

CHAPTER 5
PUBLIC SAFETY

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SECTION 1

ANIMALS

Section:

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5-1-1: REPEALER: Otsego Ordinance No. 8 related to Dogs is hereby repealed in its entirety. (Ord. 2004-01, February 23, 2004)

5-1-2: DEFINITIONS: As used in this Section, unless the context otherwise indicates, the following words shall be defined to mean:

- A. **Animal.** "Animal" shall mean any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other members commonly accepted as part of the animal kingdom. Animals shall be classified as follows:
1. **Domestic.** "Domestic animals" shall mean those animals commonly accepted as domestic household pets. Unless otherwise defined, such animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.
 2. **Non-Domestic.** "Non- Domestic animals" shall mean those animals commonly considered to be naturally and not usually trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety and welfare of people. Unless otherwise defined, such animals shall include:

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

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

C. **Cat.** “Cat” shall be intended to mean both the male and female of the felidae species, commonly accepted as household pets.

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

E. **Owner.** “Owner” shall be intended to mean any person or persons, firm, company, corporation, association or other entity owning, keeping, or harboring an animal.

- F. **Animals at Large.** “At Large” shall be intended to mean off the premises (i.e. legal description of record) of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.
- G. **Animal Release Permit.** “Release Permit” shall mean a permit issued by the Animal Warden for the release of any animal confined. A Release Permit may be obtained upon payment of a fee as established by Council resolution, payment of the license fee for the animal if unlicensed, as well as payment of all costs incurred by the City in capturing, impounding and harboring the animal. The release fee shall be established from time to time by resolution of the City Council. (Ord. 2004-01, February 23, 2004)

5-1-3: DOGS AND CATS:

- A. **Running at Large Prohibited.** It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, or the parents or guardians of any such person under eighteen (18) years of age, to run at large. Dogs or cats physically restrained on a leash or using an electronic remote collar and accompanied by and under the control and direction of a responsible person shall be permitted in streets or on public land unless the City has posted an area with signs reading “Dogs or Cats Prohibited”. (Ordinance 2012-14, adopted October 22, 2012)
- B. **Cats.** Cats shall be included as within the controls established within this subsection of this Section in so far as running-at-large, pickup, impounding, boarding, and proof of anti-rabies vaccine is concerned. All other provisions of this Section shall also apply to cats unless otherwise indicated.
- C. **Vaccination.**
 - 1. All dogs and cats kept harbored, maintained, or transported within the City shall have current vaccinations given by a licensed veterinarian for rabies (with a live modified vaccine).
 - 2. A certificate of vaccination must be kept on which is stated the date of vaccination, owner’s name and address, the animal’s name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian’s signature. Upon demand made by the City Clerk or sheriff’s deputy, the owner shall present for examination the required certificates of vaccination for the animals. In cases where certificates are not presented, the owner or keeper of the animals shall have seven (7) days in which to present the certificates to the City Clerk or other designee or sheriff’s deputy. Failure to do so shall be deemed to be a violation of this Ordinance. (Ord. 2010-04, adopted April 26, 2010)

5-1-4: NON-DOMESTIC ANIMALS PROHIBITED: It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the City limits. Any owner of such an animal at the defective date of adoption of this Ordinance shall have thirty days from that date in which to remove the animal from the City after which time the City may impound as provide for in this Ordinance. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition. (Ord. 2004-01, February 23, 2004)

5-1-5: FARM ANIMALS: Farm animals shall only be kept in agricultural districts of the City or other districts as allowed in the City Zoning Ordinance and pursuant to restrictions set forth in the Zoning Ordinance. An exception shall be made to this subsection for those farm animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition. (Ord. 2004-01, February 23, 2004)

5-1-6: IMPOUNDING:

- A. **Running at Large.** Any animal running at large is hereby declared a public nuisance. Any sheriff's deputy or authorized police officer may impound any dog or other animal found found running at large and shall give notice of the impounding to the owner of such dog or other animal, if known. In case the owner is unknown, the officer shall post notice at the City Hall that if the dog or other animal is not claimed within the time period set forth in this Section, it will be sold or otherwise disposed of. Except as otherwise provided in this Section it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats, running at large. (Ord. 2010-04, adopted April 26, 2010)

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

confine the dog or other animal to the owner's property. (Ord. 2004-01, February 23, 2004)

- C. **Reclaiming Animals.** All animals conveyed to the City pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least fourteen (14) days. In case the owner or keeper shall desire to reclaim the animal from the pound, the payment of any and all maintenance cost for the animal, per day or any part of a day while the animal is in said pound shall be required. (Ord. 2010-04, adopted April 26, 2010)
- D. **Unclaimed Animals.** At the expiration of the times established in Section 5-1-6.C, if the animal has not been reclaimed in accordance with the provisions of this Section, the City's designee may let any person claim the animal by complying with all provisions of this Section, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains. (Ord. 2004-01, February 23, 2004)

5-1-7: DOG KENNELS AND CAT SHELTERS:

- A. **Definition of Kennel and Cat Shelter.** The keeping of three or more dogs and/or cats over six (6) months of age on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a "dog kennel" or a "cat shelter".
- B. **Dog Kennel and Cat Shelter as Nuisance.** Because the keeping of three or more cats or dogs on the same premises is subject to great abuse, causing discomfort to people in the area by way of smell, noise, hazard and general aesthetic depreciation, the keeping of three or more cats and/or dogs on the premises without obtaining a kennel license pursuant to applicable ordinances and the City Zoning Ordinance is hereby declared to be a nuisance and no person shall keep or maintain a dog kennel or cat shelter within the City without proper City authorization. (Ord. 2004-01, February 23, 2004)

5-1-8: NUISANCES: ANIMALS:

- A. **Habitual Barking.** It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking or crying for repeated intervals of at least three minutes with less than one minute of interruption. Such barking or crying must also be audible off of the Owner's or caretaker's premises. Repeated barking due to intentional provocation by an unrelated individual residing off the property of the Owner is not considered habitual barking for purposes of this ordinance, nor is barking related to a periodic external stimulus such as a non domestic animal, machinery or unusual activity within the vicinity of the premises.

- B. **Damage to Property.** It shall be unlawful for any person's dog or other animal to substantially damage any lawn, garden or other property (including animals), whether or not the owner has knowledge of the damage. Any animal causing damage to property may be impounded as provided in this section, or a complaint may be issued by any party aggrieved by an animal under this Section, against the Owner of the animal for prosecution under this Section.
- C. **Cleaning up Litter.** The Owner of any animal or person having the custody or the control of any animal shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner whether on their own property, on the property of others or on public property.
- D. **Other.** Any animals kept contrary to this Section are subject to impoundment. (Ord. 2004-01, February 23, 2004)

5-1-9: SEIZURE OF ANIMALS: Any sheriff's deputy, animal control officer or City designee may enter upon private property and seize any offending animal provided that any of the following exist:

- A. There is an identified complainant other than the deputy, officer or designee making a contemporaneous complaint about the animal;
- B. The deputy, officer or designee reasonably believes that the animal meets the criteria for a barking dog, cruelty, or for an animal at large as set forth in this ordinance;
- C. The deputy, officer or designee can demonstrate that there has been at least one previous complaint of a barking dog, inhumane treatment of an animal, or that the animal was at large at this address on a prior date;
- D. The deputy, officer or designee has made a reasonable attempt to contact the owner of the property and those attempts have either failed or have been ignored;
- E. The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other person authorized to have such key shall not be considered unauthorized entry;
- F. Written notice of the seizure is left in a conspicuous place if personal contact with the Owner of the dog is not possible. (Ord. 2004-01, February 23, 2004)

5-1-10: ANIMALS PRESENTING A DANGER TO HEALTH AND SAFETY OF CITY: If in the reasonable belief of a deputy, officer or designee, an animal presents an

immediate danger to the health and safety of any person including a deputy, officer or designee, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the officer may destroy the animal in a proper and humane manner. Otherwise, the deputy, officer or designee may apprehend the animal and deliver it to the pound for confinement. If the animal is later determined to be no longer a danger to the health, safety and welfare of the City, it may be released to its owner. (Ord. 2004-01, February 23, 2004)

5-1-11: DISEASED ANIMALS:

- A. **Running at Large.** No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the City, any animal which is diseased so as to be a danger to the health and safety of the City. (Ord. 2010-04, adopted April 26, 2010)
- B. **Confinement.** Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any deputy, officer or designee. The deputy, officer or designee shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in such a manner so as to be a danger to the health and safety of the City, the deputy, officer or designee shall cause such animal to be painlessly killed and shall properly dispose of the remains. The Owner or keeper of the animal killed under this Section shall be liable for all costs related to the apprehension, maintenance and disposal of the animal, plus the costs of any veterinarian examinations.
- C. **Release.** If the animal, upon examination, is not found to be diseased within the meaning of this Section, the animal shall be released to the Owner or keeper free of charge. (Ord. 2004-01, February 23, 2004)

5-1-12: BASIC CARE: All animals shall receive from their Owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in such a humane manner will be subject to the penalties provided in this Section. (Ord. 2010-04, adopted April 26, 2010)

5-1-13: BREEDING MORATORIUM: Every female dog or female cat in heat shall be confined in a building or other enclosure in such manner that it cannot come in contact with another dog or cat except for planned breeding. Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new Owner. (Ord. 2010-04, adopted April 26, 2010)

5-1-14: ENFORCING OFFICER: The City Council is hereby authorized to appoint an officer or designee to enforce the provisions of this Section. The officer may be a deputy sheriff. In the officer's duty of enforcing the provisions of this Section, he or she may from time to time, with the consent of the City Council, designate assistants. (Ord. 2010-04, adopted April 26, 2010)

5-1-15: POUND: From time to time the City Council shall designate an official pound to which animals found in violation of this Chapter shall be taken for safe treatment, and if necessary, for destruction. (Ord. 2010-04, adopted April 26, 2010)

5-1-16: INTERFERENCE WITH OFFICERS: No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs, cats or other animals and convey them to the pound while engaged in such operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this Section, or in any other manner to interfere with or hinder such officer in the discharge of his or her duties under this Section. (Ord. 2010-04, adopted April 26, 2010)

5-1-17: VIOLATIONS AND PENALTIES:

- A. **Separate Offenses.** Each day a violation of this Section is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this Section.
- B. **Misdemeanor.** Unless otherwise provided, violation of this Section shall constitute a misdemeanor punishable by a fine of up to \$1,000 or imprisonment for up to ninety (90) days.
- C. **Petty Misdemeanor.** Violations of Sections 5-1-3, 5-1-8-A, and 5-1-8.C are petty misdemeanors punishable by a fine of up to \$300 per violation. In the event that an owner commits three of the same or similar petty misdemeanor violations within a period of one year, the third violation shall be considered a misdemeanor. (Ord. 2010-04, adopted April 26, 2010)

SECTION 2

FIREARM AND HUNTING REGULATIONS

Section:

- 5-2-1 Discharge and Carrying Firearms Regulated
- 5-2-2 Definitions
- 5-2-3 Permitted Use of Firearms Within the No Discharge Zone
- 5-2-4 Permitted Use of Firearms Outside the No Discharge Zone
- 5-2-5 Prohibitions
- 5-2-6 Dangerous Weapons
- 5-2-7 Designated No Discharge Zone
- 5-2-8 Penalties

5-2-1: DISCHARGE AND CARRYING FIREARMS REGULATED:
(Ord. 95-21, July 24, 1995)

5-2-2: DEFINITIONS:

Archery Equipment: A bow and arrow used for hunting only as allowed by Minnesota Statutes 97B.035, as may be amended. (Ord. 2010-07, August 23, 2010)

Carry: The handling or transportation of a firearm concealed or otherwise outside a person's domicile.

Dangerous Weapons: Slingshot, clubs, blackjacks, spring guns, brass or metal knuckles or any knife with a switch blade which opens automatically under spring pressure with a button or release mechanism or by any other mechanical contrivance.

Discharge: The firing or shooting of any firearm.

Dismantled Firearm: Any unloaded firearm or bow which is dismantled in such a manner so as to prevent discharge.

Encased Firearm: Any unloaded firearm or bow, placed in a case which is tied or otherwise secured in the manner provided.

Fine Shot: Shot sizes F through No. 12 inclusive. (Ord. 95-21, July 24, 1995)

Firearm: Any device from which may be fired or ejected, one (1) or more solid projectiles by means of a cartridge or shell or by the action of an explosive substance; or for which the propelling force is a spring, elastic band, carbon dioxide, air or other gas or vapor and including archery equipment. (Ordinance 2011-05, adopted February 28, 2011)

Landowner: Any person, group, firm or corporation owning, leasing or legally controlling any lands within the territorial limits of the City.

