

Ordinance No. 1414

Creating Title No. 4 (Public Nuisance) of the Fridley City Code and the Chapters Contained Therein

The City Council of the City of Fridley does ordain, after review, examination and staff recommendation that the Fridley City Code be amended as follows:

Section 1

That the Fridley City Code Chapter 110, Public Nuisance, be hereby amended as follows:

Fridley City Code
Chapter ~~110.400~~ Public Nuisance

400.01. Purpose

The Fridley City Council (Council) has determined that health, safety, good order, general welfare and convenience of the public are threatened by certain public nuisances within the City of Fridley (City).

~~110.01. Minnesota Statutes by Reference~~400.02 Adoption of State Law

Minnesota Statutes (M.S.) Sections 609.74 and 609.745 are hereby adopted by reference and be ~~in~~have full force and effect in the City of Fridley as if set out here in full.

~~110.02. Definitions~~

~~For the purpose of this chapter, certain terms and words are defined in Chapter 205, Zoning Code and or Chapter 101, Animal Control.~~

~~110.03. Public Nuisance Defined~~400.03 Definitions

Hazardous materials: paints, solvents, oil, automotive fluids, and any other hazardous wastes as defined in M.S. § 116.06.

Owner: person(s) listed as the contact on any current rental licensing application on file with the City, person(s) listed as owner by the County Assessor on the homestead record or taxpayer(s) as shown by records of the County Assessor.

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

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

2. Interferes with, obstructs, or renders dangerous for passage, or loiters on any public highway or right-of-way, or waters used by the public.
3. Causes obstruction or excavation affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds, except under such conditions as are permitted by this ~~Code~~Chapter, the Rights-of-Way Chapter, or other applicable law.
4. Causes any well hole or similar excavation to be left uncovered or in such other condition as to constitute a hazard, ~~to any child or other person coming on the premises where it is located;~~
5. Stores items outdoors including but not limited to machinery, equipment, ~~abandoned, unsafe, or junk motor vehicles, household furnishings, or materials~~ or abandoned, unsafe, or junk vehicles, in a manner conducive to the harboring of wild animals; ~~or to creating a fire, health, or safety hazards from such accumulations;~~ or from promoting the rank growth of vegetation among the items so accumulated. Items stored ~~outside a building outdoors~~ according to the applicable zoning ordinance provisions stipulations of an approved special use permit are not a public nuisance.
6. Deposits or causes placement of hazardous material in a manner that causes those materials to drain flow into a storm sewer drain, ~~or waterway as defined in Section 105.02.7 of City~~by the Landscape Maintenance Chapter of the Code or any other unpaved ground surface within the City. Hazardous material shall include, but not be limited to, paints, solvents, oil, automotive fluids ~~or any other hazardous wastes as defined in State Statute 116.06, Subd. 11;~~
7. Is guilty of any other act or omission declared by law to be a public nuisance and for which no sentence is specifically provided.

110.04. Driveway Nuisance

Any driveway located within the city and not paved is a public nuisance.

Any nuisance under this provision must be abated by construction of an approved surface on the driveway in a manner prescribed by the City. The City expressly reserves and declares its statutory authority to abate any such nuisances under the assessment and levying powers granted by Minnesota Statutes chapters 429 and 463, according to the procedures established in Chapter 128 of City Code.

"Driveway", for the purpose of this Chapter, shall not include any public owned or dedicated unpaved road or alleyway used for purpose of access to any property; nor any roadway, path or other access to a parcel of unsubdivided property that can, without variance, be subdivided in the City. A roadway or path to subdividable property in the City shall be a "driveway" subject to this Chapter at such time as the property on which it is located is subdivided and the roadway or path continues to be used for the purpose of access to the property. Any roadway or path to subdividable property must be

paved to a distance of at least twenty feet from the edge of any connecting curb or roadway surface in order to qualify for this exception.

