giving notification of one or more violations of this Code shall correct or remove each violation within the length of time set by the city official. The length of time for the correction or removal of each violation shall be stated on the inspection report. The failure to remove or correct each such violation within the time period noted on the inspection report shall constitute a separate violation of this article.

Sec. 12-131. Temporary noise permit.

(a) Permit.

- (1) *Required.* A temporary noise permit is required to create temporary noise conditions which may exceed the requirements of this article. A person making application for a permit shall include the reason for requesting the temporary noise permit, the nature of the event occurring, the time period for which the temporary noise permit is requested and the operation or procedure to be employed during the period of the temporary noise permit.
- (2) *Exception.* City-performed street and utility maintenance and construction do not require a temporary noise permit.

(b) *Fee required.* The fee for a temporary noise permit shall be set from time to time by the city and a schedule of such fees is listed in appendix A to this Code. Such fees must be submitted to the city before a permit will be issued.

(c) *Special provisions.*

- (1) *Permits for 24 hours and less.* When a temporary noise permit is issued for an event 24 hours or less in duration, the applicant must notify all immediate neighbors to the property for which the permit is issued. The notification must be in advance of the event and provide information on the date, time and type of event for which the permit was issued.
- (2) *Permits for over 24 hours.* The applicant must submit a set of address labels for all property owners within 350 feet of the boundaries of the parcel with the application when the permit request is for an event occurring more than 24 hours. The names and addresses must be officially prepared by the county auditor's office or other source approved by the city. Applications with address labels must be received in the department of inspections 14 days prior to the event to be considered for a permit. The city shall use the labels to mail notification of the requested event to the property owners. The permit will be considered for approval after any public comment is received, not less than seven days after the notification is mailed or more than ten days after receiving the completed application and labels.
- (3) *Mobile noise sources.* When a temporary noise permit application is for a mobile source of noise, the applicant shall provide information on the type of equipment, dates and times of proposed operation, and location in which the equipment or noise will be heard. Before a permit is issued, the applicant shall request an inspection with the city to have the temporary noise source measured to ensure compliance with applicable sections of this article.

(d) *Duration.* Any temporary noise permit granted by the city shall not exceed 90 days and may be renewed once for a period not to exceed 30 days upon request of the original applicant and upon approval from the city.

(e) *Criteria for issuance of permit.* A temporary noise permit to create noise which is not in compliance with this Code may be granted upon a finding that:

- (1) The activity, operation, or noise or vibration source will be of temporary duration and cannot be performed or operated in a manner that would comply with the provisions of this Code;
- (2) The costs of abatement, control or alternative activity or time sequence are unreasonably high in relation to the benefits achieved;
- (3) The measures necessary to abate or avoid potential noise, noise pollution or vibration conflict with other important values, including, but not limited to, aesthetic quality, ecological conditions or safety; or
- (4) No other reasonable alternative is available to the applicant.

In granting a temporary noise permit, the city shall prescribe any conditions, requirements or restrictions reasonably necessary to minimize adverse effects upon the community or surrounding neighborhood.

(f) *Grounds for denial of permit.* History of complaints about excessive noise in violation of this article or past permit is grounds for denial of a temporary noise permit.

Sec. 12-132. Appeal.

(a) Any person affected by any decision under this article or by any action taken in accordance with this article, including, but not limited to, an applicant for a temporary noise permit, extension of compliance date or a person objecting to the issuance of a temporary permit or the extension of a compliance date may, within ten days of the issuance of the order or action, appeal to the city manager. Appeals shall be held no sooner than ten days and not more than 30 days after a request for such appeal is filed unless good cause is shown for an extension. Requests shall be made by filing with the city manager a notice of appeal specifying the grounds and relief sought. The city manager shall forthwith set a date, time and place for the appeal and shall notify the person appealing at least ten days in advance of the appeal date.