Single Projectile: Any single projectile, whether contained in a metallic, paper, plastic or other cartridge including any method of loading a muzzle loader which results in a single projectile being discharged.

Suitable Backstop: Any natural or manmade barrier of sufficient mass, size, or construction to wholly contain the projectile being discharged.

Written Permission: The following information must be included: The full name, address, date of birth, and signature of the person authorized to hunt or discharge a firearm; the full name, address, and signature of the landowner. (Ord. 95-21, July 24, 1995)

5-2-3: PERMITTED USE OF FIREARMS WITHIN THE NO DISCHARGE ZONE:

The discharge or carrying of firearms that are not encased or dismantled is permitted under the following circumstances so long as no innocent party is endangered unless otherwise prohibited by State or Federal law.

- A. By law enforcement officers in the line of duty or military personnel in the line of duty or persons with a lawfully issued and currently valid “permit to carry a pistol” as defined by Minnesota Statute 624.714.
- B. By any person to resist or prevent an offense which that person reasonably believes exposes himself or another to great bodily harm or death.
- C. By a certified firearms safety training instructor while participating in a Department of Natural Resources approved firearms safety program.
- D. By any person while participating in a Department of Natural Resources approved firearm safety program. (Ord. 95-21, July 24, 1995)
- E. By any person for the destruction of diseased, injured farm animals or dangerous birds, animals and reptiles upon property defined as a farm by the Zoning Ordinance. (Ordinance 2015-08, adopted August 14, 2015)
- F. By any person on a rifle, trap, archery or target range established in accordance with the City’s Zoning Ordinance or as part of a City-sponsored activity.
- G. By any person possessing, transporting or carrying handguns as specifically allowed by State law.

- H. By any person slaughtering farm animals which they own or with the permission of the owner.
- I. By any person target practicing with a bow and arrow with target tips only, BB or pellet gun with parental supervision under the age of eighteen (18), against a suitable backstop, at least two hundred (200) feet from all buildings, unless the buildings are owned by them or unless they have the owner's permission carried on their person. Bow and arrow target practice may also take place within the confines of a building if a suitable backstop is used.
- J. By any person participating in a special hunting season, which season may not conflict with State law or regulations, established the City Council for the purpose of wildlife management. The season shall be established by the City Council when, based upon competent professional advice such as a conservation office, a season is needed to reduce an animal population. The Council may authorize the use of single projectiles as part of the special hunt regulations set forth in the resolution. (Ord. 95-21, July 24, 1995)
- K. By any person engaged in a City approved event reenacting an historic military engagement, or engaged in a periodic ceremony such as a funeral or Memorial Day observances where firearms have traditionally been discharged, provided that only blank cartridges or shells are used which make noise similar to the discharge of a firearm without the firing or ejection of solid projectiles. In the case of a historical military reenactment, the owner of the property upon which the reenactment is to occur shall notify both the City and the Wright County Sheriff of the date, time and duration of the planned reenactment at least two (2) weeks prior to the proposed event. The City may approve or disapprove the planned event at its sole discretion, or may require the owner to comply with certain provisions as conditions of approval. (Ord. 00-13, June 26, 2000)
- L. By any person issued an annual administrative archery permit to hunt specific property identified on the permit using archery equipment as allowed by State law and regulations subject to the following provisions:
 - a. The parcel or contiguous parcels owned by them or with the owner's written permission carried on their person on which the hunt occurs shall not be less than ten (10) acres in area.
 - b. The property shall not be zoned R-4, R-4A, R-5, R-6 or R-7 District a on the Zoning Map.
 - c. No person shall discharge an arrow within two hundred (200) feet of any public right-of-way, property owned by the City of Otsego, and all buildings unless owned by them or with the owner's written permission carried on their person. (Ordinance 2015-08, adopted August 14, 2015)

5-2-4: PERMITTED USE OF FIREARMS OUTSIDE THE DESIGNATED NO DISCHARGE ZONE:

In addition to the conditions set forth in Section 5-2-3, the discharge or carrying of firearms is permitted under the following circumstances so long as no innocent party is endangered unless otherwise prohibited by State or Federal law.

- A. By any person using projectiles (other than archery equipment) for target practice provided that the projectiles are stopped by a suitable backstop and provided further that the discharge occurs at least five hundred (500) feet from all buildings, unless owned by them or with the owner's written permission carried on their person.
- B. By any person hunting with a single projectile (other than archery equipment) in accordance with State and Federal regulations and provided further that the discharge occurs at least five hundred (500) feet from all buildings, unless owned by them or with the owner's written permission carried on their person.
- C. By any person hunting or target shooting with a shotgun using fine shot at least five (500) feet from all buildings, unless owned by them or with the owner's written permission carried on their person.
- D. By any person using projectiles (other than archery equipment) for target practice or hunting provided that the discharge occurs at least five hundred (500) feet from properties where farm animals are pastured or kept in an open feedlot, unless owned by them or with the owner's written permission carried on their person.
- E. By any person using projectiles (other than archery equipment) for target practice or hunting provided that the discharge occurs at least five hundred (500) feet from property lines abutting an arterial or collector street designated by the Comprehensive Plan including, but not limited to, the following roadways:
 - 1. Interstate 94.
 - 2. Trunk Highway 101.
 - 3. CSAH 39.
 - 4. CSAH 42.
 - 5. CSAH 37.
 - 6. CSAH 36.
 - 7. CSAH 19.
 - 8. Odean Avenue north of 70th Street (CSAH 37).

9. Mason Avenue between CSAH 39 and 83rd Street.
 10. 83rd Street between Mason Avenue and Marlowe Avenue.
 11. Marlowe Avenue between 83rd Street and 80th Street.
 12. 80th Street between CSAH 19 and Marlowe Avenue.
- F. By any person using projectiles (other than archery equipment) for target practice or hunting provided that the discharge occurs at least five hundred (500) feet from any property line abutting public park property (not including wildlife management areas or other State owned land on which hunting is allowed).
- G. By any person using archery equipment for hunting or target practice provided that the discharge occurs two hundred (200) feet from:
1. All buildings unless owned by them or with the owner's written permission carried on their person.
 2. Properties where farm animals are pastured or kept in an open feedlot unless owned by them or with the owner's written permission carried on their person.
 3. Any property abutting public park property (not including wildlife management areas or other State owned land on which hunting is allowed).
 4. Any roadway designated as an arterial or collector street by the Comprehensive Plan.
- H. By any person using projectiles for hunting during an established season from the water or from State public land that is within five hundred (500) feet of any building or a corral confining livestock, provided that the discharge is not in the direction of said building or corral. (Ordinance 2015-08, adopted August 14, 2015)

5-2-5: PROHIBITIONS: Except as specifically allowed in Section 5-2-3 and 5-2-4 of this Code:

- A. The discharge of a firearm is prohibited.
- B. Hunting using a firearm with a single projectile or with a BB gun is prohibited.

- C. Carrying or discharge of a firearm by any person under the age of fourteen (14) is prohibited except when accompanied by parent, adult guardian, or certified safety training instructor.
- D. The aiming of any firearm, whether loaded or not, at or towards any human being is hereby prohibited.
- E. The carrying of an uncased firearm in a motor vehicle, in a place or area open to the public, or in any private place or area unless that private place or area is owned by the person carrying the firearm or with the owner's permission is prohibited.
- F. No person shall discharge a firearm while traveling on or using a wild, scenic, or recreational river, except for the purpose of hunting during those times and in those areas in which hunting for protected animals is allowed. (Ord. 95-21, July 24, 1995)

5-2-6: DANGEROUS WEAPONS:

- A. **Weapons Prohibited.** No minor under the age of eighteen (18) shall wear under his clothes, conceal about his person, or within a motor vehicle, display in a threatening manner, or sell, offer for sale or carry or use any dangerous weapon.
- B. **Exceptions.** The prohibition of this section shall not be construed to forbid any law enforcement officer from carrying or using dangerous weapons in the proper discharge of his or her duties. (Ord. 95-21, July 24, 1995)

5-2-7: DESIGNATED NO DISCHARGE ZONE:

- A. The City Council shall cause to be published a map designating the areas within the City where no discharge is allowed as regulated by Section 5-2-3 of the City Code. Updates to this map shall be published no later than September 1st of each year or the prior map approved by the City Council and published shall remain in full force and effect. The City Council may approve by resolution reasonable modifications of the No Discharge Map, but in no case shall any discharge be allowed until the revised map has been published. Discharge in areas not designated on this map as within the No Discharge Zone is regulated by Section 5-2-3 and 5-2-5 of the City Code. (Ord. 03-29, August 25, 2003) (Ord. 2007-10, September 24, 2007) (Ord. 2008-17, September 8, 2008)
- B. Any person who violates provisions of this ordinance upon conviction shall be deemed guilty of a misdemeanor and shall be punished in accordance with the

provision for misdemeanor penalty under State law as amended, plus costs of prosecution, for each offense. (Ord. 95-21, July 24, 1995)

SECTION 3
JUVENILE CURFEW

Section:

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| 5-3-3 | Curfew Hours |
| 5-3-4 | Restrictions |
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| 5-3-8 | Severability |

5-3-1: FINDINGS AND PURPOSE:

- A. The City Council has determined that there has been an increase in juvenile crime by persons under the age of eighteen (18).
- B. The increase in juvenile crime poses a danger to the health, safety and general welfare of the juveniles and the general public.
- C. Juveniles are particularly venerable at night time hours to become victims of crime due to their inability to make critical decisions in a mature and experienced manner.
- D. While parents or guardians have the primary responsibility to provide for the health, safety and welfare of juveniles, the City of Otsego also has a substantial interest in the safety and welfare of juveniles. Moreover, the City of Otsego has an interest in preventing juvenile crime, promoting parental supervision and providing for the well being of the general public.
- E. A juvenile curfew seeks to regulate juvenile activities carried out at night time hours upon the streets and in public places and establishments where the risk of danger to juveniles can be the greatest.
- F. A curfew for those under the age of eighteen (18) will be in the interest of the public health, safety and general welfare and will aid in attaining the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of the City of Otsego. (Ord. 2007-04, May 14, 2007)

5-3-2: DEFINITIONS:

Emergency: A circumstance or combination of circumstances requiring immediate action to prevent property damage, serious bodily injury or loss of life.

Establishment: Any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

Juvenile: A minor person under the age of eighteen (18). The term does not include persons under 18 who are married or have been legally emancipated.

Guardian: An adult appointed pursuant to Minn. Stat. §525.6155 or §525.6165 who has the powers and responsibilities of a parent as defined by Minn. Stat. §525.619.

Minor: Any person under eighteen (18) years of age.

Parent: A person who is a natural parent, adoptive parent, or step-parent of another person.

Proprietor: Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Public Place: Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Remain: To loiter, linger, or stay or to fail to leave the premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

Serious Bodily Injury: A bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any body part or organ. (Ord. 2007-04, May 14, 2007)

5-3-3: CURFEW HOURS:

A. Under sixteen (16) years of age. It is unlawful for a juvenile under the age of sixteen (16) years to be present in any public place or establishment within the City of Otsego:

1. Any time between 10:00 p.m. on each day of the week and 5:00 a.m. of the following day.

- B. Age sixteen (16) or seventeen (17): It is unlawful for a juvenile under the age of sixteen (16) years to be present in any public place or establishment within the City of Otsego:
1. Any time between 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day.
 2. Any time between 12:00 a.m. on any Friday or Saturday and 5:00 a.m. on the following day. (Ord. 2007-04, May 14, 2007)

5-3-4: RESTRICTIONS: It shall be unlawful for:

- A. Any minor to remain in any public place or on the premises of any establishment within the City during curfew hours unless accompanied by a parent or legal guardian.
- B. Any parent or guardian to permit, either knowingly or by insufficient control, allow the minor to remain in any public place or on the premises of any establishment within the City during curfew hours unless accompanied by a parent or legal guardian.
- C. A proprietor or any employee of an establishment to knowingly allow a minor to remain upon the premises of the establishment during curfew hours unless accompanied by a parent or legal guardian. (Ord. 2007-04, May 14, 2007)

5-3-5: EXCEPTIONS:

- A. Juveniles shall be exempt from the restrictions established by Section 5-3-4 of this Chapter when the juvenile can demonstrate that:
 1. The juvenile was accompanied by his or her parent, guardian, or other responsible adult.
 2. The juvenile was engaged in a lawful employment activity or was going to or returning home from his or her place of employment.
 3. The juvenile was involved in an emergency situation.
 4. The juvenile was going to, attending, or returning home from an official school, religious, or other recreational activity sponsored and/or supervised by a public entity or a civic organization.
 5. The juvenile was on an errand at the direction of a parent or guardian.