110.05.400.04 Power of Officers

The City Manager or their designee will be responsible for investigating and determining whether a public nuisance exists or is being maintained in the City.

When said official determines a public nuisance is being maintained or exists on a property, the City will issue a written notice to the owner of the property requiring the termination or abatement of the nuisance conditions within a reasonable timeframe as outlined in the Abatement of Exterior Public Nuisance Chapter of the Code.

~~Whenever in the judgment of a City official, designated by the City Manager who will be responsible for investigating and determining whether a public nuisance exists or is being maintained within the City, it is found by investigation, that a public nuisance is being maintained or exists on property within the City, the following procedures shall be followed to abate the nuisance:~~

- ~~1. Written notice shall be issued to the owner requiring the termination or abatement of said nuisance or to remove such conditions or remedy such defects;~~
- ~~2. Service of said written notice may be hand-delivered to the owner or posted on the property, but shall also be sent via U.S. mail;~~
- ~~3. If the nuisance involves public right-of-way space, it must be abated or permitted according to the requirements of the Rights-of-Way chapter of the Chapter 407. If the nuisance poses a public health or safety risk, City staff may follow emergency abatement procedures to protect public safety or require that the violation be abated within a reasonable timeframe following notice posted on the property. Other nuisances must be abated within a reasonable timeframe, according to the procedures established in the Abatement of Exterior Public Nuisances Chapter 128 of the City Code.~~

110.06. Abatement and Assessment of Nuisance

~~If after such service of notice, the owner fails to abate the nuisance or make the necessary repairs, alterations, or changes as directed by the City official, said official may abate the nuisance and assess costs according to the procedures established in Chapter 128 of the City Code.~~

110.07. Permitting Public Nuisance

~~Whoever permits real property under his or her control to be used to maintain a public nuisance, or lets the same knowing it will be so used, is guilty of a misdemeanor.~~

110.08.400.05 Emergency Abatement

If the City official Manager or their designee determines that a public nuisance exists and that the public health, safety, or welfare may be in immediate danger, the City may implement emergency abatement procedures to remove or abate the nuisance. When emergency abatement is authorized, the City shall will post a notice at the property and attempt to notify the owner and any agents of the owner and any agent, or occupants of the property. However, notice to the owner, agent, or occupant of the property is not required prior to emergency abatement. Following emergency abatement, the City will mail notice of the action taken to the property owner and assess-recover abatement costs according to the procedures established in the Abatement of Exterior Public Nuisances chapter Chapter 128 of the City Code.

110.09. Penalties

~~Any violation of this Chapter is a misdemeanor and subject to all penalties provided for such violations under the provisions of Chapter 901 of this Code.~~

110.10. Severability

~~Every section, provision or part of this Chapter is declared separable from every other section, provision or part to the extent that if any section, provision or part of this Chapter shall be held invalid, such holding shall not invalidate any other section, provision or part thereof.~~

400.06 Non-Exclusiveness

Nothing in this Chapter will be deemed a waiver or limitation of any statutory right or power of the City as to hazardous buildings, properties, or materials, nor will this Chapter be deemed to otherwise limit the right or power of the City to conduct other administrative or regulatory searches and inspections including, but not limited to, health inspections, fire scene inspections, arson inspections, and regulated business or industry inspections, nor will this Chapter be deemed to be the exclusive remedy of the City regarding the abatement of public nuisances.

Section 2

That the Fridley City Code Chapter 128 Abatement of Exterior Public Nuisances, be hereby amended as follows:

Fridley City Code
Chapter ~~128.401~~ Abatement of Exterior Public Nuisances

128.01.401.01 Purpose

The ~~Council of the City of Fridley~~ Fridley City Council (Council) has determined that the health, safety, general welfare, good order, and convenience of the public is threatened by certain exterior public nuisances on ~~property~~ properties within the City limits. It is ~~declared to be the intention of the Council to abate such nuisances, and this Chapter is enacted for that purpose.~~

401.02 Definitions

Owner: person(s) listed as the contact on any current rental licensing application on file with the City, person(s) listed as owner by the County Assessor on the homestead record or taxpayer(s) as shown by records of the County Assessor.

