

TITLE 4
PUBLIC HEALTH AND SAFETY

Subject	Chapter
Nuisances 1
Garbage, Recyclables And Refuse 2
Nuisance Tree Abatement 3
Weeds, Grasses And Other Harmful Vegetation.....	4
Predatory Offender Residency Restrictions.....	5

CHAPTER 1

NUISANCES

SECTION:

- 4-1-1: Policy And Purpose
- 4-1-2: Public Nuisances Enumerated
- 4-1-3: Inspections And Investigations
- 4-1-4: Abatement Procedures
- 4-1-5: Interference With Enforcement Officials Prohibited
- 4-1-6: Violation; Penalty

4-1-1: **POLICY AND PURPOSE:** The City Council has determined that health, safety, good order, general welfare, and convenience of the public are threatened by certain public nuisances on property within the city limits. It is declared to be the intention of the Council to abate these nuisances, and this chapter is enacted for that purpose. (Amended Ord. 72, 10-15-1985)

4-1-2: **PUBLIC NUISANCES ENUMERATED:** Whoever, by his act or failure to perform a legal duty, intentionally does any of the following, is guilty of maintaining a public nuisance and may be ordered to abate the nuisance as provided herein, charged with a misdemeanor, or both:

- A. **Dangerous Conditions:** Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public.
- B. **Obstructing Public Ways And Waterways:** Interferes with, obstructs, or renders dangerous for passage any public highway or right-of-way, or waters used by the public.
- C. **Interference With Health Officials:** Willfully opposes or obstructs a health officer or physician charged with the enforcement of the health laws in performing any legal duties.
- D. **Deposits Of Used Tires:** Deposits or allows depositing of used or waste tires upon public or private property which is not a tire recycling, processing or receiving site approved by the city.
- E. **Accumulation of Debris:** Maintains or permits the accumulation of

discarded or unused machinery, household appliances, automobile bodies, lumber, wood trash, debris, or other material, or the rank growth of vegetation among the items so accumulated, in a manner conducive to the harboring of rats, mice, snakes, mosquitoes, vermin, or in any manner creating fire, health, or safety hazards. (Amended Ord. 383, 6-2-09)

- F. Junk Motor Vehicles: Parks, keeps, stores or accumulates junk motor vehicles upon any private land or premises owned; occupied or controlled by any person or legal entity unless authorized by this code or other ordinance. No person shall park, keep or place any such vehicle upon land not owned by such person. For purposes of this section, a junk vehicle means any motor vehicle as defined in Minn. Stat. §169.011, subd. 42, part of a motor vehicle, or former motor vehicle stored in the open which is (1) unusable or inoperable because of a lack of or defects in component parts; (2) unusable or inoperable because of damage from collision, deterioration, or otherwise; (3) beyond repair, and, therefore, not intended for future use as a motor vehicle; (4) being retained on the property for possible use of salvageable part; or (5) is not properly and currently licensed for operation within the State of Minnesota. (Amended Ord. 383, 6-2-09)
- G. Dilapidated Structures: Maintains or permits the existence of any structure or part of any structure which due to fire, wind, other natural disaster, physical deterioration, or any other cause, is no longer habitable as a dwelling or is no longer useful for any other purpose for which it may have been intended. (Amended Ord. 383, 6-2-09)
- H. Integrity of Dwelling Unit: All exterior elements of residential dwelling units in the City shall be kept in a clean, sanitary and structurally safe condition and in sound repair, including:
 - 1. Stairways, porches, balconies, or decks;
 - 2. Windows and Doors;
 - 3. Soffit and Facia;
 - 4. Roofs;
 - 5. Siding, bricks, stone or stucco;
 - 6. All other exterior elements not specifically listed.
- I. Remodeling Projects: All residents undertaking remodeling projects must keep all materials being used in the remodeling project in a neat and orderly appearance and out of view from adjoining property for the duration of the project.
- J. All garbage and refuse shall be kept in proper storage containers (bins or dumpsters) and regularly disposed of as set forth in Article 4, Chapter 2, of

the Andover City Code. (Amended Ord. 371, 5-20-2008; Amended Ord. 383, 6-2-09)

- K. Other Conditions: Is guilty of any other act or omission declared by state law or city ordinance to be a public nuisance. (Amended Ord. 72, 10-15-1985; Amended Ord. 383, 6-2-09)

4-1-3: **INSPECTIONS AND INVESTIGATIONS:**

- A. Periodic Inspections; Investigations: The Zoning Administrator, Building Official, or other such officers, employees, or agents as the City Council or City Administrator may designate (“enforcement officers”), shall enforce the provisions of this ordinance. Such enforcement officers shall have the power to enter upon the land and inspect all public and private places within the city and take all reasonable precautions to prevent the commission and maintenance of public nuisances. (Amended Ord. 383, 6-2-09)

4-1-4: **ABATEMENT PROCEDURES:**

- A. General Abatement: Whenever an enforcement officer determines that a public nuisance is being maintained or exists on the premises in the city, the officer shall notify, in writing, the owner and occupant of the premises of such fact and order that such nuisance be terminated and abated. The notice shall be served in person or by mail, and as to an absentee owner, addressed to the last know address of the owner. If the property is unoccupied and the owner is unknown, the notice may be served by posting of the notice on the premises upon which the nuisance is located. The notice shall describe the nuisance and the actions required to abate the nuisance and the time limit within which the nuisance must be abated. Such time limit shall be reasonable under the circumstances, but shall not be less than ten (10) days after service of the notice. If the notice is not complied with within the time specified, the enforcement officer shall report that fact forthwith to the City Council. Thereafter, the City Council, after notice and hearing, may cause or direct such action as is necessary to be taken to abate the nuisance including, but not limited to, authorizing the initiation of district court action to enforcement any abatement orders issued by the City Council.
- B. Emergency Abatement: When the enforcement officer determines that a public nuisance constitutes a serious and imminent danger to the public safety or health, the officer may summarily abate the nuisance after a reasonable attempt to notify the owner or occupant of the property. The officer shall immediately thereafter notify, in writing, the owner and/or

occupant of the premises of the action taken. The notice shall be served in person or by registered or certified mail.