6. The juvenile was engaged in interstate travel.
 7. The juvenile was on the public right-of-way boulevard or sidewalk abutting the property containing the juvenile's residence or abutting the neighboring property, structure, or residence.
 8. The juvenile was exercising First Amendment rights protected by the United States Constitution or Article I of the Constitution of the State of Minnesota.
- B. A proprietor or employee shall be exempt from the restrictions established by Section 5-3-4.C of this Chapter when the proprietor or employee can demonstrate that:
1. The proprietor or employee reasonably and in good faith relied upon a juvenile's representations of proof of age. Proof of age may be established pursuant to Minn. Stat. §340A.503, subd. 6, or other verifiable means, including, but not limited to, school identification cards and birth certificates.
 2. The proprietor or employee promptly notified the responsible law enforcement agency that a juvenile was present on the premises of the establishment during curfew hours. (Ord. 2007-04, May 14, 2007)

5-3-6: ENFORCEMENT:

- A. A law enforcement officer may not issue a citation, detain a juvenile or take a juvenile into custody based on a violation of Section 5-3-5 of this Chapter unless the law enforcement officer, after speaking with the juvenile and considering the facts and surrounding circumstances:
1. Reasonably believes that the juvenile has violated Section 5-3-5 of this Chapter; and,
 2. Reasonably believes that none of the exceptions in Section 5-3-5 of this Chapter apply.
- B. Any juvenile apprehended while violating any of the restrictions of Section 5-3-4 of this Code shall be escorted home and placed in the custody of the juvenile's parent or guardian. (Ord. 2007-04, May 14, 2007)

5-3-7: PENALTIES:

- A. A violation of Section 5-3-4.A will be prosecuted pursuant to Minn. Stat. §260B.235 and will be subject to the penalties therein.
- B. A violation of Section 5-3-5.B or C is a misdemeanor and will be subject to the penalty set forth in Minn. Stat. §609.03. (Ord. 2007-04, May 14, 2007)

5-3-8: SEVERABILITY: The terms and provisions of this ordinance are severable. If any provision of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. It is intended that this curfew ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional. (Ord. 2007-04, May 14, 2007)

SECTION 4

OPEN BURNING

Section:

| | |
|-------|-------------------------|
| 5-4-1 | Definitions |
| 5-4-2 | Open Burning Prohibited |
| 5-4-3 | Exceptions |
| 5-4-4 | Office of Fire Marshal |
| 5-4-5 | Burning Permits |
| 5-4-6 | Prohibited Materials |
| 5-4-7 | Responsibility |
| 5-4-8 | Criminal Penalty |

5-4-1: DEFINITIONS:

Burning Permit: A written permit issued by the City Fire Marshal authorizing fires exempted from the general provision hereof, and setting conditions therefore.

Control Equipment: Control equipment shall mean any device, approved by the Minnesota Pollution Control Agency, which has the function of controlling or abating the emission of air contaminants to the atmosphere.

Fire Marshal: The Fire Chief, Fire Marshal, and Assistant Fire Marshals of the Fire Department which provides fire protection services to the City or other contracted person providing services to the City.

Open Burning: Burning any matter whereby the resultant combustion products are emitted directly to the open atmosphere without passing through any adequate control equipment.

Person: Defined in Minnesota Statutes Section 116.06, Subd. 8.

Recreational Fire: A fire set with approved starter fuel no more than three feet in height, contained within the border of a "recreational fire site" using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created. No more than one recreational fire is allowed on any property at one time.

Recreational Fire Site: An area of no more than a three foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-

combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only an which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a “recreation fire site” as defined herein. (Ordinance 2011-03, adopted January 24, 2011)

5-4-2: OPEN BURNING PROHIBITED: From and after the effective date of this ordinance, except as herein otherwise provided, open burning shall be prohibited within the City of Otsego. (Ordinance 2011-03, adopted January 24, 2011)

5-4-3: EXEMPTIONS: Open burning of the types and subject to the conditions, as hereinafter stated, shall be exempt from the prohibition of Section 5-4-2 of this Ordinance.

A. Recreational fires subject to the following:

1. Recreational fire sites shall not be located closer than twenty (20) feet to any structure.
2. Recreational fires shall be limited to the burning of the following materials:
 - a. Dry, untreated, unpainted, kindling, branches, cardboard or charcoal fire starter may be used as starter fuels. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution must be used to start an open burn.
 - b. Dry, clean wood only such as twigs, branches, limbs, “presto logs,” charcoal, cord wood or untreated dimensional lumber but does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into lengths of not more than (3) feet.

B. Fires under managed supervision for which a written burning permit has been first obtained from the City Fire Marshal, where necessary, but limited to the following:

1. Fires purposely set for the instruction and training of public and industrial fire fighting personnel.
2. Fires set for the elimination of a fire hazard which cannot be abated by any other practicable means.

3. Fires purposely set for forest and game management purposes.
 4. The burning of trees, brush, grass and other vegetable matter in the clearing of land, the maintenance of street, road and highway right-of-way, and in accepted agricultural land management practices.
 5. Any exemption hereafter adopted by the Pollution Control Agency.
- C. Exemption to conduct fire under this section does not excuse a person from the consequences, damages or injuries which may result there from nor does it exempt any person from regulations promulgated by the governmental unit exercising jurisdiction in matters of pollution in accordance with Section 5-4-7 of the City Code. (Ordinance 2011-03, adopted January 24, 2011)

5-4-4: OFFICE OF FIRE MARSHAL: The Fire Marshal and one or more Deputy Fire Marshals may be appointed by the City Council and shall serve at the pleasure of the City Council and subject to its direction and control. (Ordinance 2011-03, adopted January 24, 2011)

5-4-5: BURNING PERMIT REQUIRED:

- A. No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire as defined in Section 5-4-3.A of this Chapter.
- B. Applications for a burning permit under this Chapter shall be processed in accordance with Minnesota Statutes 88.17 as may be amended.
- C. It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Wright County Sherriff's Office, Fire Department, MPCA representative or DNR forest officer.
- D. The open burning permit is subject to revocation at the discretion of DNR forest officer, Fire Marshal, Wright County Sherriff's Office or Fire Warden for reasons including, but not limited to, a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.
- E. If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical alternative method for disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of

the Fire Marshal, these officers may deny the application for the open burn permit. (Ordinance 2011-03, adopted January 24, 2011)

5-4-6: PROHIBITED MATERIALS:

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

5-4-7: RESPONSIBILITY: Those starting an open burn or recreational fire allowed under this Section shall be responsible for:

- A. Prior to starting an open burn or recreational fire, confirmation is required that no burning ban or air quality alert is in effect. Every open burn or recreational fire event shall be constantly attended by the burning permit holder, the person starting the recreational fire or their competent representative.
- B. The open burn or recreational fire shall be completely extinguished before the burning permit holder or the person starting the recreational fire or their representative leaves the site. No fire may be allowed to smolder with no person present. (Ordinance 2011-03, adopted January 24, 2011)

5-4-8: CRIMINAL PENALTY: Any person violating the provisions of this ordinance shall be punished as defined by State law or the City Code. (Ordinance 2011-03, adopted January 24, 2011)

SECTION 5
ADDRESS DISPLAY

Section:

- 5-5-1 Compliance
- 5-5-2 Penalties
- 5-5-3 Severability

5-5-1: COMPLIANCE:

- A. **Display.** All houses and principal buildings in the City of Otsego shall display those numbers assigned to them by the City of Otsego.
- B. **Location and Size.** Numbers shall be displayed on the houses or principal buildings in numerals not less than four (4) inches high and of contrasting color to the background.
- C. **Clearly Visible.** Numbers shall be clearly visible from the nearest street.
- D. **Mail Boxes.** In those cases where the principal building is obscured from the view from the street of address by accessory buildings, trees, shrubbery or other visual obstruction, the numbers shall be displayed on the mail box in numerals not less than two (2) inches high, of a light reflective material, and of contrasting color to the background.
- E. **Posted Signs.** In those cases where the principal building is obscured from the view from the street address by accessory buildings, trees, shrubbery or other visual obstruction, and the residence does not have a mail box, the numbers shall be displayed from a permanent mounting on the property, clearly visible from the street, displayed prominently in numerals not less than four (4) inches high of light reflective material of contrasting color to the background. (Ord. 91-05, Jan. 28, 1991)

5-5-2: PENALTIES: Every person convicted of a violation of the provisions of this ordinance shall be guilty of a misdemeanor and shall be subject to those penalties contained in the State Statutes as now exists, or is later amended, plus the costs of prosecution. (Ord. 91-05, Jan. 28, 1991)

5-5-3: SEVERABILITY: Should any section, subdivision, clause or other provision of this ordinance be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part held to be invalid. (Ord. 91-05, Jan. 28, 1991)

SECTION 6

EMERGENCY RESPONSE SERVICES

Section:

- 5-6-1 Purpose
- 5-6-2 Definitions
- 5-6-3 Fire Service Charges
- 5-6-4 False Alarm Charges
- 5-6-5 Appeal of Service Charges

5-6-1: PURPOSE: This Ordinance is adopted for the purpose of authorizing the City of Otsego to establish and charge user service fees for emergency response services as described in this Section. (Ordinance 2011-06, adopted February 28, 2011)

5-6-2: DEFINITIONS: The following terms are hereby defined for the purposes of this Section:

Building, Commercial, Industrial or Institutional. Any structures that are used or intended either by the nature of their construction or by allowed zoning and any conditional use permits, interim use permits or business licenses issued to be used for commercial, industrial or institutional purposes; rental housing of any type is considered to be commercial for the purposes of this Section.

Building, Residential. Any structure that is used or intended by the nature of its construction to be used by persons for living and sleeping quarters and also outbuildings, barns and other structures which are not defined as commercial, industrial or institutional buildings by this Section, but shall not include hotels, motels, or other buildings intended primarily for transient lodging.

False Alarm. The unintended activation of an alarm system through mechanical or electronic failure, malfunction, improper installation, or the negligence of the alarm user, their employees or agents; an alarm is a false alarm within the meaning of this definition when, upon inspection by the police department, evidence indicates that no unauthorized entry, robbery, or other such crime was committed or attempted in or on the premises which would have activated a properly functioning alarm system.

Fire Service. Any deployment of fire fighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life, or property in an area threatened by fire and also including the deployment of fire fighting personnel and/or equipment to provide fire suppression, rescue, extrication, or any other services related to fire and rescue as may occasionally occur; deployment as defined herein constitutes fire service regardless of whether these services are actually performed.

Fire Department. The fire department(s) established by the City or contracted to provide service within the City of Otsego including departments that provide services pursuant to mutual aid agreements.

Fire Service Charge. The charge imposed by the City for receiving fire service.