~~128.02.~~401.03 Application

~~This Chapter shall apply to the abatement of public nuisances as defined in Chapter 110 of City Code including, but not limited to solid waste and other materials and equipment stored in a yard or conditions that are in violation of the Zoning Code or deemed to create an exterior public nuisances as described in Chapter 110.03, or a vision safety violation as defined in Chapter 205, or deemed to be a public nuisance by any other section of the City Code.~~

This Chapter applies to the abatement of public nuisances as defined in the Public Nuisance chapter of the Fridley City Code (Code) including, but not limited to, solid waste and other materials and equipment stored in a yard, conditions that are in violation of the zoning-related chapters of the Code, or any conditions deemed to be a public nuisance in any other section of the Code.

~~128.03.~~401.04 Inspection and Investigation

1. ~~Periodic Inspection. The Code Enforcement Officer or other duly authorized agents shall~~ City Manager or their designee may cause to be inspected ~~inspect~~ all public and private properties within the City which they believe might contain an exterior public nuisance as defined in this Code section as often as practicable to in order to determine whether any such conditions exist. ~~The Code Enforcement Officer or other duly authorized agents shall~~ City Manager or their designee may also investigate all any reports of exterior public nuisances located within the City pursuant to the Public Nuisances Chapter of the Code and Minnesota Statute (M.S.) § 609.74.

2. ~~Right of Entry. The Code Enforcement Officer or other duly authorized agents~~ City Manager or their designee may enter upon all public and private properties for the purposes of conducting inspections for exterior public nuisances. If the property owner and/or occupant of the any property refuses said inspector(s) right of entry for inspection by the City, the City may seek an administrative search warrant or other order of the District Court for said purpose of entry and inspection.

~~128.04.~~401.05 Abatement of Exterior Public Nuisances

~~Upon a determination by the Code Enforcement Officer or other duly authorized agent~~ City Manager or their designee that an exterior public nuisance exists on any public or private property within the City, said official shall will order the exterior public nuisance to be abated in accordance with this Code section ~~Chapter.~~

~~128.05~~401.06 Procedure for Removal Abatement of Exterior Public Nuisances

1. The City Manager or their designee will be responsible for investigating the determining whether a public nuisance exists or is being maintained in the City. When said official determines a public nuisance is being maintained or exists on a property, procedures outlined in this Chapter will be followed to abate the nuisance.

2. If the nuisance involves public right-of-way space, it must be abated or permitted according to the requirements of the Rights-of-Way Chapter of the Code. If the nuisance poses a public health or safety risk, the City Manager or their designee may follow emergency abatement procedures to protect public safety or require that the violation be abated within a reasonable timeframe following notice posted on the property. Other nuisances must be abated within a reasonable timeframe, according to the procedures established in this Chapter.

~~1.3. Notice. Whenever~~ When the Code Enforcement Officer or other duly authorized agent ~~City Manager or their designee~~ finds ~~with reason able certainty~~ that an exterior public nuisance exists on any public or private property in the City, said official ~~shall~~ must notify the affected property owner by hand-delivery or posted notice on the property and mailed notice by first class mail that the nuisance must be abated within a reasonable period of time, not less than ~~twenty (20)~~ days from the date of ~~service of the notice. (Service by mail shall be deemed complete upon mailing.)~~ The order shall ~~will~~ set forth the following:

A.(a) The specific nature of the violations and requirements for compliance. Compliance may be achieved by repair or alteration of the condition(s) in violation. If repair or alteration are not practical, the item(s) in violation must be removed from the subject property.

B.(b) That the property owner may, within ~~ten (10)~~ 14 business days of the date of the order, request a hearing before the Appeals-Planning Commission.