- C. **Costs of Abatement:** The owner of the premises shall be liable for all costs of a general or emergency abatement by the city, including a twenty percent (20%) administrative cost. As soon as the abatement work is completed and the costs determined, the enforcement officer shall prepare a written notice to the owner, identifying all the work done and the costs and expenses involved, which shall be served upon the owner of the property in person or by registered or certified mail, addressed to the last known address of the owner. If the property is unoccupied and the owner is unknown, the notice may be served by posting of the notice on the premises. Such notice shall further provide that if the total amount is not paid to the city within sixty (60) days or within a later period of time as determined by the City upon the owner's request, the costs, expenses and maximum allowable interest shall be collected as an unpaid special assessment pursuant to Minn. Stat. § 429.101. The city may also seek to recover such costs in an action against the owners, occupants or other responsible parties. The sanctions and remedies herein are not exclusive and the city may also proceed by any legal remedy including injunction, declaratory action, criminal penalties or otherwise. (Amended Ord. 383, 6-2-09)

4-1-5: **INTERFERENCE WITH ENFORCEMENT OFFICIALS PROHIBITED:** No person shall prevent, delay or interfere with an enforcement officer while they are engaged in the performance of their duties as set forth in this chapter. (Amended Ord. 72, 10-15-1985; Amended Ord. 383, 6-2-09)

4-1-6: **VIOLATION; PENALTY:** Any person violating any provision of this chapter shall be guilty of a misdemeanor as defined by state law and subject to the penalties therefore. Each day in which such violation continues shall constitute a separate offense. (Amended Ord. 72, 10-15-1985; Amended Ord. 383, 6-2-09)

CHAPTER 2

GARBAGE, RECYCLABLES AND REFUSE

SECTION:

- 4-2-1: Purpose
- 4-2-2: Definitions
- 4-2-3: Accumulation Prohibited; Disposal Required
- 4-2-4: Prohibited Acts And Conditions
- 4-2-5: Composting
- 4-2-6: Refuse Collectors
- 4-2-7: Refuse And Recyclable Collection Requirements
- 4-2-8: Enforcement Officials; Investigations And Inspections
- 4-2-9: Immediate Health Hazards
- 4-2-10: Violation A Misdemeanor

4-2-1: **PURPOSE:** It is the purpose of this chapter to protect the public health, safety and general welfare of the citizens of the city by requiring each residential, commercial or industrial property to properly store and dispose of "garbage", "recyclables" and "refuse" as defined in this chapter. This chapter will also require that all garbage, recycling and refuse collectors operating within the city be licensed. (Ord. 102, 12-15-1992)

4-2-2: **DEFINITIONS:** For the purpose of this chapter, the terms defined in this section shall have the meanings given them as follows:

CITY HEALTH

INSPECTOR: That person or persons designated by the City Administrator to act on behalf of the city as the city's health inspector.
(Amended Ord. 383, 6-2-09)

COMPOST: Yard waste and other biodegradable matter that, under proper conditions, will be converted to a soil-like substance used as a soil.

ENFORCEMENT

OFFICIALS: The City Administrator or his/her authorized representatives, responsible for the enforcement of the provisions of this chapter. (Amended Ord. 383, 6-2-09)

GARBAGE: Animal and vegetable wastes resulting from the handling,

preparation, cooking, and consumption of food.

RECYCLABLES: Includes newsprint, corrugated cardboard and office paper, plastics, tin cans, aluminum, used motor oil, glass and other metal goods and other items identified as reusable or re-processable materials.

REFUSE: Includes garbage and rubbish.

RUBBISH: All inorganic solid wastes such as ashes and other non-reusable waste.

YARD WASTE: The garden wastes, leaves, lawn cuttings, weeds, and prunings generated at residential, commercial and industrial properties. (Ord. 102, 12-15-1992)

4-2-3: ACCUMULATION PROHIBITED; DISPOSAL REQUIRED: Every household, occupant, or owner of any residence, commercial or industrial establishment shall, in a sanitary manner, dispose of refuse and recyclables that may accumulate upon the owner's or occupant's property on a weekly basis through a collection service licensed by the city or by other methods approved by the city. Recyclables shall be collected at a minimum, every two (2) weeks. (Ord. 102, 12-15-1992; Amended. 2003 Code)

4-2-4: PROHIBITED ACTS AND CONDITIONS:

A. **Prohibited Deposits Of Refuse, Recyclables And Yard Wastes:** No person shall place any refuse, recyclables or yard wastes in any street or public place or upon any private property except in proper containers for collection, however, yard waste compost sites on private property consisting of no less than 2.5 acres shall not be required to be placed in containers for collection unless it has been demonstrated to be detrimental to public health, welfare, or safety. No person shall throw or deposit refuse, recyclables or yard waste in any body of water or in such manner as to cause litter or contamination of the environment. (Amended Ord, 383, 6-2-09)

B. **Burying Refuse:** No person shall bury any refuse in the city except in an approved sanitary landfill. (Ord. 102, 12-15-1992)

4-2-5: COMPOSTING: Composting shall be allowed only on properties where there is a single-family detached dwelling or property operated by the city as an essential service. Composting is permitted on private property if all of the

following conditions are met:

- A. Permitted Materials: Only organic materials, yard wastes and easily biodegradable, nonpoisonous garbage may be composted.
- B. Dimensions Of Compost Area: Composting shall be placed in a container or pile not to exceed fifty (50) square feet in area and shall not exceed three feet (3') in height.
- C. Location: The compost piles or containers shall be located in the rear yard and at least five feet (5') from any property line or twenty feet (20') from a side lot line if adjacent to any public street right-of-way. If a rear yard location is unavailable or impractical, the compost materials may be placed in another location approved by the City Administrator or authorized designee. (Amended Ord. 383, 6-2-09)
- D. Screening Required: All compost piles and containers shall be fully screened so as not to be visible from adjacent properties and public rights-of-way as viewed from ground level. (Amended Ord. 383, 6-2-09)
- E. Maintenance Required: Compost containers and compost materials shall be maintained so as not to create odors, rodent harborage, fire hazard and other nuisances. (Ord. 102B, 8-5-2002)