Vacant Parcel. Any property parcel that does not include any building improvements. (Ordinance 2011-06, adopted February 28, 2011)

5-6-3: FIRE SERVICE CHARGES:

- A. The collection of fire service charges for fire service shall be pursuant to Minnesota Statute §366.011 and §415.01 and any other applicable statute.
- B. Said fees shall be established at a fixed rate for certain types of incidents or for actual costs incurred by the Fire Department for Mutual Aid in providing the fire service as set forth in Section 2-4-2.H of the City Code.
- C. For fire services for which the actual costs incurred by the Fire Department in responding to the incident is charged, the fees shall include, but shall not be limited to, actual manpower costs for all personnel that respond to the incident (minimum of 1 hour) and the cost on a per hour basis for each fire apparatus or other city mechanical equipment that responds to the incident (minimum of 1 hour per unit).
- D. When a particular service rendered by the Fire Department directly benefits more than one person or property, the owner of each property so benefited and each person so benefited (where the property protection only is not involved) shall be liable for the payment of the full charge for such service to their respective property as hereinbefore outlined.
- E. Fire service charge shall be paid within thirty (30) days of billing by the City; if the service charge is not paid by that time, it will be considered delinquent and the City Clerk will send notice of delinquency.
- F. If the fire service charge remains unpaid for thirty (30) days after the notice of delinquency is sent, the City will use all practical and reasonable legal means to collect the service charge including the provisions of Minn. Stat. § 366.012. The party receiving the service shall be liable for all collection costs incurred by the City including, but not limited to, administrative costs, attorneys fees, recording fees and court costs. (Ordinance 2011-06, adopted February 28, 2011)

5-6-4: FALSE ALARMS:

- A. Any false alarm call to an individual or business that, in the opinion of the Fire Chief having jurisdiction over the area, the County Sheriff or the City Administrator, was the result of a defective or malfunctioning alarm system will receive a notice outlining the terms and conditions of this Ordinance.
- B. More than three (3) alarms at the same property within in a calendar year that are found to be false alarms is excessive, constitutes a public nuisance, and shall be a violation of the City Code.
- C. Charges imposed upon the property owner for response to a false alarm violating this Section shall be established in Section 2-4-2.H of the City Code.
- D. Any unpaid service charge against a property or individual for a false alarm not paid in full within thirty (30) days of the date of billing shall be placed as a special assessment against the property pursuant to Minnesota Statutes 429.101, after proper notice and hearing. (Ordinance 2011-06, adopted February 28, 2011)

5-6-5: APPEAL OF SERVICE CHARGES: Any party aggrieved by a charge authorized in this Section may appeal the charge to the City Council as follows:

- A. Within the time period for which a bill is payable, the party shall file a written request with the City Clerk setting forth specific reasons why the charge is improper.
- B. The City Clerk shall notify the aggrieved party, in writing, of the time, place and date the City Council will hold a hearing on the issue.
- C. The City Council may grant relief on appeal if it finds good cause and sufficient proof including but not limited to any unique circumstances that may exist in a particular case and history of alarms coming from a particular property, and whether the property is a residential, commercial, industrial or institutional building and the scope of services provided.
- D. The City Council may extend the time for payment for a period it deems reasonable. (Ordinance 2011-06, adopted February 28, 2011)

SECTION 7

PROPERTY MAINTENANCE

Section:

| | |
|--------|---|
| 5-7-1 | Definitions |
| 5-7-2 | Snow, Ice, Dirt, and Rubbish Removal |
| 5-7-3 | Yard and Boulevard Maintenance |
| 5-7-4 | Public Health and Safety Hazards |
| 5-7-5 | Reserved |
| 5-7-6 | Repair of Sidewalks and Alleys |
| 5-7-7 | Street Sprinkling, Street Flushing, Tree Care, etc. |
| 5-7-8 | Reserved |
| 5-7-9 | Personal Liability |
| 5-7-10 | Assessment |
| 5-7-11 | Penalty |
| 5-7-12 | Separability |

5-7-1: DEFINITIONS: The following terms shall be defined as follows for the purposes of this Section: (Ord. 2009-03, Apr. 27, 2009)

A. Boulevard:

1. Rural Streets: The public right-of-way lying between the outside line of the area maintained by the City for roadway purposes by right-of-way or prescriptive easement and the edge of the paved or unpaved roadway surface, including shoulders.
2. Urban Streets: The public right-of-way lying between the property line and sidewalk, and between the sidewalk and the roadway, or where no sidewalk exists, between the property line and the roadway.

B. Current Service. One or more of the following: snow, ice or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in Minnesota Statutes, Section 463.15 to 463.26; installation or repair of water service lines; street sprinkling, street flushing, light street oiling, or other dust treatments of streets, repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected streets from the public streets or private property the operation of a street lighting system, the operation and maintenance of a fire protection system or pedestrian skyway system.

C. Natural Landscaping. Any land managed to preserve or restore native Minnesota grasses, forbs, native trees, shrubs, wildflowers and aquatic plants.

- D. Natural Landscaping Permit. A permit issued by the City pursuant to this Section allowing an owner or occupant to cultivate native Minnesota grasses, forbs, native trees, shrubs, wildflowers and aquatic plants upon his/her property, subject to the restrictions of this Section.
- E. Natural Landscaping Maintenance Plan. A document submitted with an application for a Natural Landscaping Permit demonstrating a precise course of maintenance for numerous individual plants in a landscape over months and seasons.
- F. Noxious Weed. An annual, biennial or perennial plant that the State of Minnesota designates to be injurious to public health, the environment, public roads, crops, livestock or other property.
- G. Undesirable Plant. A non-noxious species that is classified as exotic, invasive, injurious or poisonous including but not limited to, broadleaf and grass weeds.
- H. Turf Grass. Cultivated vegetation consisting of a highly maintained surface of dense grass underlain by a thick root system.

5-7-2: SNOW, ICE, DIRT, AND RUBBISH REMOVAL:

- A. All snow, ice, dirt, and rubbish remaining on a public sidewalk more than twelve (12) hours after its deposit thereon is a public nuisance. The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep such walk safe for pedestrians. No such owner or occupant shall allow snow, ice, dirt, or rubbish to remain on the walk longer than twelve (12) hours after its deposit thereon. (Ordinance 91-12, adopted July 22, 1991)
- B. No person shall throw, deposit, place or dump any snow, ice, dirt or rubbish or any other material or substance that may injure any person or vehicle or otherwise obstruct travel upon any City street, including movement of such materials or substances across the roadway for the purpose of depositing it within boulevard or ditch portion the public right-of-way. (Ordinance 2013-02, adopted January 28, 2013)

5-7-3: YARD AND BOULEVARD MAINTENANCE

- A. Purpose. The purpose of this Section is to establish minimum standards for lawn and yard maintenance while recognizing that a variety of landscapes within a community adds diversity and richness to the quality of life for all residents. Turf grass lawns continue to be recognized as the dominant feature in the

landscape; however, alternatives to this traditional type of lawn are recognized as important parts of a diverse and successful landscape.

B. General Requirements.

1. The owner or occupant of any lot or parcel shall install and maintain turf grass or combined ground cover of cultivated vegetation, garden, hedges, trees and shrubbery. All plants shall be alive, of good quality, and disease free or shall be replaced or removed unless dormant due to season or exceptional weather conditions.
2. Plantings shall be maintained so as not to present hazards to adjoining properties or to persons or vehicles traveling on public ways and shall be maintained so as to enhance the appearance of the property on which located and thereby the appearance of the neighborhood and the City.
3. The owners or occupant of any lot or parcel shall be responsible for lawns and the boulevard portion of the public right-of-way to be maintained to a height not to exceed eight (8) inches.
4. Irrigation.
 - a. Properties within agricultural and residential zoning districts established by Section 20-50-1 of the Zoning Ordinance developed after April 27, 2009 with two family, townhouse or multiple family dwelling units or institutional uses shall provide an exterior in ground irrigation system within the property and the boulevard portion of the public right-of-way abutting the property where necessary to ensure that all turf grass, ground cover of cultivated vegetation, garden, hedges, trees and shrubbery maintenance can be accomplished.
 - b. Properties within business, industrial and institutional districts established by Section 20-50-1 of the Zoning Ordinance developed after April 27, 2009 shall provide an exterior in ground irrigation system within the property and the boulevard portion of the public right-of-way abutting the property where necessary to ensure that all turf grass, ground cover of cultivated vegetation, garden, hedges, trees and shrubbery maintenance can be accomplished.

C. Plants Prohibited.

1. The owners and occupants of all property within the City shall destroy all of the following plants listed on the prohibited noxious weeds list established by Minnesota State Statue, Chapter 18, Sections 18.75 –

18.88 and Minnesota Rules, parts 1505.0730 – 1505.0760, which include the following:

- a. Garlic Mustard, *Alliaria petiolata*
 - b. Hemp, *Cannabis sativa*
 - c. Bull Thistle, *Cirsium vulgare*
 - d. Musk Thistle, *Carduus nutans*
 - e. Plumeless Thistle, *Carduus acanthoides*
 - f. Canada Thistle, *Cirsium arvense*
 - g. Field Bindweed, *Convolvulus arvensis*
 - h. Leafy Spurge, *Euphorbia esula*
 - i. Perennial Sowthistle, *Sonchus arvensis*
 - j. Poison Ivy, *Toxicodendron radicans**
 - k. Purple Loosestrife, *Lythrum salicaria, virgatum*
- * *Native species to Minnesota.*

2. Any property subject to Section 5-7-3.B of this Section containing dead or diseased plants, secondary noxious weeds as established by Minnesota Rule 1505.0740, or undesirable plants or turf grass growing to a height in excess of eight (8) inches shall be in violation of the provisions of this Section and deemed a nuisance.

D. Boulevard Plantings.

1. A property owner in the City shall be permitted to plant and maintain trees and gardens on the boulevards abutting their property along local streets defined by the Comprehensive Plan.
2. No boulevard shall be planted without written documentation that the property owner has contacted “Gopher State One Call” to determine location of sewer and water mains, laterals and service and other underground utility lines forty-eight (48) hours before digging.
3. Trees installed after April 27, 2009:
 - a. Trees shall be deciduous of the type authorized by Section 20-16-7 of the Zoning Ordinance.
 - b. Tree shall not be planted within ten (10) feet of any sewer or water line or driveway or within two (2) feet of any gas, electric or telephone lines underground.
 - c. Trees shall be planted a minimum of three (3) feet from the back of curb or edge of shoulder of a public street.

- d. Tree limbs shall be maintained to provide a minimum fourteen (14) feet of clearance for the nearest vehicle lane on a public street and eight (8) feet of clearance along public sidewalks.
4. Plantings other than trees allowed by Section 5-7-3.D.3 of this Section installed after April 27, 2009:
- a. Plantings may include flowers, vegetables and other plants, but in no event shall any noxious weed be planted or maintained.
 - b. Plantings may not exceed thirty-six (36) inches in height. Plantings within thirty (30) feet of any intersection (as measured from the property line) or within twenty (20) feet of any alley, or driveway approach (as measured from the end of the radius, or within five (5) feet of a public utility fixture or street curb may not exceed twelve (12) inches in height.
 - c. Plantings shall be limited to twelve (12) inches in height within ten (10) feet of the curb on street sections that do not have parking lanes, or along on street sections where “no parking” restrictions of any kind apply.
5. Plantings must be maintained in such a way that there is no overhang or encroachment onto the sidewalk, curb or street area.
6. Notwithstanding the foregoing, all boulevards remain public property and are subject to the right of the City to restrict any plantings and/or private irrigation systems that are deemed to interfere with the use of the public right-of-way as determined necessary by the City or which affects the safety of pedestrians and motorists alike:
- a. The City and other right-of-way users allowed by Chapter 6, Section 6 of the City Code shall have the right to perform necessary work to plant, trim and otherwise maintain trees, to access utilities and to store excess snow.
 - b. In the event the City or other right-of-way user interferes with boulevard plantings or private irrigation in the course of such work, they shall be responsible only to restore the boulevard to the original grassy state by use of black dirt and grass seed.
 - c. In no event shall the City or other right-of-way user be liable for any damage to, disruption of or removal of plantings, either direct or indirect, as a result of the City, its employees, agents or contractors performing any installation, maintenance or repairs.

- E. Natural Landscaping. Any owner or occupant of a lot or parcel within the R-4A, R-4, R-5, R-6, R-7 or R-MH Districts established by the Zoning Ordinance that is subject Section 5-7-3.B of this Section desiring natural landscaping as defined by this Section may apply for a natural landscaping permit, where native grasses and forbs may exceed eight (8) inches in height, subject to the review and approval by the Zoning Administrator, provided that:
1. An application for a natural landscaping permit shall be submitted on the form provided by the City and shall include the required application fee established by Section 2-4-2 of the City Code and the following information:
 - a. Statement of intent and purpose in cultivating natural landscaping.
 - b. A site plan drawn to scale illustrating the following information:
 1. Lot lines.
 2. Location of principal and accessory buildings.
 3. Any drainage and utilities easements upon the property.
 4. Boundaries of wetlands, wetland buffers, required buffer yards, stormwater basins, drainageways or public waters within the property.
 5. Location of the proposed natural landscaping.
 - c. Latin and common names of the species the property owner or occupant plans to cultivate.
 - d. Name and address of a Professional Landscaping Company which has been hired to perform maintenance on the natural landscaping; or the name, address, and qualifications of the person(s) who will be responsible for maintenance of the natural landscaping.
 - e. A maintenance plan, which shall contain the following:
 1. Planting diagram showing the location and mature height of all specimens of natural landscaping; and,
 2. Detailed information on the upkeep of each specimen; and,
 3. Details of any long-term maintenance required for natural landscaping.