C.(c) That failure to abate the nuisance or request a hearing within the applicable time period ~~time period~~ will result in ~~summary an abatement action~~ procedures, and the cost of abatement, including City staff time, will be charged to assessed against the subject property. Collection will be requested from the property owner or other person served of the charges when due. Unpaid abatement charges will be assessed against the subject property.

2.4. Hearing

(a) Any property owner who ~~feels aggrieved by~~ has received an order of the Code Enforcement Officer or other duly authorized agent issued pursuant to this chapter ~~Chapter~~ may request a hearing before the Planning Commission. Such request shall ~~must~~ be filed in writing with the office of the ~~Community Development Director~~ City Manager or their designee within ~~ten (10)~~ 14 days after ~~of the date of service of the notice by the Code Enforcement Officer or other duly authorized agent~~ order.

(b) ~~The Community Development Director shall~~ or their designee will notify the Planning Commission and the property owner of the date, time, and place of the hearing. The Community Development Director ~~shall~~ will notify the ~~appealing~~ property owner of the selected public hearing date not less than ~~ten~~ (10) days prior to the date of the hearing. The hearing ~~shall~~ will be conducted no more than sixty (60) days after the property owner's request, unless a later date is mutually agreed to by the property owner and the City.

(c) Both the property owner and representatives of the City may appear at the hearing with counsel and may call witnesses and present relevant and competent evidence.

(d) Within ~~ten~~ (10) ~~days after of the~~ such hearing, the Planning Commission ~~shall~~ will affirm, repeal, or modify the abatement order ~~of the Code Enforcement Officer or other duly authorized agent~~. The Planning Commission order ~~shall~~ will be accompanied by written findings of fact, and may include a finding of fact as to the absence of value of the materials deemed to constitute an exterior public nuisance.

(e) Any person ~~aggrieved by the decision of the Planning Commission~~ may appeal ~~that the decision of the Planning Commission order~~ to the City Council by filing notice of such appeal with the Community Development Director ~~or their designee~~ within ~~twenty~~ (20) days of ~~receiving the~~ notice of the Planning Commission's ~~decision order~~. At its next available regular meeting following the filing of a notice of appeal, the Council ~~shall~~ will review the decision and findings of fact of the Planning Commission and ~~shall~~ will affirm, repeal, or modify that decision.

(f) If the Council affirms the Planning Commission's ~~decision order~~ declaring that an exterior public nuisance exists, the City ~~shall~~ will abate the exterior public nuisance after ~~twenty~~ (20) days following the Council's final determination, unless the property owner has remedied the public nuisance or petitions for a court order to the contrary within said ~~twenty~~ (20) days.

3.5. Disposition-Abatement action. When the nuisance is present after the reasonable period of time established in the Notice has passed and all hearings have concluded, the City will abate the nuisance. Where practical, compliance will be achieved by repair or alteration of the condition(s) in violation. If repair or alteration are not practical, the item(s) in violation will be removed from the subject property.

4.6. Disposal of Property. The City maintains the right to dispose of all property that it removes from public and private properties through abatement procedures as outlined in this Chapter. Disposal of property deemed to have value ~~shall~~ may occur ~~no less than~~ at least ~~thirty~~ (30) days after the property is secured, but ~~in any event shall~~ may not occur until the property owner is deemed to waive administrative appeals or exhausts all administrative appeals. The City ~~shall~~ may not dispose of property if the property owner obtains a court order to the contrary and/or pays all costs associated with the removal and storage of said property within ~~said the~~ thirty (30) day time period. The City maintains the right to immediately dispose of refuse ~~and/or~~ and junk

materials deemed to be without value. Any junk or abandoned vehicles will be impounded, stored, and sold pursuant to the process described in M.S. § 168B.