4-2-6: **REFUSE COLLECTORS:**

- A. License Required: It is unlawful to collect, haul or convey refuse from any premises in the city, other than from one's own residence, without a valid license therefore. Each such vehicle so used, except for personal disposal, must also be licensed for such activity.
- B. Application For License: The applicant for a collector's license or renewal of such license shall provide the following:
 - 1. The name and address of the owner of the collection service who is to be the licensee;
 - 2. A description of each piece of equipment proposed to be used in the collection operation;
 - 3. A schedule of services to be made to the customer including, but not limited to, proposed days of collection, and the areas of the city within which those days of collection shall occur; (Amended Ord. 383, 6-2-09)

4. A schedule of varying rates based on the volume or weight of the refuse collected shall be kept on file in the office of the City Clerk indicating the charge for each size container or other schedule of charges to be applied by the licensee (the city may designate the number of categories in regard to the size of the containers);
 5. The frequency of service to be rendered;
 6. The place to which the refuse is to be hauled;
 7. The manner in which the refuse is to be disposed;
 8. Proof of insurance as required in Subsection D of this section; and
 9. Any other information the city deems necessary.
- C. Processing Application: Applications for a license hereunder shall be submitted to the city for review and consideration. If the Council is satisfied that the public need, convenience and good order will be served thereby, it may grant a license to such applicant. (Amended Ord. 383, 6-2-09)
- D. Insurance Requirements: No license shall be issued until the applicant files with the city a current copy of the policy of public liability insurance. The public liability insurance shall be in the amount of at least one hundred thousand dollars (\$100,000.00) for injuries, including accidental death, to any one person; at least three hundred thousand dollars (\$300,000.00) for each accident; and at least fifty thousand dollars (\$50,000.00) for loss or damage to property. Every such policy shall provide that it shall not be canceled, terminated or amended for any reason without at least ten (10) days' written notice given to the city. (Ord. 102, 12-15-1992; Amended Ord. 383, 6-2-09)
- E. Term Of License: License Fee: Licenses shall be issued for a period of one year, expiring on May 31 of each year. The license fee shall be as established by ordinance and may be adjusted ¹.
- F. Suspension Or Revocation Of License: Any license issued hereunder may be revoked or suspended by the City Council if false statements have been made in the application therefore or upon failure of a licensee to comply with any state law or local ordinance. (Ord. 102, 12-15-1992; Amended Ord. 383, 6-2-09)

¹ See subsection 1-7-3A of this code.

4-2-7: **REFUSE AND RECYCLABLE COLLECTION REQUIREMENTS:**

- A. Refuse Collection Required: Each licensee shall provide weekly collection and removal of refuse from its customers' premises in the city, which normally results from day to day use of the property, except furnishings, appliances, construction waste and similar bulky waste for which individuals shall make special collection arrangements. (Amended Ord. 383, 6-2-09)
- B. Curbside Recycling: Each licensee shall provide curbside recycling to each of its customers within the city at least every two (2) weeks. Recyclables to be collected shall consist of at least four (4) broad types (plastic bottles, glass bottles, metal cans and newspaper). The licensee shall also provide to the city by July 10 and January 10 of each year, a report on the tonnage of recyclable materials collected. (Ord. 102, 12-15-1992; amd. 2003 Code; Amended Ord. 383, 6-2-09)
- C. Neat And Orderly Collections:
1. The licensee shall assure that reasonable care in transferring the contents of the containers to its vehicle is used to avoid spillage. If any spillage occurs, licensee, or its employee then performing the collections services, shall clean it immediately and completely. (Amended Ord. 383, 6-2-09)
 2. Vehicles shall be equipped with brooms and shovels for cleaning any spills associated with collecting or hauling garbage, recyclables or refuse.
 3. Collection shall be conducted in such a manner as to not create a nuisance.
 4. Upon each collection, the containers shall be completely emptied and replaced with lids in place.
- D. Hours: Collection in residential zones shall be between the hours of seven o'clock (7:00) A.M. and six o'clock (6:00) P.M. No collection whatsoever shall be permitted in residential districts on Sundays. Violation of these collection conditions shall constitute a misdemeanor.
- E. Defective Containers: Whenever a container is in poor repair, or otherwise defective so as to permit insects, vermin or rodents to enter, it shall be replaced. Notice shall be given to the owner of the defective container, which shall state that if the deficiency is not corrected, a tag shall be affixed condemning the container. It is unlawful for any person to place or deposit refuse in a condemned container. (Amended Ord. 383,

6-2-09)

F. Collection Vehicles:

1. Vehicles used by the licensee to collect or transport garbage, refuse, or recyclables over any city street shall be properly maintained and operated, and have a fully enclosed metal body which will completely contain contents so as to prevent offensive odors escaping therefrom and solids or liquids from leaking, spilling, dropping, or blowing from the vehicle. (Amended Ord. 383, 6-2-09)

4-2-8: **ENFORCEMENT OFFICIALS; INVESTIGATIONS AND INSPECTIONS:** Enforcement officials shall have the primary responsibility for the enforcement of the provisions of this chapter. The City Health Inspector may assist in the enforcement of the provisions of this chapter and, when requested by the City Administrator, shall make inspections or investigations as are necessary to determine whether an immediate health hazard exists as a result of a violation of this chapter. The findings of the City Health Inspector shall then be reported to the City Administrator. The City Health Inspector and enforcement officials may enter upon any land without consent of the owner and without being subject to any action of trespass; provided, however, that should entry into an enclosed building be necessary to perform their duties, they shall, prior to entry, obtain the consent of the owner, occupant, or person in control of such premises to enter the building. If permission cannot be obtained, a warrant to enter the building may be obtained. The City Health Inspector and enforcement officers shall carry and produce, at the request of any owner, occupant, or person in control of the premises upon which such officials request access in the performance of their duties under this chapter, identification in a form approved by the City Council. (Ord. 102, 12-15-1992; Amended Ord. 383, 6-2-09)