- f. Other information as may be required by the Zoning Administrator.
2. Maintenance of Setbacks and Drainage Swales.
 - a. Natural landscaping shall be setback ten (10) feet from any lot line abutting a public right-of-way and five (5) feet from interior side and rear lot lines.
 - b. All stormwater basins and drainage swales shall be free of plantings and maintained in accordance with Section 5-7-3.B of this Section.
 - c. In addition, a five (5) percent area exclusive of the setback area shall be left open for maintained paths.
 3. Review and Approval.
 - a. The Zoning Administrator shall review the natural landscaping permit list of all registered natural landscaping properties within thirty (30) days of the submittal and notify in writing the owner or occupant of any noncompliance of this subsection.
 - b. The Zoning Administrator shall approve no natural landscaping for any owner or occupant having unresolved City code violations or administrative citations.
 4. Revocation.
 - a. The Zoning Administrator shall regularly inspect any property holding a natural landscaping permit for compliance with the maintenance plan on file with the City.
 - b. For any property out of compliance with the maintenance plan shall be subject to enforcement action as provided for Section 5-7-3.G of this Section.
- F. Composting. Composting shall be allowed on agricultural properties, properties where there is a single family detached dwelling or on property owned or operated by the City as an essential service in conformance with the following standards:
1. Permitted Composting Materials. Only yard waste, straw, fruit, vegetable scraps, coffee grounds or egg shells generated on the site are permitted composting materials as well as commercially available ingredients specifically designed to speed up or enhance decomposition and can be placed in the composting structure.

2. Prohibited Composting Materials. The following materials shall not be placed in the composting structure: woody yard waste, meat, bones, fat oils, whole eggs, dairy products, unshredded branches or logs, weeds heavily loaded with seeds, plastics, synthetic fibers, human or pet wastes, diseased plants, or any other garbage or refuse except those permitted in Section 5-7-3.F.1 of this Section.
3. Composting Structure. All composting materials shall be contained in a structure constructed of wood, wire mesh, a combination of wood and wire or in commercially fabricated compost bins design to contain composting materials subject to the following:
 - a. One (1) composting structure shall be allowed per lot.
 - b. Composting structures shall not exceed a total of three hundred (300) cubic feet in volume.
 - c. Location.
 1. The composting structure shall be located in the rear yard of the property as defined by the Zoning Ordinance
 2. The composting structure shall comply with setbacks applicable to the property for accessory structures established by the Zoning Ordinance.
 3. The composting structure shall be a minimum of forty (40) feet from any habitable building on abutting properties.
4. Maintenance. Standard compost management shall be used to enhance rapid biological degradation of the material to prevent combustion and objectionable odors, including aeration, adding moisture and providing a balance of composting materials.
5. The composting or operation of composting structure in a manner that not compliant with the provisions of this section or that results in objectionable odors shall be a public nuisance and a violation of this Section.

G. Exceptions.

1. Fence lines and open pastures within agricultural zoning districts defined by Section 20-50-1 of the Zoning Ordinance or other properties being actively farmed shall be exempt from the provisions of Section 5-7-3.B.1.b of this Chapter.

2. Outlots platted with in subdivisions zoned R-C, Residential Rural Cluster Open Space District and designated as permanent open space in accordance with Section 20-60-7 of the Zoning Ordinance shall be exempt from the provisions of Section 5-7-3.B.1.b of this Chapter.
3. Outlots and Undeveloped Parcels.
 - a. The outlot or undeveloped parcel(s) shall be planted with a seed mixture approved by the Zoning Administrator and maintained to prevent growth of noxious weeds prohibited by Section 5-3-7.C.1 of this Section. (Ord. 2009-03, Apr. 27, 2009)
 - b. For an outlot or undeveloped parcel(s) consisting of:
 1. A contiguous tract of less than one (1) acre shall be exempt from Section 5-7-3.B.3 of this Chapter and shall maintained to a height not to exceed twelve (12) inches provided that a physical barrier exists to separate the parcel from adjacent properties.
 2. A contiguous tract of one (1) acre or more shall be exempt from Section 5-7-3.B of this Chapter if a physical barrier exists to separate the parcel from adjacent properties.
 3. A transition strip of land measuring ten (10) feet on that property that is maintained in compliance with Section 5-7-3.B.3 of this Chapter is required next to the abutting properties if a physical barrier separating the properties does not exist. (Ord. 2010-06, August 9, 2010)
 - c. For the purposes of this Section, a physical barrier shall meet one of the following criteria:
 1. The properties are separated by a public right-of-way, wetland, water body, floodplain, public open space, park or other such similar publicly reserved and development restricted area with a minimum width of thirty (30) feet across its entire length.
 2. The abutting land use is a nonresidential use allowed in the district in which it is located. (Ord. 2009-03, April 27, 2009)
 - d. The Zoning Administrator may, at their discretion, provide additional exceptions from the requirements of Section 5-7-3.B.3 of this Chapter where the physical characteristics and conditions of the outlot or undeveloped parcel(s) make property maintenance

prohibitive or where such actions may result in erosion. (Ordinance 2015-12, December 14, 2015)

4. Any privately or publicly owned land encumbered by a stormwater basin, drainageway, wetland, wetland buffer or public water shall be exempt from Section 5-7-3.B of this Section.
5. Parks, natural areas and other properties owned by the City of Otsego shall be exempt from this Section.
6. Public rights-of-way maintained by the State, County or City shall be exempt from Section 5-3-7.B of this Section.
7. Natural Landscaping approved in accordance with Section 5-7-3.E of this Section. (Ord. 2009-03, April 27, 2009)

H. Enforcement.

1. On or before May 15 of each year and at such other times as ordered by resolution of the City Council, the City Clerk shall publish once in the official newspaper a notice directing owners and occupants of property within the City to destroy all plantings declared by Section 5-7-3.C. of this Section to be a nuisance and stating that if not destroyed within ten (10) days after publication of the notice, the City may act to abate the nuisance.
2. If the owner or occupant of any property in the City fails to comply with an Administrative Notice issued in accordance with Section 2-5-3 of the City Code for a property maintenance violation of this Section within ten (10) days after its issuance, the Zoning Administrator shall order cutting and/or removal of such weeds and maintain a record showing the cost of such work attributable to each separate lot and parcel and shall deliver such information to the City Clerk. (Ord. 2010-06, August 9, 2010)

5-7-4: PUBLIC HEALTH AND SAFETY HAZARDS: When the City removes or eliminates public health or safety hazards from private property under Chapter 5, Section 8 of the City Code, the City's Nuisance Ordinance, the administrative officer responsible for doing the work shall keep a record of the cost of such removal or elimination against each parcel of property affected and annually deliver such information to the City Clerk. This section does not apply to hazardous buildings under the hazardous building law, Minnesota Statutes, Sections 463.15 to 463.26. (Ord. 91-12, July 22, 1991)

5-7-5: RESERVED

5-7-6: REPAIR OF SIDEWALKS AND ALLEYS:

- A. The owner of any property within the City abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians.
- B. The authority designated by the City Council shall make such inspections as are necessary to determine that public sidewalks and alleys within the City are kept in repair and safe for pedestrians or vehicles. If he finds that any sidewalks or alley abutting on private property is unsafe and in need of repairs, he shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property and the occupant, if the owner does not reside within the City or cannot be found therein ordering such owner to have the sidewalk or alley repaired and made safe within fourteen (14) days and stating that if the owner fails to do so, the authority designated by the City Council will do so on behalf of the City, that the expense thereof must be paid by the owner, and that if unpaid it will be made a special assessment against the property concerned.

If the sidewalk or alley is not repaired within fourteen (14) days after receipt of the notice the authority designated by the City Council shall report the facts to the Council and the Council shall by resolution order said authority to repair the sidewalk or alley and make it safe or order the work done by contract in accordance with the law. The authority designated by the City Council shall keep a record of total cost of the repair attributable to each lot or parcel or property and report such information to the City Clerk. (Ord. 91-12, July 22, 1991)

5-7-7: STREET SPRINKLING, STREET FLUSHING, TREE CARE, ETC.:

- A. The Council shall each year determine by resolution what streets and alleys shall be sprinkled or flushed, oiled, or given other dust treatment during the year and the kind of work to be done on each. The Council shall also determine by resolution from time to time the streets on which trees shall be trimmed and cared for, the kind of work to be done, and what unsound trees shall be removed. Before any work is done pursuant to either of these resolutions, the Clerk shall, under the Council's direction, publish notice that the Council will meet to consider such projects. Such notice shall be published in the official newspaper at least once no less than two (2) weeks prior to such meeting of the Council and shall state the date, time, and place of such meeting, the streets affected and the particular projects proposed, and the estimated cost of each project either in total or on the basis of the proposed assessment per front foot or otherwise.
- B. At such hearing or at any adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed projects. The

Council shall thereupon adopt a resolution confirming the original projects with such modifications as it considers desirable and shall provide for the doing of the work by day labor through the authority designated by the City Council or by contract.

The authority designated by the City Council shall keep a record of the cost and the portion of the cost properly attributable to each lot and parcel of property abutting on the street or alley on which the work is done and shall report such information to the City Clerk. (Ord. 91-12, July 22, 1991)

5-7-8: RESERVED (Ord. 2008-22, November 24, 2008)

5-7-9: PERSONAL LIABILITY: The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of such service. As soon as the service has been completed and the cost determined, the City Clerk, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable to the office of the City Clerk. (Ord. 91-12, July 22, 1991)

5-7-10: ASSESSMENT: On or before September 1 of each year, the Clerk shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable under this ordinance. After notice and hearing as provided in Minnesota Statutes, Section 429.061, the Council may then spread the charges against property benefited as a special assessment under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten (10), as the Council may determine in each case. (Ord. 91-12, July 22, 1991)

5-7-11: PENALTY:

- A. Any person who maintains a nuisance in violation of the provisions of this Section and any person who interferes with a City employee or other authorized person in the performance of any current service under this Section is guilty of a misdemeanor and shall be punished pursuant to applicable State Statute regarding misdemeanor penalties, as amended, plus the costs of prosecution. (Ord. 2009-03, Apr. 27, 2009)
- B. The City may, in its discretion, seek any administrative or civil remedies available to it as well, including administrative fines, injunctive relief or abatement. Each right or remedy accruing to the City under this ordinance or at law is separate and

distinct and may, in the City's discretion, be exercised independently or simultaneously with any other right or remedy. (Ord. 2009-03, Apr. 27, 2009)

5-7-12: SEPARABILITY: In case any section of this ordinance is held invalid by a court of competent jurisdiction, the invalidity shall extend only to the section affected and other sections of the ordinance shall continue in full force and effect. (Ord. 91-12, July 22, 1991)

SECTION 8

PUBLIC NUISANCES

Section:

| | |
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| 5-8-2 | Public Nuisance Defined |
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| 5-8-16 | Separability |

5-8-1: PURPOSE: The purpose of this ordinance is to protect the general, health, safety and welfare of the citizens of the City of Otsego by prohibiting the occurrence and maintenance of public nuisances and eliminating junk and blight within the City. The ordinance allows for the abatement of public nuisances and provides penalties for and remedies against those causing or maintaining a public nuisance. (Ord. 00-16, Oct. 9, 2000)

5-8-1: PUBLIC NUISANCE DEFINED: A public nuisance is a thing, act or use of property which:

- A. Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable numbers of the public; or
- B. Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- C. Any other act or omission declared by law or this chapter to be a public nuisance. (Ord. 91-23, Nov. 25, 1991)

5-8-2: PUBLIC NUISANCE AFFECTING HEALTH: The following are hereby declared to be nuisances affecting health:

- A. Exposed accumulation of decayed or unwholesome food or vegetable matter.
- B. All animals running at large.
- C. All ponds or pools of stagnant water.
- D. Carcasses of animals not buried or destroyed within twenty-four (24) hours after death.
- E. Accumulation of manure, refuse, or other debris.
- F. The discharge, disposal, accumulation, or collection of sewage or industrial waste without proper permit or approval. (Ord. 00-16, Oct. 9, 2000)
- G. Garbage cans or other refuse containers which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors and which waste is not removed at least once a week.
- H. The pollution of any public well or cistern, stream or lake, canal or other body of water by sewage, industrial waste, or any other substances.
- I. All noxious weeds, as defined in Minnesota Rules 1505.0730, and other rank growths of vegetation, upon public or private property.
- J. Burning in violation of City of Otsego Ordinance No. 6.
- K. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities.
- L. All public exposure of persons having a contagious disease.
- M. Any offensive trade or business as defined by either ordinance or State Statute or such trade or business whose operation constitutes a clear and present danger to the health of the public in general. (Ord. 91-23, Nov. 25, 1991)

5-8-4: PUBLIC NUISANCE AFFECTING MORALS AND DECENCY: The following are hereby declared to be nuisances affecting public morals and decency:

- A. Any gambling device not authorized by State law and not properly permitted by the appropriate jurisdiction, including but not limited to, slot machines and punch boards.