~~4.7. Assessment. The Code Enforcement Officer or other duly authorized agent shall~~City Manager or their designee must keep a record of the costs of the abatements completed under this Chapter and ~~shall~~will provide detailed reports to the Finance Director or other appropriate officer regarding all work performed for which assessments are to be made, stating and certifying the description of the land, lots, or parcels involved and the amount assessable to each. The costs to be assessed ~~shall~~will include up to an additional ~~twentyfive percent (25%)~~ to cover any administrative costs associated with the abatements. The City ~~shall~~will list the total unpaid charges for each abatement against each separate lot ~~or parcel~~ to which they are attributable under this Chapter. The Council may ~~then~~ spread the charges, or any portion of the charges, thereof against the property involved as a special assessment under other pertinent statutes, for certification to the County Auditor and collection the following year along with current taxes. Such assessment ~~shall~~will be payable in a single installment or by up to ~~ten (10)~~ equal annual installments as City Council may provide, pursuant to ~~Minnesota Statutes, Section~~M.S. § 429.101, Subdivision subd. 2.

128.06.401.07 Release of Property

To reclaim ~~those~~any materials that have been removed by the City in a nuisance abatement action, ~~accordance with 128.05,~~ the owner or lienholder must pay any costs and administrative ~~ion~~ fees incurred by the City. The owner or lienholder reclaiming the materials ~~shall~~must sign a "Release of Property" form and ~~shall~~must agree not to return the items to any location in the City of Fridley that creates a new violation of ~~city ordinances~~the Code. If additional removal of the same or similar items is deemed necessary by the City, an abbreviated but reasonable notice period will be provided before the removal takes place. All other provisions of ~~this City Chapter ordinance 128,~~ including the right to a hearing, will still apply.

401.08 Emergency Abatement

If the City Manager or their designee determines that a public nuisance exists and that the public health, safety, or welfare may be in immediate danger, the City may implement emergency abatement procedures to remove or abate the nuisance. When emergency abatement is authorized, the City must post a notice at the property and attempt to notify the owner, agent, or occupant of the property. However, notice to the owner, agent, or occupant of the property is not required prior to abatement. Following emergency abatement, the City will mail notice of the action taken to the property owner and assess costs according to the procedures established in this Chapter.

128.07. Severability

Every section, provision or part of this Chapter is declared separable severable from every other section, provision, or part to the extent that if any section, provision, or part of this Chapter shall be held to be invalid, such holding shall not invalidate any other section, provision, or part thereof.

~~128.08.401.09~~ Non-Exclusiveness

Nothing in this ~~Chapter~~ ~~section~~ shall will be deemed a waiver or limitation of any statutory right and/or power of the City as to hazardous buildings, properties, or materials, nor shall will this ~~Chapter Code section~~ be deemed to otherwise limit the right and/or power of the City to conduct other administrative and/or regulatory searches and inspections including, but not limited to, health inspections, fire scene inspections, and arson inspections, and regulated business ~~and industries~~ industry inspections, nor shall will this ~~Chapter Code section~~ be deemed to be an the exclusive remedy of the City regarding the abatement of exterior public nuisances.

Section 3

That the Fridley City Code Chapter 126, Houses of Prostitution; Public Nuisance, be hereby amended as follows:

Fridley City Code
Chapter ~~126.402~~ Houses of Prostitution; Public Nuisance

~~126.01. Statement of Purpose~~ 402.01 Purpose

The use or maintenance of buildings and movable property within the City of Fridley (~~City~~) ~~for purposes of to conducting~~ prostitution or prostitution related activities constitutes a threat to the public health, safety, and welfare. The City of Fridley has an interest in ~~insuring~~ ensuring the lawful use of property within the community and in protecting its citizens from uses of property which endanger public health, safety, and welfare. The Fridley City Council (~~Council~~) of the ~~City of~~ Fridley deems it necessary and appropriate to enact procedures to prevent and eliminate the use of buildings and moveable property within the City of Fridley ~~for purposes of to conducting~~ conduct prostitution or ~~prostitution related~~ prostitution-related activities.