4-2-9: **ABATEMENT PROCEDURES:**

A. General Abatement: Whenever an enforcement official determines that a violation of the provisions of Sections 4-2-3, 4-2-4, or 4-2-5 of this chapter is being maintained or exists on premises in the city, the officer shall notify, in writing, the owner, occupant, and/or person in control of the premises of such fact and order that such violation be immediately terminated and abated. The notice shall be served in person or by mail, and as to an absentee owner, addressed to the last known address of the owner. If the property is unoccupied and the owner is unknown, the notice may be served by posting of the notice on the premises upon which the violation is located. The notice shall describe the violation and the actions required to abate the violation and the time limit within which the violation must be abated. The notice shall further state that if the

violation is not remedied within the time specified, the city will take whatever steps may be necessary to remedy the violation and that the owner, occupant, or person in control of the premises, or all of them, will be billed for the actual costs incurred by the city, including the costs of inspections. (Amended Ord. 383, 6-2-09)

B. Emergency Abatement: Should an enforcement official determine that a violation exists on any premises which may pose an immediate health hazard, the City Health Inspector, upon receiving a report describing such violation, shall make an immediate inspection or investigation of the premises to determine whether the violation presents an immediate hazard to the health or safety of any person. (Amended Ord. 383, 6-2-09)

1. If such a violation is determined to exist by the City Health Inspector, he/she shall prepare a written notice of the violation outlining. The following information:

- a. The street address of the premises where the violation exists.
- b. The name of the owners of the premises as shown on the records of the County Auditor or Treasurer.
- c. An itemized list of the conditions that constitute the violation.
- d. A statement of the actions necessary to remedy the violation.
- e. The date and time by which such violation must be corrected. Such period for correcting the violation shall be not less than two (2) hours nor more than two (2) days from the time such notice is posted as provided in this section.

2. The notice shall also state that if the violation is not remedied within the period stated, the city will take actions necessary to remedy the violation as set forth in the notice and that the owner, occupant, or person in control of the premises, or any and all of them, will be billed for the actual cost incurred by the city, including the costs of inspection.

3. The notice of violation shall be immediately posted on the premises where the violation is located, which shall constitute sufficient notice and sufficient grounds for the city to remedy the violation and charge the costs thereof to the owner, occupant, or person in control of the premises.

C. Abatement By City; Costs: If a violation is not remedied within the period stated in the notice provided to the owner, occupant and/or person in control of the premises, the City Health Inspector or enforcement official

shall arrange for immediate abatement of the condition creating the violation. As soon as the abatement work is completed and the costs determined, the City Health Inspector or enforcement official shall prepare a written notice to the owner, occupant, and/or person in control of the premises identifying all the work done and the costs and expenses involved, which shall be served upon the owner of the property in person or by registered or certified mail, addressed to the last known address of the owner. If the property is unoccupied and the owner is unknown, the notice upon him/her may be served by posting of the notice on the premises. Such notice shall further provide that if the total amount is not paid to the city within thirty (30) days, the costs, expenses and maximum allowable interest shall be collected pursuant to Minnesota Statutes Sections 443.31 and 443.29. (Ord. 102, 12-15-1992; Amended Ord. 383, 6-2-09)

4-2-10: **VIOLATION A MISDEMEANOR:** Any person, firm, or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor, as defined by state law and subject to the penalties therefore. Each day in which such violation continues shall constitute a separate offense. (Ord. 102, 12-15-1992; Amended Ord. 383, 6-2-09)

CHAPTER 3

NUISANCE TREE ABATEMENT

SECTION:

- 4-3-1: Declaration Of Policy
- 4-3-2: Natural Resources Technician (NRT)
- 4-3-3: Tree Commission (Rep. By Ord. 305, 2-24-2005)
- 4-3-4: Tree Contractors
- 4-3-5: Epidemic Disease Program
- 4-3-6: Nuisances Declared
- 4-3-7: Nuisances Prohibited
- 4-3-8: Inspections And Investigations
- 4-3-9: Abatement By City Of Epidemic Tree Disease and Hazardous Tree Nuisances
- 4-3-10: Procedure For Abatement Of Infected and Hazardous Trees And Wood
- 4-3-11: Spraying Trees
- 4-3-12: Transporting Epidemic Diseased Wood
- 4-3-13: Violation; Penalty

4-3-1: **DECLARATION OF POLICY:** The City Council has determined that the health of elm, oak, ash and pine trees within the city is threatened by fatal diseases known as Dutch elm disease, oak wilt, emerald ash borer and pine bark beetle. It has further determined that the loss of elm, oak, ash, pine and other species of trees growing upon public and private property would substantially depreciate the value of property within the city, and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the City Council to preserve shade trees as well as to control and prevent the spread of these diseases, other epidemic diseases of shade trees and hazardous trees by enacting this chapter in conjunction with the Tree Preservation Policy, Diseased Tree Removal/Sanitation Enforcement Policy and Emerald Ash Borer Management Plan/Program. (Ord. 305, 2-24-2005; Amended Ord. 462, 5-3-16)

4-3-2: **NATURAL RESOURCES TECHNICIAN (NRT):**

- A. Positions Created: The position of Natural Resources Technician is hereby created within the city. The NRT must be a Certified Tree Inspector (CTI) as determined by the Minnesota Department of Agriculture and/or Minnesota Department of Natural Resources. (Amended Ord. 462, 5-3-16)