(b) Any person affected by a decision of the city manager may appeal the decision to the city council. A notice of appeal must be filed with the city clerk within five days after the city manager's decision. Notice of the date, time, place, and nature of the matter under consideration shall be given by publication at least once in the official newspaper not less than ten days prior to the appeal.

Secs. 12-133--12-150. Reserved.

ARTICLE V. STORMWATER, SOIL EROSION, AND SEDIMENTATION**Sec. 12-151 Purpose.**

The purpose of this ordinance is to provide for the health, safety and general welfare of the residents of St. Louis Park by reducing and controlling stormwater, soil erosion and sedimentation within the City. It establishes standards and specifications for conservation practices and planning activities which enhance water quality, minimize stormwater pollution, soil erosion, and sediment in waterways, and control the volume of water runoff to receiving streams and other water resources.

Sec. 12-152. Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in the section , except where the context clearly indicates a different meaning:

Authorized Enforcement Agency means employees or designees of the City or other governing authorities designated to enforce this ordinance.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

City refers to the City of St Louis Park, any employees, agents, contractors or designee.

Clean Water Act refers to the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CWRMP means the Comprehensive Water Resources Management Plan on record in the City offices.

Discharge means any substance entering the stormwater system by any means.

Discharge, Illicit means any direct or indirect non-stormwater discharge to the stormwater system, except as exempted in Section 12-157 of this ordinance.

Discharge, Non-Stormwater means any discharge to the stormwater system that is not composed entirely of stormwater.

Erosion means any process that wears away the surface of the land by the action of water, wind, ice or gravity. Erosion can be accelerated by the activities of people and nature.

Erosion Control refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

Erosion Control Plan means a plan detailing erosion control during construction activity as defined in the Comprehensive Water Resources Management Plan (CWRMP), Appendix M.

Hazardous Materials means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration; or, physical, chemical, or infectious characteristics, may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit Connections means either

- 1) Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the stormwater system, including but not limited to any conveyances which allow any non-stormwater discharge including wastewater, process wastewater, and wash water to enter the stormwater system and any connections to the stormwater system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or;
- 2) Any drain or conveyance connected from a commercial or industrial land use to the stormwater system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

Land Disturbing Activity means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface, including the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation or any activity which bears soil or rock, or involves the diversion or piping of any natural or man-made watercourse.

NPDES means National Pollutant Discharge Elimination System as established pursuant to 33 USC § 1342(b) to regulate discharges of pollutants to waters of the United States.

NPDES Permit means a National Pollutant Discharge Elimination System Stormwater discharge permit issued by the Minnesota Pollution Control Agency (pursuant to 33 USC § 1342(b)) that regulates discharges of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Point Source Pollution means pollution from any source other than any discernable, confined and discreet conveyances, and shall include but not be limited to pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Permanent Stabilization Plan means a written plan to establish permanent vegetation to prevent erosion of soil. This plan may be in the form of a letter. Permanent vegetation includes sod, native grasses, trees or other acceptable forms of landscaping.

Person means any individual, association, organization, partnership, firm, corporation or other private or public entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Sediment means solid matter carried by water, wastewater or other liquids.

Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation.

Stormwater Facility means anything within the stormwater system that collects, conveys or stores stormwater, including, but not limited to any inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater Management means the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes that affect water quality and habitat.

Stormwater Management Plan means a plan which describes how runoff and associated water quality impacts resulting from the development will be controlled or managed. This plan must indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices. This final plan must be signed by a licensed professional engineer (PE), who will verify that the design of all stormwater management practices meet the submittal requirements of the Comprehensive Water Resources Management Plan (CWRMP).

Stormwater Pollution Prevention Plan (SWPPP) means a document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater systems, and/or receiving waters to the maximum extent practicable.

Stormwater System means facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Structure means anything manufactured, constructed, or erected, which is normally attached to, or positioned on land, including portable structures, earthen structures, roads, parking lots and paved storage areas.

Watercourse means a stream or body of water, or a natural or artificial channel for the passage of stormwater.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Waters of the U.S. means any water in the United States per definition as specified 33 CFR 328.a.