~~126.02.402.02~~ Definitions

The terms used in Sections ~~126.01~~ through ~~126.08~~ shall have the meaning herein given:

1. ~~Building:~~ Includes any structure suitable for human shelter and the ground itself. A structure suitable for human shelter, a commercial structure that is maintained for business activities that involve human occupation, any portion of the structure or the land surrounding the structure.

2. ~~Movable Property:~~ Includes furniture, fixtures and materials.

Property: Includes any building and/or movable property.

~~3-~~Materials: Includes books, magazines, pamphlets, papers, writings, cards, advertisements, circulars, prints, pictures, ~~photographs, motion picture films, plays, images, instruments, statues, drawings,~~ and videos.

~~4-~~Prostitution and Prostitution Related Offenses: ~~Includes the~~The conduct defined in Minnesota Statutes, ~~Sections (M.S.) §§ 609.321 through 609.324.~~

~~126.03.~~402.03 Acts Constituting a Nuisance

1. Any ~~building or portion thereof and any movable~~ property used or maintained for the purpose of committing acts of prostitution or prostitution related offenses shall ~~constitute reasonable cause that~~ to declare the existence of a public nuisance at said property exists.

2. A rebuttable presumption as to the existence of a public nuisance shall ~~may~~ exist upon proof of three ~~(3)~~ or more misdemeanor convictions or two ~~(2)~~ or more gross misdemeanors or felony convictions within the previous two ~~(2)~~ years for acts of prostitution or prostitution related offenses arising out of conduct committed within or upon such property ~~building or portion thereof.~~

3. Any ~~building or portion thereof and all movable~~ property used in conducting or maintaining a public nuisance shall be enjoined and abated as provided for in ~~Sections 126.05 through 126.08.~~ this Chapter.

~~126.04.~~402.04 Notice

Notice of any convictions described in ~~Section 126.03 of,~~ this Chapter shall ~~will~~ be sent by United States mail to the owner of record, all other interested persons or parties of record, the, occupant(s) of such ~~building property or portion thereof and shall will~~ be filed with the County Recorder or Registrar of Titles's Office when permitted by law. Such notice shall ~~will~~ be deemed sufficient ~~as notice~~ to all interested persons, including persons or parties not of record or unknown, that the ~~building property, or a portion thereof~~ is being used for purposes constituting a public nuisance.

~~126.05.~~402.05 Injunctive Remedies

1. Whenever the County Attorney, City Attorney, Public Official or resident of the City has reasonable cause to believe that any person within the City is violating ~~Section 126.03~~ this Chapter, ~~they he or she may,~~ by verified petition, seek a temporary injunction in district court in Anoka County. ~~No~~ Prior to the issuance of a temporary restraining order or preliminary injunction, ~~shall be issued without the City must schedule a a-prior show cause notice of hearing to ensure the respondents have an opportunity to be heard.~~ Personal service of the show cause order and of the petition made ~~as in the civil actions on the named respondents, or, to upon any of their employees or agents found within the State, is required for~~ shall constitute sufficient notice. Such show cause order for hearing may be returnable on the third day from the date of service, ~~as to a respondent who is present in this State, and on the fifth day as to a person not a~~

~~resident or not found within this State. In-state respondents must reply to the notice of hearing within three days of receipt informing the City of their intent to be present at the hearing. Out of state respondents must reply to the same notice within five days or receipt.~~

2. Any temporary restraining order or temporary injunction granted ~~shall~~ will be binding on the owner and all, other, persons or parties, known or unknown, claiming any right, title, estate, lien or other interest in the ~~building property or portion thereof~~ used or maintained for purposes constituting a public nuisance.