B. Duties: It is the duty of the NRT to coordinate, under the direction and control of the Council, all activities of the city relating to the control and prevention of Dutch elm disease, oak wilt, emerald ash borer, pine bark beetle, other epidemic diseases of shade trees and hazardous trees. The NRT will be responsible for establishing and prioritizing control areas, promulgate rules, regulations, standards and specifications to be approved by the City Council, and advise the City Council of appropriate actions. (Amended Ord. 461, 5-3-16)

C. Interference Prohibited: It is unlawful for any person to prevent, delay or interfere with the NRT or designee while engaged in the performance of the duties imposed by this chapter. (Ord. 305, 2-24-2005)

4-3-3: **TREE COMMISSION:** (Rep. by Ord. 305, 2-24-2005)

4-3-4: **TREE CONTRACTORS:**

A. License Required: It shall be unlawful for any individual, partnership or corporation to conduct, as a business for profit, the cutting, trimming, pruning, removing, spraying or otherwise treating of trees, shrubs or vines in the city without first having secured a license from the city to conduct such business.

B. Application For License: Application for a license under this chapter shall be made at the office of the City Clerk. The application for a license shall be made on a form approved by the city which shows, among other things, the name and address of the applicant, the number and names of the employees of the applicant, the number of vehicles of the applicant, together with a description and license number of each, and the type of equipment proposed to be used.

C. Insurance Requirements: No license or renewal of a license shall be granted, nor shall the same be effective, until the applicant has filed with the City Clerk a certificate of insurance evidencing the holding of liability insurance and the limits required by Minnesota Statutes and proof of workers' compensation insurance. The city shall be named and the insurance provided shall include the city as an additional party insured. Said policy shall provide that it may not be canceled by the insurer except after ten (10) days' written notice to the city, and if such insurance is so canceled and licensee shall fail to replace the same with another policy conforming to the provisions of this chapter, said license shall be automatically suspended until such insurance shall have been replaced.

- D. License Fees: Fees shall be in such amounts as set forth by this code¹.
- E. Chemical Treatment Requirements: Applicants who propose to use chemical substances in any activity related to treatment or disease control of trees, shrubs or vines shall file with the City Clerk proof that the applicant or an employee of the applicant administering such treatment has been certified by the Agronomy Division of the Minnesota Department of Agriculture as a commercial pesticide applicator for category "E: Turf and Ornamentals" if the chemical and/or type of application warrants it. Such certification shall include knowledge of tree disease chemical treatment. (Ord. 305, 2-24-2005; Amended Ord. 461, 5-3-16))

¹ See section 1-7-3 of this code.

4-3-5: **EPIDEMIC DISEASE PROGRAM:** It is the intention of the Council to conduct a program of plant pest control pursuant to the authority granted by Minnesota Statutes Chapter 18G, as amended, directed at the control and elimination of Dutch elm disease, oak wilt disease, and pine bark beetle, and elimination of other tree diseases, and is undertaken at the recommendation of the Minnesota Commissioner of Agriculture. (Ord. 305, 2-24-2005)

4-3-6: **NUISANCES DECLARED:** The following are public nuisances:

- A. Any elm tree or part thereof infected to any degree with either of two (2) species of Dutch elm disease fungi, *Ophiostoma ulmi* and *Ophiostoma novo-ulmi*, or which harbors any of the elm bark beetles, *Scolytus multistriatus* or *Hylurgopinus rufipes*.
- B. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material not properly covered and sealed from which the bark has not been removed or sprayed with an effective elm bark beetle insecticide; except, that the stockpiling of uncovered bark bearing elm wood shall be permitted during the period from September 15 to April 1 of any year.
- C. Any northern red oak (*Quercus rubra*), northern pin oak (*Quercus ellipsoidalis*), black oak (*Quercus velutina*), and scarlet oak (*Quercus coccinea*), or part thereof, infected to any degree with the oak wilt disease, *Ceratocystis fagacearum*.
- D. Any white oak (*Quercus alba*), bur oak (*Quercus macrocarpa*), and swamp white oak (*Quercus bicolor*), that poses a threat of transmission of the oak wilt disease to other trees of the same species through interconnected root systems.
- E. Any diseased material of the red oak group that is potentially spore producing (PSP).
- F. Any ash tree (*Fraxinus* spp.) or part thereof, infected to any degree with emerald ash borer, *Agrilus planipennis*.
- G. Any standing pine tree infected with the pine bark beetles, *Ips pini*, *Ips perroti* or *Ips grandicollis*.
- H. Any standing dead pine tree that has been dead under one and one-half (1 1/2) years.
- I. Any exposed pine tree slash or logs cut from live trees or from trees

that have been dead under one and one-half (1 1/2) years. (Ord. 305, 2-24-2005)

- J. Any tree deemed by the Natural Resources Technician as “hazardous”. This is a tree that has structural defects in the roots, stem and/or branches, that may cause the tree to fail; where if it fell, would land within a public right-of-way or property owned by another person or entity. (Amended Ord. 461, 5-3-16)

4-3-7: **NUISANCES PROHIBITED:** It is unlawful for any person to permit the spread of a public nuisance as defined in this chapter across his or her property lines and in any specified control areas as established by the city. Such nuisances shall be abated in the manner prescribed in Section 4-3-10 of this chapter. (Ord. 305, 2-24-2005)

4-3-8: **INSPECTIONS AND INVESTIGATIONS:**

A. Annual Inspections And Investigations Required:

1. The NRT shall inspect all premises and places within the city as often as practicable to determine whether any condition described in Section 4-3-6 of this chapter exists thereon.
2. The NRT shall investigate all reported incidents of infestation of Dutch elm disease, oak wilt, emerald ash borer, pine bark beetle, other diseases of shade trees and hazardous trees as necessary to determine whether any condition described in section 4-3-6 of this chapter exists.

B. Entry Powers: The NRT or designee may enter upon private properties during standard working hours for the purpose of carrying out any of the duties assigned to them under this chapter.