- B. Betting or bookmaking, not allowed by State law, and all apparatus used in such operations.
- C. All houses kept for the purpose of prostitution.
- D. All places where intoxicating liquor or illegal drugs are manufactured or dispensed of in violation of law or where, in violation of law, persons are permitted for the purpose of drinking intoxicating liquor or ingesting or otherwise using illegal drugs, or where intoxicating liquor or illegal drugs are kept for sale or other disposition in violation of law, and all liquor, illegal drugs, and other property used for maintaining such places.
- E. Any vehicle used for the illegal transportation of intoxicating liquor and/or illegal drugs, or for prostitution and/or other immoral or illegal purpose. (Ord. 91-23, Nov. 25, 1991)

5-8-5: PUBLIC NUISANCES AFFECTING PEACE AND SAFETY: The following are declared to be nuisances affecting public peace and safety:

- A. All snow and ice not removed from public sidewalks within twelve (12) hours after the snow or other precipitation causing the condition has ceased to fall. (Ordinance 91-23, adopted November 25, 1991)
- B. Depositing, or causing to be deposited, any snow or ice on or against any fire hydrant or on any sidewalk or roadway, including the movement of snow across the street surface. (Ordinance 2013-02, adopted January 28, 2013)
- C. All trees, hedges, billboards, or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection.
- D. All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles.
- E. Obstructions and excavation affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by City ordinances or other applicable law. (Ordinance 91-23, adopted November 25, 1991)
- F. Placing or storing on any street, sidewalk, alley, or public right-of-way any boxes, goods, wares, merchandise, building materials, machinery, business or trade article except for the purpose of immediately transferring the same to some other proper place. (Ord. 00-16, Oct. 9, 2000)

- G. Any tree, shrub, bush, or other vegetation located on private property which obstructs the use or travel on any public right-of-way. (Ordinance 91-23, adopted November 25, 1991)
- H. Radio aerials or television antenna erected or maintained in a dangerous manner. (Ord. 00-16, Oct. 9, 2000)
- I. Any use of property abutting a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk and which activity is conducted without a permit, license, or other permission duly granted by the City.
- J. All hanging signs, awnings, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance.
- K. The allowing of rain water, ice, snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.
- L. Any electric or barbed wire fencing strung lower than six (6) feet in height and within three (3) feet of a public sidewalk or way, except when used in conjunction with agricultural uses in an area zoned for such use.
- M. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.
- N. Wastewater cast upon or permitted to flow upon streets or other public property. (Ordinance 91-23, adopted November 25, 1991)
- O. Accumulations in the open of broken or unused metal, wood, lumber, cement, electrical fixtures, plumbing fixtures, building materials (but excluding building materials awaiting use and stored for a reasonable period of time for allowable or improvement presently in progress on the same premises), discarded or unused machinery, household appliances, automobile bodies, trash, debris, rubbish or other material, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or items accumulated in a manner creating fire, health, or safety hazards. (Ord. 00-16, Oct. 9, 2000)
- P. Accumulation in the open of broken or unused metal, wood, lumber, cement, electrical fixtures, plumbing fixtures, building materials (but excluding building materials awaiting use in construction or improvement presently in progress on the same premises), trash, debris, rubbish, in a manner conducive to the harboring or rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or safety hazards from such accumulations.

- Q. Any well, hole, or similar excavation which is left open or uncovered or in such other condition as to constitute a danger to any child or other person coming on the premises where it is located.
- R. Obstruction of the free flow of water in a natural waterway, a public street drain, storm sewer, gutter, or ditch with trash or other materials.
- S. Digging excavations, placing culverts, placing dams, or doing any act which may alter or affect the drainage of public property, streets, alleys or sidewalks; or affect flows of the public storm sewer and drainage ditch system, without authorization by the City.
- T. The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance.
- U. The deposition of garbage or refuse on a public right-of-way or on adjacent private property.
- V. Throwing, placing, or depositing dirt, rocks, sand, leaves, trash, lawn clippings, weeds, grass, or other materials in the streets, sidewalks, ditches or other public ways and the gutters thereof.
- W. Permitting dirt, rocks or mud from construction or landscaping activities to be carried or deposited onto nearby streets, sidewalks, ditches or other public ways and the gutters thereof.
- X. All other conditions or things which are likely to cause injury to the person or property of anyone.
- Y. Operation of any artificial lighting facilities upon any private property without an effective shade or equivalent device to protect nearby residential premises from being adversely affected thereby.
- Z. Any used refrigerator, ice box, or freezer, with door latch intact, which is accessible to children. (Ord. 91-23, Nov. 25, 1991)
- AA. Maintenance of construction sites for which a building permit has been issued shall consist of the following: (Ord. 2007-17, Nov. 13, 2007)
 - 1. All debris, paper, construction material waste, scrap construction material and other trash on the construction site shall be stored in a building or in a container so as to prohibit the waste from being scattered by wind or rain or accessed by rodents and other vermin.

2. All materials associated with the construction site, including equipment, shall be stored within the site. The storage of material shall not obstruct access to the structure under construction or create a public safety hazard. Materials shall not be stored within the public right-of-way.
3. All loading and unloading of materials and/or equipment is limited to the construction site and public right-of-way.
4. A silt fence must be maintained at all times.
5. The site must be cleared of all debris in accordance with Section 5-8-5.AA of the City Code at the conclusion of each work day.
6. Damage to landscaping or other property on an abutting or adjacent property as a result of construction activities shall be replaced and restored to its original condition at the contractor's expense.

5-8-6: STORAGE OF PERSONALTY:

- A. Unsheltered storage of unused, stripped, junked, and other automobiles, recreational vehicles, motorcycles, watercraft or any other motor vehicle, not in good and safe operating condition and bearing a current State of Minnesota license or registration for that type of vehicle, and of any other vehicles, machinery, implements, and/or equipment and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, all of which is hereinafter described as "said personalty", for any period of thirty (30) days or more within any given year (except in licensed junkyards) within the corporate limits of the City of Otsego is hereby declared to be a nuisance and dangerous to the public safety.
- B. For purposes of this ordinance, unsheltered storage means said personalty which is not stored in a permitted structure complying with the then existing and controlling City ordinances. The period of one year for purposes of considering whether or not a continuing violation exists commences upon the date of notice of the violation. In the event that any violation is corrected but a same or similar act occurs within the one year time period set forth above, it shall be considered a continuation of the original violation and each day that said violation exists may be considered a separate violation as well as a continuation of the original violation.
- C. **Abatement by Owners.** The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits of the City of Otsego upon which above prohibited storage or any other violation of this ordinance is made, and also the owner, owners, and/or lessees of said personalty involved in such storage of an other material constituting a violation of this ordinance, all of whom

are hereinafter collectively referred to as “owners” shall jointly and severally abate said nuisance by the prompt removal of said personalty or materials into completely enclosed buildings authorized to be used for such purposes, or to a licensed junkyard or waste facility, or remove it to a location outside the corporate limits of the City of Otsego.

- D. **Abatement by the City.** Whenever said owners fail to abate such nuisances, the City shall remove the said personalty or materials to a location of its selection. Abatement of such nuisance by the City shall be in accordance with Section 5-8-13 of this Code. Costs incurred by the City during said abatement, including the cost of storage or disposal, shall be recoverable from the said owners, jointly and severally, in accordance with Section 5-8-14 of this Code or in a suit at law.
- E. **Disposal of Property After Abatement by the City.** When said personalty or materials have been removed and placed in storage by the City, as provided for herein, said personalty shall be sold by the City after the lapse of such time as is provided for by law. If the proceeds of such sales are insufficient to pay the costs of abatement and storage, said owners shall be liable to the City for the balance of the costs. If the proceeds are in excess of the costs, including storage, the balance shall be paid to said owners or deposited in the City Treasury for their use. (Ord. 00-16, Oct. 9, 2000)

5-8-7: ADOPTION BY REFERENCE: The “Hazardous Building Law”, Minnesota Statutes 463.15 through 463.261, is adopted by reference. Any hazardous building or dangerous excavation may be abated in accordance with the provisions of that law. (Ord. 91-23, Nov. 25, 1991)

5-8-8: PUBLIC NUISANCE NOISE PROHIBITED:

- A. It shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary, or unusual noise which unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of others, or precludes the quiet enjoyment of their property or affects their property’s value, or affects the peace and quiet of any neighborhood, or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area. This general prohibition is not limited by the specific restrictions of Section 5-8-8.B.
- B. Standards to be considered in determining a violation of this section include, but are not limited to, the following:
1. The volume of the noise.

2. The intensity of the noise.
 3. Whether the nature of the noise is usual or unusual.
 4. The volume and intensity of the background noise, if any.
 5. The proximity of the noise to residential sleeping.
 6. The nature and zoning of the area within which the noise emanates.
 7. The density of the inhabitation of the area within which the noise emanates.
 8. The time of day or night the noise occurs.
 9. The duration of the noise.
 10. Whether the noise is recurrent, intermittent, or constant.
 11. Whether the noise is produced by a commercial or non-commercial activity. (Ord. 91-23, Nov. 25, 1991)
- C. Radios, Television Sets, Amplifiers and Similar Devices. Using, operating or permitting to be played any radio, musical instrument, phonograph, juke box, amplifier or other machine or device for the producing, reproducing or amplifying of sound in such a manner as to disturb the peace, quiet or comfort of persons residing, working or peaceably gathered in its vicinity. Prima facie evidence of a violation of this Section shall include (but not be limited to) operation of the device if done in such a manner as to be plainly audible:
1. Within any other building or structure used for residential purposes; or,
 2. At the distance of fifty (50) feet from the property, building, structure or vehicle in which the device is located; or
 3. Between the hours of ten o'clock (10:00) PM and seven o'clock (7:00) AM unless otherwise allowed by the City Code. (Ordinance 2014-07, Adopted April 14, 2014)

5-8-9: SPECIFIC NOISES PROHIBITED:

- A. **Prohibition.** The following acts listed in Section 5-8-9.B to Section 5-8-9.Q are declared to be nuisance noises in violation of this Code, but this listing shall not be deemed to be exclusive.

B. Horns, Signaling Devices, Etc.

1. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street, public place, or private property within the City except as a present danger warning.
2. The creation by means of any such horn or signaling and unreasonable period of time.
3. The sounding of any such device for any unnecessary and unreasonable period of time.
4. The use of any signaling device except one operated by hand or electricity.
5. The use of any horn, whistle, or other device operated by engine exhaust.
6. The use of any such signaling device when traffic is held up for any reason.

C. Radios, Television Sets, Amplifiers, and Similar Devices. Using, operating, or permitting to be played any radio, musical instrument, phonograph, juke box, amplifier, or other machine or device for the producing, reproducing, or amplifying of sound in such a manner as to disturb the peace, quiet, or comfort of persons residing, working, or peaceably gathered in its vicinity. The operation of said machine or device between the hours of ten o'clock (10:00) PM and seven o'clock (7:00) AM shall be prima facie evidence of violation of this section if done in such manner as to be plainly audible:

1. Within any other building or structure used for residential purposes; or
2. At the distance of fifty (50) feet from the building, structure, or vehicle in which it is located.

D. Loud Speakers, Amplifiers for Advertising. Using, operating, or permitting to be used or operated, any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure by persons other than personnel of law enforcement or other governmental agencies.

E. Yelling, Shouting, Etc. Yelling, shouting, hooting, whistling, or singing at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel, motel, or other place of residence, or of any persons in the vicinity.

- F. **Animals, Birds, Etc.** The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any persons in the vicinity.
- G. **Whistles or Sirens.** The blowing of a locomotive whistle or steam whistle attached to any stationary boiler or any siren whatsoever except to give notice of the time to begin to stop work, as a warning of fire or danger, or by public emergency vehicles.
- H. **Exhausts.** The discharge into the open air of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle or snowmobile except through a muffler or other device which effectively prevents loud or explosive noises there from and which complies with all applicable State laws and regulations.
- I. **Defect in Vehicle or Load.** The use of any automobile, motorcycle, or other motor vehicle so out of repair, so loaded, or operated in such manner as to create loud and unnecessary grating, rattling, or other noise which shall disturb the comfort or repose of any persons in the vicinity.
- J. **Sound Trucks for Advertising Purposes.** The use of sound trucks or any other vehicle equipped with sound amplifying devices for the purposes of advertising any program, project, or meeting of any public agency, private business, religious organization, civic group, political party, or charitable organization.
- K. **Loading, Unloading, Opening Boxes.** The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers. (Ord. 91-23, Nov. 25, 1991)
- L. **Construction or Repairing of Building.** The erection (including excavation), demolition, alteration, or repair of any building between the hours and on any day prohibited by Section 4-1-4 of the City Code. (Ord 2010-03, adopted April 26, 2010)
- M. **Schools, Courts, Churches, Hospitals.** The creation of any excessive noise on any street or private property adjacent to any school, institution of learning, church, court, or hospital while the same are in use which unreasonably interferes with the use thereof, provided conspicuous signs are displayed on such indicating that the same is a school, hospital, or court street.
- N. **Hawkers, Peddlers.** The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.