~~126.06.402.06~~ Trial, Order and Abatement

1. Pursuant to the Rules of Civil Procedure, the court may also order ~~the a~~ a trial of the action on the merits to be advanced and consolidated with the hearing on the motion for a temporary injunction. Proof of any of the circumstances enumerated in ~~Section 126.03.2 shall~~ this Chapter will create a rebuttable presumption as to the existence of a public nuisance ~~and the court shall order the abatement of the nuisance.~~

2. The court is authorized to order ~~that~~ the removal from the building or portion thereof of all movable property used in conducting or maintaining such nuisance be removed from the property, and may direct the sale of such moveable property, ~~as belongs to the defendants who were notified or appeared and shall direct the closing of the building property or portion thereof for a period of one (1) year, except as to such for use requested by a person appointed by the court as receiver of such the building or portion property thereof and as such use is further approved by the court. All remedies providing for the seizure of property for the purpose of securing satisfaction of a judgment shall be available under the circumstances and in the manner provided by the law of the State. All costs of receivership shall~~ must be paid out of the receipts from the sale of the property or rents collected.

3. Where the ~~building or portion thereof~~ property is a nonconforming use for municipal zoning purposes, the abatement ~~shall~~ will constitute a discontinuance of such use and, thereafter, the use of the ~~building or the portion thereof~~ abated property must conform to the use permitted in the zoning district in which it is located. Additionally, if the abatement of a portion of the ~~building property~~ results in a reduction of the degree of the ~~building's property's~~ nonconformity, the degree of nonconformity may not be thereafter returned to its original status.

4. This Section does not limit the destruction of any materials pursuant to Minnesota Statutes, ~~Section~~ M.S. § 617.27.

~~126.07.~~ Contempt

~~Whoever violates a restraining order, temporary injunction or abatement order granted under Sections 126.03 through 126.08 may be adjudged in contempt of court and punished accordingly. In addition, if any defendant fails to perform an ordered act, the court may direct the act to be done in accordance with Rule 70 of the Rules of Civil Procedure.~~

126.08. Parties to Action

Before any abatement order shall be enforced against the building or the portion thereof abated, the owner thereof shall be served with a summons in accordance with Rule 4 of the Rules of Civil Procedure. The person in whose name the building or affected portion thereof is recorded with the County Auditor for purposes of taxation shall be presumed the owner. In case of unknown persons having or claiming any ownership, right, title or interest in the property, they may be made parties to the action by designating them in the summons and complaint as "all other persons unknown claiming any ownership, right, title or interest in the property affected by the action" and service thereon made in the manner prescribed in Rule 4.04 of the Rules of Civil Procedure.

Section 4

That the Fridley City Code Chapter 130, Clandestine Drug Lab and Chemical Dump Sites, be hereby amended as follows:

Fridley City Code
Chapter ~~130.403~~ Clandestine Drug Lab and Chemical Dump Sites

~~130.01. General Provisions.~~ 403.01 Purpose

~~1. Purpose and Intent.~~ The purpose of this ~~Chapter~~ Ordinance is to reduce public exposure to health risks where law enforcement officers or fire officials have determined that hazardous chemicals from a suspected clandestine drug lab site or associated dump site may exist. The Fridley City Council (Council) finds that such sites may contain ~~suspected~~ chemicals and residues that place people, particularly children or adults of child bearing age, at risk when exposed through inhabiting or visiting the site, ~~now and in the future.~~

Based upon ~~on~~ professional reports, assessments, testing, and investigations, the ~~City~~ Council finds that such hazardous chemicals can condense, penetrate, and contaminate ~~on~~ the land, surfaces, furnishings, buildings, and equipment in or near ~~structures or other~~ locations where clandestine drug labs or associated dumps such sites exist. The Council finds that these ~~conditions~~ present potential health and safety risks to residents, occupants, and visitors who may be exposed to said conditions via through fire, explosion, skin and respiratory exposure contact, or and other related methods of exposure dangers. The Council further finds that such sites present health and safety risks to occupied residences, buildings, and structures, and to the general housing stock of the community.