Wetlands as defined in Minnesota Rules 7050.0130, subpart F, means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Sec. 12-153. Responsibility for Administration.

The City shall administer, implement, and enforce the provisions of this ordinance.

Sec. 12-154. Applicability.

This ordinance shall apply to all water entering the stormwater system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency or in this ordinance.

Sec. 12-155. Severability.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

Sec. 12-156. Construction Site Stormwater Runoff and Erosion Control.

(a) Purpose. The purpose of this section is to regulate land disturbing activities, to preserve and enhance the natural environment by reducing sedimentation in streams, lakes, stormwater systems and other waterways, protect the quality of surface water resources, preserve and protect wildlife habitat, restore sites to reduce the negative environmental effects of land disturbing activities, provide effective practices for erosion and sedimentation control, and to comply with local, state and federal regulations.

(b) Scope. Except where an exemption applies, any person proposing a land disturbing activity within the City shall apply to the City for the approval of erosion control plan. No land shall be disturbed until the plan is approved by the City and conforms to the standards set forth herein.

(c) Erosion control plan and permit required.

1. *Review and approval.* No person may grade, fill, excavate, store, dispose of soil and earth materials, or perform any other land disturbing or land filling activity without first submitting an erosion control plan for review and approval by the City and obtaining a permit as required in this section. The erosion control permit is not a replacement for a City Conditional Use Permit as required in section 36-79 of the City Ordinance, nor is it a replacement for a watershed district permit or a state NPDES permit.

2. *General exemptions.* Land disturbing activities, which meet all the following criteria, are exempt from the requirements of this section:
 - a. The disturbed or filled area is 5,000 square feet or less in area, and;
 - b. The volume of soil or earth material stored or moved is 50 cubic yards or less, and;
 - c. No drainage way is blocked or has its stormwater-carrying capacities or characteristics modified; and
 - d. The activity does not take place within 100 feet by horizontal measurement from the top of the bank of a watercourse, the ordinary high water mark of a water body, or the ordinary high water mark of a wetland associated with a watercourse or water body. The activity does not take place within an established 100-year floodplain.
3. *Categorical exemptions.* Notwithstanding the requirements of the City Code, the following activities are exempt from the permit requirements:
 - a. Emergency activities necessary to prevent or alleviate immediate dangers to life or property.
 - b. General farming, gardening and nursery activities.
 - c. One and two family residential construction activity limited to:
 - 1) additions to the existing structure,
 - 2) landscaping and landscaping structures, and
 - 3) construction of a garage.

(d) Submission requirements for erosion control permit.

1. *Application items.* Application for an erosion control permit shall include submittal of:
 - a. Application form and fee.
 - b. Site map and grading plan.
 - c. Interim erosion and sediment control plan as defined in the City's Comprehensive Water Resources Management Plan, Appendix M.
 - d. As defined in the Comprehensive Water Resources Management Plan, Appendix M: Stormwater management plan or permanent stabilization plan as required.
 - e. Work schedule.
 - f. Cost estimate.
2. *Fees.* All applications shall be accompanied by a permit fee. Fees for permits shall be fixed and determined by the City council, adopted by resolution and uniformly enforced. Such permit fees may, from time to time, be amended by City council resolution. A copy of the resolution setting forth currently effective permit fees shall be kept on file by the City and shall be open to inspection during regular business hours.

(e) Review Procedure.

1. *Process.* City staff will review each complete application for an erosion control permit to determine its conformance with the provisions of this ordinance. Within 60 days of receiving an application, City staff shall either approve, approve with conditions, or deny an erosion control permit application.
2. *Appeal.* An appeal by an applicant of a denial of a permit under this section shall be made under the manner prescribed in section 36-31 of this Code.
3. *Site Review.* When a permit is granted, City staff shall inspect the property for erosion control compliance with city code, permit conditions and site plans prior to the onset of construction activities.