C. Diagnoses:

1. The NRT shall make the initial identification of an infected area whenever possible.
2. The NRT may send appropriate specimens or samples to the Minnesota Department of Agriculture, University of Minnesota or any state certified testing lab for analysis.
3. A property owner or contractor who becomes aware of any condition described in Section 4-3-6 of this chapter shall notify the NRT within seven (7) days. (Ord. 305, 2-24-2005; Amended Ord. 461, 5-3-16)

4-3-9: **ABATEMENT BY CITY OF EPIDEMIC TREE DISEASE AND HAZARDOUS TREE NUISANCES:**

- A. No person shall allow, permit the spread of, or fail to abate a public nuisance as defined in this chapter. Such nuisances shall be abated in the manner prescribed in this chapter.
- B. The NRT shall enforce the treatment of nuisances by requiring the performance of one or more of the following tasks in order to destroy and prevent the spread of epidemic diseases of shade trees, including, but not limited to, Dutch elm disease, oak wilt, emerald ash borer, pine bark beetle and those trees deemed as hazardous. Such abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the Minnesota Department of Agriculture, Department of Natural Resources or the University of Minnesota. Abatement procedures include:
 - 1. Root graft barrier installation (vibratory plowing or trenching) at least forty eight inches (48") deep in the soil to isolate the diseased trees;
 - 2. Removal of trees;
 - 3. Stump grinding;
 - 4. Burning, chipping, debarking or properly covering and sealing the potentially hazardous wood and/or stumps;
 - 5. Fungicide injections into healthy and/or infected oaks, ash or elms with the appropriate chemical to avoid or minimize the effects of oak wilt, emerald ash borer or Dutch elm disease;
 - 6. Spraying the infected trees and/or all nearby high value trees with an effective disease destroying concentrate. (Amended Ord. 461, 5-3-16)

4-3-10: **PROCEDURE FOR ABATEMENT OF INFECTED AND HAZARDOUS TREES AND WOOD:**

- A. Nuisance Declared; Notice; Appeal: Upon the determination of conditions constituting a nuisance as described in Section 4-3-6 of this chapter located on property within the City of Andover, excluding city property, the Natural Resources Technician shall declare the existence of a public nuisance and order abatement thereof. The process used is outlined in the Diseased Tree Removal/Sanitation enforcement policy. The Natural

Resources Technician shall send written notification to the owner of the nuisance declaration and the necessary abatement procedures. A property owner who disagrees with the determination of the Natural Resources Technician may appeal the determination to the City Council. Such appeal must be filed in writing with the City Clerk and within ten (10) days of receipt of notice of the determination by the Natural Resources Technician. The City Council shall consider the appeal at the next scheduled regular City Council meeting. The City Council shall affirm, reverse or modify the determination. (Amended Ord. 461, 5-3-16)

- B. Failure To Abate; Contract For Abatement; Costs: Should a property owner fail to abate the nuisance, or be unwilling or unable to abate the nuisance, as prescribed by the Natural Resources Technician, the Natural Resources Technician or designee shall then proceed to contract for the prescribed abatement procedure as soon as possible and shall report to the City Clerk all charges resulting from the abatement procedures carried out on such private property. The City Clerk shall list all such charges along with a city administrative cost against each separate lot or parcel by September 1 of each year as special assessments to be collected commencing with the following year's taxes. Administrative costs as set by City Council ordinance shall be assessed for each parcel and shall be added to each assessment. All assessments levied for the repayment of tree disease abatement cost may be repaid over a five (5) year period. Such assessments shall be levied under authority granted by Minnesota Statutes Section 429.101.
- C. Imminent Danger Of Infestation: If the Natural Resources Technician finds that danger of infestation of epidemic diseases in shade trees is imminent, the Natural Resources Technician shall notify the abutting property owners by mail that the nuisance shall be abated within a specified time. (Ord. 305, 2-24-2005)

4-3-11: **SPRAYING TREES:** Whenever the Natural Resources Technician determines that any tree or wood within the city is infected with disease, the Natural Resources Technician may require spraying of all nearby high value trees, as determined by the Natural Resources Technician, with an effective disease destroying concentrate. Spraying activities authorized by this section shall be conducted in accordance with technical and expert opinions and plans of the University of Minnesota or the Minnesota Department of Agriculture and under the supervision of the University of Minnesota or the Minnesota Department of Agriculture, or agents thereof, whenever possible. (Ord. 305, 2-24-2005; Amended Ord. 461, 5-3-16)

4-3-12: **TRANSPORTING EPIDEMIC DISEASED WOOD:** It is unlawful for

any person to transport within the city any diseased wood that is determined to be hazardous, as described in, but not limited to, Section 4-3-6 of this chapter, without taking the appropriate precautions. All county, state and federal quarantines shall be respected, and regulated articles may not be brought into or out of the City without an approved compliance agreement with the Minnesota Department of Agriculture. (Ord. 305, 2-24-2005; Amended Ord. 461, 5-3-16)

4-3-13: **VIOLATION; PENALTY:** Any person, firm or corporation who violates any section of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a misdemeanor penalty as then defined by Minnesota law. Additionally, the city may exercise any civil remedy available under Minnesota law for the enforcement of this code including civil action, mandamus, injunctive relief, declaratory action, or the levying of assessments. (Ord. 305, 2-24-2005)

CHAPTER 4

WEEDS, GRASSES AND OTHER HARMFUL VEGETATION

SECTION:

- 4-4-1: Findings; Purpose; Nuisance Declared
- 4-4-2: Definitions
- 4-4-3: Maintenance Standards
- 4-4-4: Permitting A Nuisance; Notice Requirements
- 4-4-5: Abatement Costs
- 4-4-6: Interference With City Officials
- 4-4-7: Penalties

4-4-1: **FINDINGS; PURPOSE; NUISANCE DECLARED:** Noxious weeds and other harmful vegetation create a detriment to public health, comfort and convenience of the residents of the city as well as creating a general aesthetic depreciation. The growth of such vegetation is hereby declared to be a nuisance. The purpose of this chapter is to ensure proper maintenance of noxious weeds, vegetation and grasses. The City Council finds that establishing a height limitation for certain vegetation is in the best interest of the public health, safety and welfare and is a reasonable maintenance standard. (Ord. 219A, 10-2-2001)

4-4-2: **DEFINITIONS:** The following words shall have the meanings as specified:

GRASS: Any vegetative ground cover that does not include "noxious weeds" as defined by State Statute or "natural area" as defined by this chapter.