- O. **Pile Drivers, Hammers, Etc.** The operation between the hours of ten o'clock (10:00) PM and seven o'clock (7:00) AM of any pile driver, power shovel, pneumatic hammer, jack hammer, derrick, power or electric hoist, or other appliance, the use of which is attended by loud or unusual noise.
- P. **Blowers.** The operation of any noise creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operation gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
- Q. **Internal Combustion Engines.** No person shall create any excessive noise by permitting diesel engines to idle, or by building, repairing or testing motor vehicles or other internal combustion engines, which causes a disturbance beyond the property line of the property on which the activity takes place.
- R. **Noise in Residential Areas.** No person shall, between hours of ten o'clock (10:00) PM and seven o'clock (7:00) AM congregated because of, or participate in, any party or gathering of people from which noise emanates of a sufficient volume so as to disturb the peace, quiet, or repose of persons residing in any residential area. Noise between the hours of ten o'clock (10:00) PM and seven o'clock (7:00) AM of such volume as to be plainly audible at a distance of fifty (50) feet from the residential dwelling unit wherein such party or gathering is located shall be prima facie evidence of a violation of this section. No persons shall visit or remain within any residential unit wherein such party or gathering is taking place except the owner, persons residing in that unit, or persons who have gone there for the sole purpose of abating the disturbance.
- S. **Prima Facie Evidence of Loud Noise.** Incorporation by reference: standards established in Minnesota Rule 7010.0010 to 7010.1600, noise pollution control, are hereby adopted by reference and exceeding these standards is considered prima facie evidence of noise constituting a nuisance. (Ord. 91-23, Nov. 25, 1991)

5-8-10: RESPONSIBILITY: The owner and tenant of any premises on which a violation of Sections 5-8-6 and 5-8-7 of this Code occurs shall make every reasonable effort to see that the violation ceases. Violation of Sections 5-8-6 and 5-8-7 shall be deemed the act of both the person committing the act and the person in possession, control, custody, or having charge of the premises who allows or permits the violation to take place. Violation of Sections 5-8-6 and 5-8-7 shall also be deemed the act of a non-resident landlord, provided he has received written notice from the City of the violation and has failed to make every reasonable effort to see that the violation ceases. (Ord. 91-23, Nov. 25, 1991)

5-8-11: PUBLIC DRINKING:

- A. **Consumption.** No person shall consume intoxicating liquor or non-intoxicating malt liquor on any public sidewalk or street, or in a vehicle upon a public street. No person shall consume intoxicating liquor or non-intoxicating malt liquor in any public parking lot or in any park without City authorization.
- B. **Possession.** No person shall have in possession intoxicating liquor or non-intoxicating malt liquor in an open container on any public sidewalk or street or in a vehicle upon a public street. (Ord. 91-23, Nov. 25, 1991)

5-8-12: ENFORCEMENT: The City Council shall have the duty of enforcing the provisions of this ordinance, and the City Council may, by resolution, delegate to other officers or agencies power to enforce particular provisions of this ordinance, including the power to inspect private premises, and the officers charged with enforcement of this ordinance shall take all reasonable precautions to prevent the commission and maintenance of public nuisances. (Ord. 91-23, Nov. 25, 1991)

5-8-13: ABATEMENT:

- A. **General.** Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the City, the officer shall notify in writing the owner or occupant of the premises of such fact and order that such nuisance be terminated or abated. The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding thirty (30) days, within which the nuisance is to be abated. If the notice is not complied with within the time specified, the enforcing officer shall, in the same manner described above, serve notice at least seven (7) days prior to a scheduled hearing by the City Council upon the owner or occupant of the property. Thereafter, the Council may, after notice to the owner or occupant and an opportunity to be heard, provide for abating the nuisance by the City. The City Council shall by resolution adopt a Notice of Abatement, which shall set forth the nuisance to be abated and shall indicate a date and time on which the City will enter onto the property and abate the nuisance. The notice shall also notify the property owner that the costs of abatement will be billed to the property owner and if not paid will be assessed against the property. The Notice of Abatement shall be served upon the owner and/or occupant in person or by certified or registered mail at least seven (7) days prior to the proposed date for the City to abate the nuisance. If the premises is unoccupied or the owner and/or occupant cannot be served, notice may be posted upon the premises at least seven *7) days prior to the proposed abatement. (Ord. 00-16, October 9, 2000)

- B. **Emergency Abatement.** When the officer charged with enforcement determines that a nuisance constitutes a serious and eminent 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 or occupant of the premises of the action taken. The notice shall be served in person or by registered or certified mail. (Ord. 91-23, Nov. 25, 1991)

5-8-14: RECOVERY OF COST:

- A. **Personal Liability:** The owner of the premises on which a nuisance has been abated by the City shall be personally liable for the cost to the City of the abatement, including legal and administrative costs. As soon as the work has been completed and the costs determined, the Clerk or other official designated by the Council shall prepare a bill for the cost and mail it to the owner. Thereupon, the amount shall be immediately due and payable at the Office of the City Clerk.
- B. **Assessment.** If the nuisance is a public health or safety hazard on private property or the accumulation of snow and ice on public sidewalks, the Clerk shall, on or before September 1, next following abatement of the nuisance, list the total unpaid charges (including all applicable legal and administrative costs) along with all other such charges as well as other charges for current services to be assessed under Minnesota Statutes, Section 429.101, against each separate lot or parcel to which the charges are attributable. The Council may then spread the charges against such property under that statute and other pertinent statutes for certification of the County Auditor and collection along with current and following year taxes, or in annual installments, not exceeding ten (10), as the Council may determine in each. (Ord. 00-16, Oct. 9, 2000)

5-8-15: PENALTY: Any person violating any provision of this order shall, upon conviction, be guilty of a misdemeanor and shall be punished pursuant to applicable State Statute regarding misdemeanor penalties, as amended, plus the costs of prosecution. Each day a nuisance continues to exist is deemed a separate punishable offense under this ordinance. The City may, in its discretion, seek any civil remedies available to it as well, including injunctive relief or abatement. Each right of remedy accruing to the City under this ordinance or at law is separate and distinct and may, in the City's discretion, be exercised independently or simultaneously with any other right or remedy. (Ord. 00-16, October 9, 2000)

5-8-16: SEPARABILITY: Every section, provision, or part of this ordinance is declared separable from every other section, provision or part; and if any section, provision or part thereof shall be held invalid by a court of competent jurisdiction, it shall not affect an other section, provision, or part. (Ord. 91-23, November 25, 1991)

SECTION 9

EMERGENCY MANAGEMENT

Section:

- 5-9-1 Policy and Purpose
- 5-9-2 Definitions
- 5-9-3 Establishing an Emergency Management Organization
- 5-9-4 Powers and Duties of the Emergency Management Director
- 5-9-5 Local Emergencies
- 5-9-6 Emergency Regulations
- 5-9-7 Emergency Management A Government Function
- 5-9-8 Conformity and Cooperation with Federal and State Authority
- 5-9-9 Participation in Labor Disputes or Political Action
- 5-9-10 Enforcement Authority
- 5-9-11 Prohibited Conduct

5-9-1: POLICY AND PURPOSE: Tornados, floods, blizzards, and other natural disasters can affect the City of Otsego. In addition, major disasters such as train wrecks, plane crashes, explosions, accidental releases of hazardous materials, pipeline leaks, and enemy attack pose a potential threat to public health and safety in Otsego. In recognition of these threats, it is necessary to ensure that preparations of the City will be adequate to deal with the disasters and to provide for basic health and security, and preserve the lives and property of the people of this City, it is declared necessary:

- A. To establish a City emergency management organization, whose responsibility it is to plan and prepare for emergency government operations in time of disaster.
- B. To provide for the exercise of necessary powers during emergencies and disaster.
- C. To provide for the exercise of mutual aid between the City and other political subdivisions with the goal of carrying out of emergency preparedness functions.
- D. To comply with the provisions of M.S. Chapter 12.
- E. To participate as policing district of Wright County and a fire protection jurisdiction of the cities of Albertville, Monticello, Elk River, and Rogers, and review and accept their emergency plans as the City's basic plan for responses to emergencies, disasters, mutual aid, and other projects, as prescribed with this ordinance and M.S. Chapter 12. (Ord. No. 2005-24, December 27, 2005)

5-9-2: DEFINITIONS:

Disaster. A situation that creates an actual or imminent serious threat to the health and safety of persons, or a situation that has resulted or is likely to result in catastrophic loss to property or the environment, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

Emergency. An unforeseen combination of circumstances that calls for immediate action to prevent a disaster from developing or occurring.

Emergency Management. The preparation for and the carrying out of emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters, from acute shortages of energy, or from incidents that pose radiological or other health hazards. These functions include, without limitation, fire-fighting services, police services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency human services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, implementation of energy supply emergency conservation and allocation measures, and other functions related to civilian protection, together with all other activities necessary or incidental to preparing for and carrying out these functions.

Emergency Response Personnel. An individual, organization, or team authorized by the state to supplement state or local resources for emergency response in a stricken area.

Emergency Management Mutual Aid. Any disaster which requires the dispatching of City personnel, equipment or other necessary resources within or without the City limits.

Emergency Management Organization. The staff element responsible for coordinating city-level planning and preparation for disaster response. This organization provides coordination with federal, state and local jurisdictions relative to disaster preparedness activities, disasters, mutual aid and other projects consistent with M.S Chapter 12 and assures implementation of federal, state, county and other program requirements.

Political Subdivision. A county, city, town, or commission organized and existing under M.S. Sections 473.601 to 473.679. (Ord. No. 2005-24, December 27, 2005)

5-9-3: ESTABLISHING AN EMERGENCY MANAGEMENT ORGANIZATION:

There is created with the City government an emergency management organization which shall be under the supervision of the Emergency Management Director, herein referred to as the Director. The Director shall be appointed to this position by the City

Council for an indefinite term and may be removed by the Mayor and City Council at any time. The Director shall have, in addition to his/her other position responsibilities, direct responsibility for the organization, administration, and operation of the emergency management organization.

Membership of the emergency management organization shall consist of any and all whom the Director, Mayor and City Council deem necessary. It shall include, but not be limited to: employees of the City, representatives from each of the contracted fire departments, representatives from the Wright County Sheriff's Office, representatives of related emergency management organizations or entities, and at least one at-large community member. (Ord. No. 2005-24, December 27, 2005)

5-9-4: POWERS AND DUTIES OF THE EMERGENCY MANAGEMENT DIRECTOR:

- A. The City Administrator, in his/her role as supervisor of the emergency management organization, shall serve as Emergency Management Director
- B. The Director shall represent the City at regional or state conferences for emergency management. The Director may develop additional mutual aid agreements with other political subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted and shall present an agreement to the City Council for its action. The arrangements shall be consistent with the Emergency Operations Plan. The Director shall also be the City's representative to emergency management committees in which the City has a current contract for services.
- C. The Director shall make assessments of personnel, business and industries, resources and facilities of the City as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency or disaster.
- D. The Director shall work with the City Clerk and department heads in preparing a comprehensive emergency plan for the emergency management of the city hall and shall present the plan to the City Council for its approval. When the council has approved the plan by resolution, it shall be the duty of all city departments and emergency management forces of the City to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner when necessary. The Director shall coordinate the basic emergency management activities of the City to the end that they shall be consistent and complimentary with the emergency operations plans of participating political subdivisions and state and federal governments.
- E. In accordance with state and city emergency plans, the Director shall institute training programs, public information programs, and conduct practice warning

alerts and emergency exercises as may be necessary to assure prompt and effective operation of the emergency plan when a disaster or mutual aid occurs (M.S. Chapter 12, Sec. 12.25)

- F. During an emergency, disaster, or mutual aid, the Director shall utilize the personnel, services, equipment, supplies and facilities of existing departments of the City to the maximum extent practicable. The officers and personnel of every department shall be cooperative with and extend services and facilities to the emergency management organization. The head of every department in cooperation with the Director shall be responsible for the planning and programming of the emergency activities as will involve the utilization of the facilities of the department.
- G. The Director shall, in cooperation with existing City departments affected, assist in the organizing, recruiting, and training of such emergency management personnel that may be required on a volunteer basis to carry out the emergency plans of the City and state. To the extent that such emergency personnel are recruited to augment a regular City department for emergencies, they shall be assigned to such departments and shall be under the administration and control of said department.
- H. The Director shall carry out all orders, rules, and regulations issued by the City Council pertaining to emergency management
- I. The Mayor shall authorize, and the Director shall carry out, all orders, rules and regulations issued by the Governor with reference to emergency management.
- J. The Director shall direct and control general operations of all local emergency management forces during an emergency in conformity with controlling regulations and instructions of state emergency management authorities. The heads of departments shall be governed by the Director's orders in respect to hereto.
- K. The Director shall prepare and submit such reports on emergency management activities as may be requested by the City Council.
- L. If, during time of a declared emergency, the Director shall find that civil courts within the police jurisdiction of the city are unable to perform their lawful duties, he shall inform the City Mayor, and the Mayor shall inform the Governor of his findings and may recommend to him that a state of martial law be proclaimed within the police jurisdiction of the city (M.S. 12.23 and M.S. 12.33 Sub. 1). (Ord. No. 2005-24, December 27, 2005)

5-9-5: LOCAL EMERGENCIES: A local emergency may be declared only by the Mayor of the City or their legal successor(s). It shall not be continued for a period in excess of three days except by or with consent of the City Council. Any order or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed promptly by the City Clerk. The declaration shall invoke the City emergency operations plan and other interjurisdictional emergency plans, and may authorize the request for aid and assistance from surrounding political subdivisions.