(f) Form of security. Before a permit is issued, the City may require the permittee to post security in a form acceptable to the City equal to 125 percent of the cost estimate stated in the application and agreed by the City to be the cost of the work to be done under the permit. The security may take the form of cash in United States currency or an irrevocable letter of credit issued by a financial institution and in a form acceptable to the City.

1. *Release of security.*
 - a. Any security deposited with the City to guarantee performance of the grading and erosion control work shall be released to the person holding the permit upon determination by the City that the conditions of the permit have been satisfactorily performed if no action has been taken by the City to recover all or a part of the security before that determination has been made.
 - b. Securities held to ensure the successful completion of the final plan and an interim plan shall be released to the permittee either one year after termination of the permit, or when a final plan is submitted for the unimproved site, whichever is later, if no action has been taken by the City to recover all or a part of the security filed by the permittee before that date.

(g) Suspension of permit. In enforcing the permit:

1. The City may suspend the permit and issue a stop work order and the permittee shall cease all work on the work site except for work necessary to remedy the cause of the suspension.
2. The permittee may request a reinstatement of a suspended permit upon correction of the causes for suspension and, if the conditions of the permit have been complied with in full, the City shall reinstate the permit.
3. If the permittee fails or refuses to cease work as required under subsection 6.H. [*Actions against security*] of this section, the City shall revoke the permit.
4. The City shall not reinstate a revoked permit but shall proceed to act against the security as provided in subsection 6.H. [*Actions against security*] of this section.

(h) Action against security. The City may act against the appropriate security if any of the following conditions exist:

1. The permittee stops performing the land disturbing activities or filling, and abandons the work site prior to completion of the grading plan.
2. The permittee fails to conform to the interim plan or final plan as approved, and has had its permit revoked as provided in subsection (g) *Suspension of Permit* of this section.
3. The techniques utilized under the interim or final plan fail within one year of installation or before the final plan is implemented for the site or portion of the site, whichever comes later.
4. The City determines that action by the City is necessary to prevent excessive erosion from occurring on the site, or to prevent sediment from occurring on adjacent or nearby properties.

The City shall use funds recovered from the security to reimburse the City for all direct and indirect costs incurred in doing the remedial work undertaken by the City or private contractor under contract with the City.

Sec. 12-157. Illicit Discharge and Connection

(a) Objectives. The objectives are to regulate the introduction of pollutants to the stormwater system by any user; to prohibit illicit connections and discharges to the stormwater system; and to establish authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.

(b) Discharge Prohibitions.

1. *Prohibition of Illicit Discharges.* No person shall discharge or cause to be discharged into the stormwater system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.
 - a. The commencement, execution or continuance of discharge of pollutants to the stormwater system is prohibited except as follows: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater de-watering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, fire fighting activities, and any other water source not containing pollutants.
 - b. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety are allowed.
 - c. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

- d. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, Minnesota Pollution Control Agency, or other agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the stormwater system.
2. *Prohibition of Illicit Connections.* The construction, use, maintenance or continued existence of such connections to the stormwater system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

A person is considered to be in violation of this ordinance if the person connects a line conveying wastewater to the stormwater system, or allows such a connection to continue.

(c) Suspension of Stormwater System Access.

1. *Suspension due to Illicit Discharges in Emergency Situations.* The City may, without prior notice, suspend stormwater system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent or substantial danger to the environment, or to the health or welfare of persons, or to the stormwater system or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the stormwater system or waters of the United States, or to minimize danger to persons.
2. *Suspension due to the Detection of Illicit Discharge.* Any person discharging to the stormwater system in violation of this ordinance may have their stormwater system access terminated if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination of its stormwater system access. The violator may petition the City for a reconsideration and hearing. A person commits an offense if the person reinstates stormwater system access to premises terminated pursuant to this Section, without the prior approval of the City.

(d) Monitoring of Discharges.