HEAVILY FORESTED AREA:

Any area that is impractical to maintain due to the density of trees.

NATURAL AREA:

An area that does not include noxious weeds, is purposely left to grow in a natural state and contains vegetation that can maintain itself in a stable condition.

WEED

INSPECTOR: The City Administrator or his/her designee.

WEEDS: Include all "noxious weeds" as defined by the statutes of the State of Minnesota and all such useless and troublesome plants as are commonly known as weeds to the general public. (Ord. 219A, 10-2-2001)

4-4-3: **MAINTENANCE STANDARDS:**

- A. Removal Of Noxious Weeds: All "noxious weeds", as defined by State Statute, are required to be removed within ten (10) days of notification from the city.
- B. Grass Height Requirements:
 - 1. Less Than One Acre: All properties less than one acre in size are required to maintain a uniform grass height of less than eight inches (8") with the following exceptions:
 - a. Wetlands.
 - b. Wetland buffer areas.
 - c. Storm water ponds.
 - d. Heavily forested areas.
 - e. Parks and nature preserves.
 - f. Natural area not to exceed one-quarter (1/4) lawn area.
 - g. Slopes greater than three to one (3:1).
 - 2. More Than One Acre: All properties with a lot area greater than one acre are required to maintain a uniform grass height of less than twelve inches (12") in the following areas of the property:
 - a. In "public rights-of-way" as defined in Title 8, Chapter 2 of this code.
 - b. An area thirty feet (30') in width adjacent to maintained lawns of neighboring properties. This area need not exceed the minimum front yard setback of the adjacent property.
 - c. All lawn areas within the minimum front yard setback that are

located directly in front of the dwelling. This area need not exceed one hundred feet (100') in width.

d. On corner lots, all areas within the minimum side yard setback that are adjacent to the side of the principal structure. This area need not exceed fifty feet (50') in width.

e. Exceptions to these requirements include:

(1) Wetlands.

(2) Wetland buffer areas.

(3) Storm water ponds.

(4) Heavily forested areas.

(5) Parks and nature preserves.

(6) Agricultural property.

(7) Slopes greater than three to one (3:1). (Ord. 219A, 10-2-2001)

4-4-4: **PERMITTING A NUISANCE; NOTICE REQUIREMENTS:** The weed inspector shall have the power to enter upon and inspect all public and private places within the city and take all reasonable precautions to prevent the commission and maintenance of public nuisances under this chapter. Whenever, during an inspection, it is determined that such a public nuisance is being maintained or exists the city shall notify, in writing, the owner/occupant of the premises of such fact and shall order that said nuisance be terminated and abated. The notice shall be served in person or by certified or registered mail, addressed to the last known address of the owner. If the property is unoccupied and the owner is unknown, the notice may be served by posting of the notice on the premises upon which the violation is located. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding ten (10) days from the date of said notice, within which the nuisance is to be abated. Such notice shall also state that in the event of noncompliance, abatement will be done by the city at the owner's expense. (Ord. 219A, 10-2-2001; Amended Ord. 383, 6-2-09)

4-4-5: **ABATEMENT COSTS:**

A. Liability For Costs: If the nuisance is not abated within the period stated in the notice provided to the owner, the weed inspector may arrange for

the immediate abatement of the nuisance. The owner of the premises on which such a nuisance has been abated by the weed inspector shall be personally liable for the cost to the city of the abatement, including a twenty percent (20%) administrative cost. (Amended Ord. 383, 6-2-09)

- B. Notice Of Costs: As soon as the abatement work is completed and the costs determined, the weed inspector shall prepare a written notice to the owner, identifying the work done and a tabulation of the costs and expenses involved, which shall be served on the owner of the property in accordance with the notice provisions stated in Section 4-4-4 of this chapter. Such notice shall further provide that if the total amount is not paid to the city within thirty (30) days the costs, expenses, and maximum allowable interest shall be collected as an unpaid special assessment pursuant to Minnesota State Statute 429.101. (Ord. 219A, 10-2-2001; Amended Ord. 383, 6-2-09)

4-4-6: **INTERFERENCE WITH CITY OFFICIALS:** It is a misdemeanor for any person to prevent, delay or interfere with city employees or agents of the city when they are engaged in the performance of duties set forth in this chapter. (Ord. 219A, 10-2-2001)

4-4-7: **PENALTIES:**

- A. Financial Penalty: Upon the first abatement of a nuisance, the property shall be subject only to the costs outlined in Section 4-4-5 of this chapter. An additional financial penalty will be imposed on properties that have a second nuisance abated, as determined by the City Council. Each successive nuisance abated thereafter shall be subject to a cumulative penalty per occurrence as determined by the City Council. (Amended Ord. 383, 6-2-09)
- B. Misdemeanor Penalty: Any person violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with the provisions as defined by state law. (Ord. 219A, 10-2-2001)

CHAPTER 5

PREDATORY OFFENDER RESIDENCY RESTRICTIONS

SECTION:

- 5-1-1: Findings and Purpose
- 5-1-2: Definitions
- 5-1-3: Prohibitions; Measurement of Distance; Penalties; Exceptions
- 5-1-4: Official map of prohibited locations
- 5-1-5: Restrictions Relating to Rental Property; Penalties

5-1-1: **Findings and Purpose.** Repeat predatory offenders present an extreme threat to the public safety of a community as a whole, and especially to children. Predatory offenders are likely to use physical violence and to repeat their offenses. Most predatory offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of predatory offender victimization to society at large, while incalculable, unmistakably steep.