No other city official or agency may declare a local emergency unless expressly authorized by the agreement under which the agency functions (i.e. mutual aid agreement or contract). However, an inter-jurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions. (Ord. No. 2005-24, December 27, 2005)

5-9-6: EMERGENCY REGULATIONS:

- A. Whenever necessary to meet a declared emergency or to prepare for such an emergency for which adequate regulations have not been adopted by the State or the City Council, the Council may, by resolution, promulgate regulations, consistent with applicable federal and state law or regulation, respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance, and safeguarding of essential public services, emergency health, fire, and safety regulation, drills, or practice periods required for preliminary training, and all other matters which are required to protect public safety, health, and welfare in declared emergencies.
- B. Every resolution of emergency regulations shall be in writing: shall be dated, shall refer to the particular emergency to which it pertains, if so limited, and shall be filed with the City Clerk, and shall be kept posted and available for public inspection during business hours. Notice of the existence of such regulations and its availability for inspection shall be conspicuously posted at the front of the city hall or other headquarters of the City or at other places in the affected area as the Council shall designate in the resolution. By like resolution, the Council may modify or rescind any such regulation.
- C. The City Council may rescind any such regulation by resolution at any time. If not sooner rescinded, every such regulation shall expire at the end of 30 days after its effective date or at the end of the emergency, whichever comes first. Any resolution, rule, or regulation inconsistent with an emergency regulation promulgated by the Council shall be suspended during the period of time and to the extent such conflict exists.
- D. During a declared emergency, the City is, notwithstanding any statutory or charter provision to the contrary, empowered, through the City Council acting

within or without the corporate limits of the City, to enter into contracts and incur obligations necessary to combat such disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of such disaster. The City may exercise such powers in the light of exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds including, but not limited to, publication of resolutions, publication of call for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirement for budgets. (Ord. No. 2005-24, December 27, 2005)

5-9-7: EMERGENCY MANAGEMENT A GOVERNMENT FUNCTION: All functions thereunder and all other activities relating to emergency management are hereby declared to be City governmental functions. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this resolution or under the worker's compensation law, or under any pension law, nor the right of such person to receive any benefits or compensation under any act of Congress. (Ord. No. 2005-24, December 27, 2005)

5-9-8: CONFORMITY AND COOPERATION WITH FEDERAL AND STATE AUTHORITY:

- A. Every officer and agency of the city shall cooperate with federal and state authorities and with authorized agencies engaged in emergency management and emergency measures to the fullest possible extent consistent with the performance of their other duties. The provisions of this ordinance and of all regulations made thereunder shall be subject to all applicable and controlling provisions of federal and state laws and of regulations and orders issued thereunder and shall be deemed to be suspended and inoperative so far as there is any conflict therewith.
- B. The county Sheriff may appoint any qualified person holding a position in any agency created under federal or state authority for emergency management purposes as a special policing officer of the city, with such powers and duties within the city incident to the functions of the Sheriff's or Deputy's position, not exceeding those of a regular Sheriff or Deputy, as may be prescribed in the appointment. Every such police officer shall be subject to the supervision and control of the Sheriff and such other deputies of the county as the Sheriff may designate. (Ord. No. 2005-24, December 27, 2005)

5-9-9: PARTICIPATION IN LABOR DISPUTES OR POLITICAL ACTION: The emergency management organization shall not participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes, nor shall it be employed in a labor dispute. (Ord. No. 2005-24, December 27, 2005)

5-9-10: ENFORCEMENT AUTHORITY: The members of the Wright County Sheriff's Department, Elk River Fire Department, Monticello Fire Department, Albertville Fire Department, Rogers Fire Department, and all other law enforcement agencies having jurisdiction in the City, and other people authorized by the Mayor, City Council, or Director are authorized and directed to enforce this section and the orders and regulations made pursuant to this ordinance. (Ord. No. 2005-24, December 27, 2005)

5-9-11: PROHIBITED CONDUCT: During the period of a declared local emergency, no person may:

- A. Enter or remain on the premises of an establishment that is not open for business to the general public, unless the person is the owner of the establishment or the owner's agent;
- B. Violate an order or regulation properly issued by the Mayor or the City Council, or a directive issued by the Director or the Director's authorized agent; or
- C. Willfully obstruct, hinder, or delay a person who is authorized to enforce this section while that person is exercising those duties or enforcing an order or regulation issued under authority of this section.
- D. A person who violates this section is guilty of a misdemeanor. A violation of this ordinance is subject to the penalties and provisions of Chapter 2, Section 5 of the Otsego City Code. (Ord. No. 2005-24, December 27, 2005)

CHAPTER 10
SOCIAL HOSTS

Section:

| | |
|--------|----------------------|
| 5-10-1 | Purpose and Findings |
| 5-10-2 | Definitions |
| 5-10-3 | Prohibited Acts |
| 5-10-4 | Exceptions |

5-10-1: PURPOSE AND FINDINGS: The City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol based on the following findings:

- A. Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- B. Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic accidents.
- C. Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
- D. Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.
- E. Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
- F. A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs. (Ord. No. 2008-12, June 9, 2008)

5-10-2: DEFINITIONS: For purposes of this Section, the following terms have the following meanings:

Alcohol: Ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

Alcoholic Beverage: Alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

Event or Gathering: Any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

Host or Allow: To aid, conduct, entertain, organize supervise, control, or permit a gathering or event.

Parent: Any person having legal custody of a juvenile as a natural, adoptive parent, or step-parent; as a legal guardian; or as a person to whom legal custody has been given by order of the court.

Person: Any individual, partnership, co-partnership, corporation, or any association of one or more individuals. A person does not include any city, county, or state agency.

Residence, Premises or Public or Private Property: Any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

Underage Person: Any individual under twenty-one (21) years of age.
(Ord. No. 2008-12, June 9, 2008)

5-10-3: PROHIBITED ACTS.

- A. It is unlawful for any person(s) to host or allow an event or gathering at any residence, premises, or on any other private or public property where alcohol or alcoholic beverages are present when the person knows that an underage person will or does:
 - 1. Consume any alcohol or alcoholic beverage; or

2. Possess any alcohol or alcoholic beverage with the intent to consume it and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
- B. A person is criminally responsible for violating Section 5-10-3.A above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.
 - C. A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible. (Ord. No. 2008-12, June 9, 2008)

5-10-4: EXCEPTIONS.

- A. This Section does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.
- B. This Section does not apply to legally protected religious observances.
- C. This Section does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. §340A.503 Subd. 1(a)(1).
- D. This Section does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment. (Ord. No. 2008-12, June 9, 2008)

SECTION 11

SEXUAL OFFENDERS AND SEXUAL PREDATORS

Section:

- 5-11-1 Findings and Intent
- 5-11-2 Definitions
- 5-11-3 Sexual Offender and Sexual Predator Residence Prohibition;
Penalties; Exceptions
- 5-11-4 Property Owners Prohibited From Renting Real Property to Certain
Sexual Offenders and Sexual Predators; Penalties
- 5-11-5 Severability

5-11-1: FINDINGS AND INTENT:

- A. Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Current information indicates that sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are even reports, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large and specifically to the City of Otsego ("City"), while incalculable, clearly exorbitant.
- B. It is the intent of this section to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence. (Ord. 09-08, June 22, 2009)

5-11-2: DEFINITIONS: The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Designated Offender. Any person who has been convicted of a designated sexual offense, regardless of whether adjudication has been withheld, in which the victim of the offense was less than eighteen (18) years of age, or has been categorized as a Level III sex offender under Minnesota Statutes 244.052 or successor or amended statute.

Designated Sexual Offense. A conviction, adjudication of delinquency, commitment under Minnesota Statutes 253B, or admission of guilt under oath without adjudication involving any of the following offenses: 609.342; 609.343; 609.344; 609.345; 609.352; 609.365; 617.23; 617.246; 617.247; 617.293; successor or amended statute, or a similar offense from another state.

Permanent Residence. A place where the person abides, lodges, or resides for fourteen (14) or more consecutive days. Permanent residence does not require an ownership interest by the person in such residence.

Temporary Residence. A place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or non-consecutive days in any month and which is not the person's permanent residence. (Ord. 09-08, June 22, 2009)

5-11-3: SEXUAL OFFENDER AND SEXUAL PREDATOR RESIDENCE PROHIBITION; PENALTIES; EXCEPTIONS:

A. **Prohibited Location of Residence.** It is unlawful for any designated offender to establish a permanent residence or temporary residence within two thousand (2,000) feet of any of the following places:

1. Designated public school bus stop.
2. Licensed day care.
3. Place of worship which provides regular educational programs (i.e., Sunday School) or day care services.
4. Public park.
5. Public or private school providing elementary, middle school or high school education.

B. **Prohibited Activity.** It is unlawful for any designated offender to participate in a holiday event involving children under eighteen (18) years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding 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.

C. **Measurement of Distance.**

1. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to nearest outer property line of a school, designated public school bus stop, day care center, park, playground, place of worship, or other place where children regularly congregate.

2. The City Clerk shall maintain an official map showing prohibited locations as defined by this Ordinance. The City Clerk shall update the map at least annually to reflect any changes in the location of prohibited zones. The map shall not be deemed conclusive or all encompassing since prohibited zones change from time to time including but not limited to designated public school bus stops or other places where children are known to congregate.

D. **Penalties.** A person who violates this section shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by confinement for a term not exceeding ninety (90) days, or by both such fine and confinement. Each day a person maintains a residence in violation of this Ordinance constitutes a separate violation.

E. **Exceptions.** A designated offender residing within a prohibited area as described in Section 5-11-3.A of this Section does not commit a violation of this section if any of the following apply:

1. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statute 243.166, 243,167, or successor statute, prior to June 22, 2009.
2. The person was a minor when he/she committed the offense and was not convicted as an adult.
3. The person is a minor.
4. The school, designated public school bus stop or day care center within two thousand (2,000) feet of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statute 243.166 or 243.167.
5. The residence is also the primary residence of the person's parents, grandparents, siblings, spouse, or children.
6. The residence is a property owned or leased by the Minnesota Department of Corrections. (Ord. 09-08, June 22, 2009)

5-11-4: PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY TO CERTAIN SEXUAL OFFENDERS AND SEXUAL PREDATORS; PENALTIES:

- A. It is unlawful 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 residence or temporary residence by any person prohibited from establishing such permanent

residence of temporary residence pursuant to this Chapter, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in Section 5-11-3.A of this Section.

- B. A property owner's failure to comply with provisions of this Section shall constitute a violation of this Section, and shall subject the property owner to the code enforcement provisions and procedures as provided for in Chapter 2, Section 5 of the City Code, but shall not be exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of Otsego to seek cumulative remedies.
- C. If a property owner discovers or is informed that a tenant is a designated offender after signing a lease or otherwise agreeing to let the offender reside on the property, the owner or property manager may evict the offender. (Ord. 09-08, June 22, 2009)

5-11-5: SEVERABILITY: Should any section, subdivision, clause or other provision of this section be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the section as a whole, or of any part thereof, other than the part held to be invalid. (Ord. 09-08, June 22, 2009)