1. *Access to Facilities.*
 - a. The City shall be allowed to enter and inspect facilities and properties subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance and for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

- b. The City shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
- c. The City has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense.
- d. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the owner of operator.
- e. Unreasonable delays in allowing the City access to a permitted facility is a violation of a stormwater discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the City reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

(e) Requirement To Prevent, Control, And Reduce Stormwater Pollutants By The Use Of Best Management Practices.

- 1. *Owner Responsibility.* The owner or operator of any property shall provide, at owner/operator's expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal stormwater system or watercourses through the use of structural and non-structural Best Management Practices (BMPs). Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the stormwater system. These BMPs are listed in the Stormwater Pollution Prevention Plan (SWPPP) and the Minnesota Pollution Control Agency's current BMPs, and are necessary for compliance with requirements of the NPDES permit and Appendix J of the City's Comprehensive Water Resources Management Plan.

(f) Water Course Protection.

- 1. *Owner Responsibility.* Every owner of a property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within their property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly impact the flow of water through the watercourse. All owners or lessees shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(g) Notification of Spills.

1. Notwithstanding other requirements of law, as soon as any person responsible for a facility, vehicle or operation, or responsible for emergency response for a facility or operation has knowledge of any known or suspected release of materials of any amount, which are resulting or may result in illicit discharges or pollutants discharging into the stormwater system or water of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify the City and other emergency response agencies of the occurrence via emergency dispatch services.

In the event of a release of non-hazardous materials, said person shall notify the City in person or by phone no later than the next business day.

If the discharge of prohibited materials emanates from a commercial or industrial establishment or vehicle, the owner or operator of such establishment or vehicle shall also retain a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec. 12-158. Post construction stormwater runoff.

(a) Objectives. The objectives of this Section are to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This section seeks to meet that purpose through the following objectives:

1. Reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety;
2. Control stormwater runoff in any development to reduce flooding, silt deposits, stream bank erosion and maintain the integrity of stream channels;
3. Control non-point source pollution caused by stormwater runoff from development; and
4. Control the total annual volume of surface water runoff, which flows from any specific site following development.

(b) Applicability. The rules of applicability are as set forth in Sec. 12-156. [*Construction Site Stormwater Runoff and Erosion Control*] of this ordinance, with some exceptions. A stormwater management plan is not required for construction or redevelopment of a single or double family home. A stormwater management plan is not required for residential construction on less than two (2) acres with a density of two (2) units or less per acre. However, a permanent stabilization plan is required for projects that meet these exceptions.

(c) Stormwater Management Plan.

1. *Stormwater Management Plan Required for All New Developments and Redevelopments.* No application for development or redevelopment will be approved unless it includes a stormwater management plan detailing in concept

how runoff and associated water quality impacts resulting from the development will be controlled or managed. This plan must indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices.

The stormwater management plan(s) shall be referred for comment to interested agencies, and any comments must be addressed in a final stormwater management plan. This final plan must be signed by a licensed professional engineer (PE), who will verify that the design of all stormwater management practices meet the submittal requirements of the Comprehensive Water Resources Management Plan.

2. *Maintenance of Existing Stormwater Facilities.* Any stormwater facility in existence prior to adoption of this ordinance shall be maintained by the owner of the stormwater facility and in a manner to conform to design standards for that facility. Any redevelopment of the stormwater facility shall require that the facility meet current stormwater design standards as set forth in this ordinance.

The thresholds for maintenance are triggered once sediment deposition reaches a point greater than is allowed under the design standard criteria, or such deposition begins to have a substantial effect on the water quality or holding capacity of the pond.

3. *Inspection of Stormwater Facilities.* Inspection programs may be established on a reasonable basis, including but not limited to an inspection at least once every five years or more often if deemed necessary to ensure proper functioning of the stormwater management facility. Inspections are the responsibility of the owner of the stormwater facility and must be completed by a licensed professional engineer (PE) hired for that purpose. Inspection results must be completed and submitted to the City of St Louis Park every five years beginning five years from the completion of development or from the date of this ordinance for a pre-existing stormwater facility.

Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.

All new and existing stormwater management facilities must undergo, at a minimum, an inspection every five years to document maintenance and repair needs and ensure compliance with the requirements of this ordinance and accomplishment of its purposes. This maintenance may include: removal of silt, litter and other debris from all catch basins, inlets and drainage pipes; grass cutting and vegetation removal; and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner, as determined by the City of St. Louis Park. The inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater management facility.

(d) Maintenance Covenants. Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the City of St. Louis Park and recorded at the Hennepin County Records Office prior to final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts.

The owner/operator shall show in the maintenance covenant how it will utilize Best Management Practices (BMPs) to prevent discharge of pollutants into the stormwater system. These BMPs are listed in the City's Stormwater Pollution Prevention Plan (SWPPP) and the current Minnesota

Pollution Control Agency BMP standards, and are necessary for compliance with requirements of the NPDES permit and Appendix J of the City's Comprehensive Water Resources Management Plan. The threshold for maintenance is triggered once sediment deposition reaches a point greater than is allowed under the design standard criteria, or such deposition begins to have a substantial effect on the water quality or holding capacity of the pond.

(e) Right-of-Entry for Inspection. When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public stormwater system, the property owner shall grant to the City of St. Louis Park the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when the City has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this ordinance.

(f) Records of Installation and Maintenance Activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least ten years. These records shall be made available to the City during inspection of the facility and at other reasonable times upon request.

Reference Appendix "T" of the Comprehensive Surface Water Management Plan, entitled *Stormwater Management Guidelines for New Development or Redevelopment within the City of St. Louis Park*.

Sec. 12-159. Wetland Protection.

All land disturbing activities, which impact or may impact a wetland, must be in conformance with the City's Wetland Management Plan, which is Appendix "B" of the City's Comprehensive Surface Water Management Plan, as adopted by Council Resolution.

Sec. 12-160. Enforcement.

(a) Violation. Any action, failure to act or land use practice that would impair water quality if allowed to continue, shall constitute a public nuisance and be treated as a misdemeanor under this Code.

(b) Notice of Violation. Whenever the City finds that a person has violated any section of this Code or failed to meet a requirement of this Ordinance, the City shall order compliance by written Notice of Violation to the responsible person. Such notice may require:

1. Monitoring, analyses and reporting;
2. Elimination of illicit discharges or connections;
3. Abatement of pollution and hazards;
4. Restoration of affected property;
5. Remediation of issue;
6. Payment of a fine to cover administrative and remediation costs;
7. Implementation of source control or treatment BMPs; and
8. Other actions as deemed necessary by the City.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. The notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the City or other local governmental unit or a contractor and the expense thereof shall be charged to the violator.

(c) Failure to maintain practices. If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the City of St. Louis Park, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of St. Louis Park shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have 30 days to effect maintenance and repair of the facility in an approved manner. After proper notice, the City of St. Louis Park may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the county.

Sec. 12-161. Appeal of Notice of Violation.

Any person receiving a Notice of Violation may appeal the determination of the City. The notice of appeal must be received within 5 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or designee shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the City or the local government unit or designee shall be final.

Sec. 12-162. Enforcement Measures After Appeal.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 5 days of the decision of the City or local government unit upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

Sec. 12-163. Cost of Abatement of the Violation.

Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner must file any objection to the amount of the assessment in writing with the City within 30 days. If the amount due is not paid within a timely manner as determined by the decision of the City or by the expiration of the time in which to file an appeal, the costs shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City by reason of such violation.

Sec. 12-164. Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this Ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Sec. 12-165. Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, and similar programs.

Sec. 12-166. Violations Deemed A Public Nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Sec. 12-167. Criminal Prosecution.

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law.

The authorized enforcement agency may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Sec. 12-168. Remedies Not Exclusive.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(Ordinance No. 2264-04, 3-30-04)