It is the intent of this Chapter to serve the City's compelling interest to promote, protect and improve the health, safety, and welfare of citizens of the City of Andover by creating areas around locations where children regularly congregate in concentrated numbers and where certain predatory offenders are prohibited from establishing temporary or permanent residence.

5-1-2: **Definitions.** For the purpose of this Chapter, the following definitions will apply unless the context or intent clearly requires a different meaning:

DAY CARE: Any facility, public or private, licensed by the State of Minnesota or Anoka County, in which care, training, supervision, habilitation or developmental guidance for children is provided on a regular basis and for periods less than 24 hours per day.

CHILD OR CHILDREN: Any person or persons under 18 years of age, or individuals under age 21 who are in foster care.

FACILITIES

FOR CHILDREN: All public parks, parkways, park facilities, parkland, public or private schools, designated public school bus stops, libraries, group homes, foster homes, day care and child care facilities, public recreation centers, non-profit or commercial recreation

centers, public or private playgrounds, public or commercial swimming pools, public beaches, youth centers, athletic fields used by children, crisis centers or shelters, care facilities for children's skate park or rink, movie theaters, bowling alleys, facilities for children's clubs, e.g. scouting, public recreational areas and trails including conservation areas, jogging trails, hiking trails, walking trails, bicycle trails, Offices for Child Protective Services, places of assembly, and specialized schools for children, including but not limited to, tutoring, gymnastics, dance and music schools.

**DESIGNATED
PREDATORY
OFFENDER:**

Any person who has been categorized as a Level III predatory offender under Minnesota Statutes 244.052, a successor statute, or a similar statute from another state in which that person's risk assessment indicates a high risk of re-offense.

**LICENSED
CHILD CARE
FACILITY:**

Any facility, center, home or institution licensed by the State of Minnesota pursuant to Minn. Stat. 245A, where children are cared for pursuant to the requirements of a license issued by the Minnesota Department of Human Services.

**PERMANENT
RESIDENCE:**

A place where a person abides, lodges, or resides for 14 or more consecutive days. An ownership interest by the person in such residence is not required.

**PLACE OF
ASSEMBLY:**

A place of assembly, synagogue, temple, mosque, or other facility that is used for prayer by persons of similar beliefs or a special purpose building that is designated or particularly adapted for the primary use of conducting, on a regular basis, religious services and associated accessory uses by a religious congregation.

SCHOOL:

Any public or non-public educational institution providing instructional services to children, which shall include any structure, land, or facility owned, leased or used for operation of the school or school activities.

**TEMPORARY
RESIDENCE:**

A place where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year,

and which is not the person's permanent residence, or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

5-1-3: Prohibitions; Measurement of Distance; Penalties; Exceptions.

- A. Prohibited location of residence: It is unlawful for any designated predatory offender to establish a permanent residence or temporary residence within 2,000 feet of any school, day care, licensed child care facility, place of assembly, or facility for children.
- B. Prohibition present in safety zone: It is unlawful for any designated predatory offender to be present within 100 feet of any facility for children or day care facility.
- C. Prohibited activity: It is unlawful for any designated predatory offender to participate in a holiday event involving children such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or proceeding Christmas or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph.
- D. Measurement of distance: For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the property line of the permanent residence or temporary residence to the nearest outer property line of the school, day care, licensed child care facility, place of assembly, facility for children, or park.
- E. Violations: A designated predatory offender who violates this Chapter shall be deemed guilty of a misdemeanor. Each day a designated predatory offender maintains a residence in violation of this Chapter constitutes a separate violation.
- F. Exceptions: A designated predatory offender residing within a prohibited location, as herein described, does not commit a violation of this Chapter if any of the following apply:
 - 1. The designated predatory offender established the permanent or temporary residence and reported and registered the residence pursuant to Minnesota Statutes Sections 243.166 and 243.167, or a successor statute, prior to July 5, 2016 (*date of adoption of this ordinance*).

2. The designated predatory offender was a minor when he/she committed the offense and was not convicted as an adult.
3. The designated predatory offender is a minor.
4. The school, day care, licensed child care facility, place of assembly, facility for children or park within 2,000 feet of the designated predatory offender's residence was opened after the designated predatory offender established their permanent or temporary residence, and reported and registered the residence pursuant to Minnesota Statutes, Sections 243.166 and 243.167, or a successor statute.
5. The residence is also the primary residence of the designated predatory offender's parents, grandparents, siblings or spouse.
6. The residence is a property purchased, leased, or contracted with and licensed by the Minnesota Department of Corrections prior to July 5, 2016 (*date of adoption of this ordinance*).

5-1-4: **Official map of prohibited locations.** The City Administrator, or designee, shall maintain an official map showing prohibited locations of residences as defined by this Chapter. The City Administrator, or designee, shall review annually, and if appropriate, update the map to reflect any changes in the prohibited locations. The map shall not be deemed conclusive or all-encompassing since some prohibited locations change from time to time including, but not limited to, other places where children are known to congregate.

5-1-5: **Restrictions Relating to Rental Property; Penalties.**

- A. It is unlawful for a property owner to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent or temporary residence by any person prohibited from establishing such permanent or temporary residence pursuant to this Chapter if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location as set forth in Section 5-1-4 above.
- B. A property owner violating Section 5-1-5 (A) above shall be guilty of a petty misdemeanor. Each day a property owner violates Section 5-1-5 (A) above constitutes a separate violation.
- C. If a property owner discovers or is informed that a tenant is a designated predatory offender after signing a lease or otherwise agreeing to let the designated predatory offender reside on the property, the owner or

property manager may evict the offender without further liability to the offender.

- D. Violation of Section 5-1-5 may be cause to suspend or revoke the property owner's rental license.

5-1-6: **Severability.** Should any section, subdivision, clause, or other provision of this chapter be held invalid by any court of competent jurisdiction, such decision shall not affect the validity of this Title as a whole, or of any part thereof, other than the part held to be invalid.