~~2. XXX.02 Interpretation and Application.~~ 403.02 Application

1. In their interpretation and application, the provisions of this ~~Chapter~~ Ordinance shall must be construed to protect the public health, safety, and welfare.

2. Where the conditions imposed by any provision of this ~~Chapter~~ Ordinance are either more or less restrictive than comparable provisions imposed by any other law, ordinance, statute, or

regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements ~~shall will prevail~~ preempt the less restrictive regulations.

~~3. Should any court of competent jurisdiction declare any section or subpart of this Chapter Ordinance to be invalid, such decision shall does not affect the validity of this Chapter the Ordinance as a whole or any part thereof, other than the provision declared invalid.~~

~~3. — Fees. Fees for the administration of this Chapter Ordinance are set forth in the City's fee schedule may be established and amended periodically by ordinance of the City Council.~~

~~4. — Definitions For the purpose of this Chapter Ordinance Ordinance, the following terms or words shall be interpreted as follows:~~

403.03 Definitions

~~Building Official: shall mean the~~ The City of Fridley's (City) Chief Building Official or his/her their designee.

~~Child: shall mean any~~ Any person less than 18 years of age.

~~Chemical dumpsite: shall mean any~~ Any place or area where chemicals or other waste materials used in a clandestine drug lab has been located.

~~City shall mean the~~ City of Fridley.

~~Clandestine drug lab: shall mean the~~ The unlawful ~~manufacture~~ manufacturing of, or attempt to manufacture, any controlled substances.

~~Clandestine drug lab site: shall mean any~~ Any place or area where law enforcement or fire officials have determined that conditions associated with the operation of an unlawful clandestine drug lab exist. A clandestine drug lab site may include motor vehicles, trailers, boats or other movable property, dwellings, accessory buildings, accessory structures, commercial structures, multi-family structures, or a chemical dump site on any land.

~~Controlled substance: shall mean a~~ A drug, substance, or immediate precursor in Schedules I through V of Minn. Stat. Minnesota Statute (M.S.) § 152.02. ~~The term shall does not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.~~

~~Environmental testing and cleaning firm or contractor: shall mean a~~ A business or individual with established competence as designated by the State of Minnesota Department of Health specific to the environmental task being performed.

~~Fire Marshal: shall mean t~~ The City of Fridley's Fire Marshal or their ~~his/her~~ designee.

~~Hazardous wastes: shall mean w~~ Waste generated, including equipment, from a clandestine drug lab. Such wastes shall must be treated, stored, transported, or disposed of in a manner consistent with

the Minnesota Department of Health, Minnesota Pollution Control, and Anoka County Health Department rules and regulations.

~~Manufacture; in places other than a pharmacy, shall mean and include the~~ The unlawful production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, ~~of drugs~~ controlled substances.

Minnesota Department of Health ~~guidelines~~ Guidelines; ~~shall mean the~~ The most current version of standards or guidelines, including but not limited to "Clandestine Drug Labs General Cleanup ~~Guidelines~~ Guidance", as promulgated by the State of Minnesota Department of Health for the testing or remediation of clandestine drug labs or chemical dump sites; ~~and which~~ Said standards or guidelines are hereby incorporated by reference and made a part of this ~~Chapter~~ Ordinance.

~~Owner; shall mean any~~ Any person, firm, or corporation who owns, in whole or in part, the land, buildings, structures, motor vehicles, trailers, boats or other movable property associated with a clandestine drug lab site or chemical dumpsite.

~~Public health nuisance.—All dwellings, accessory structures and buildings or adjacent property associated with a clandestine drug lab site are potentially unsafe due to health hazards and are considered a public health nuisance pursuant to Minn. Stat. §463.15, et seq.; § 412.221, et seq.; and 145A.01, et seq.~~

~~130.02.403.04~~ Administration

~~1. Law Enforcement or Fire Department Notice to Other Authorities. Law enforcement authorities or Fire Department officials~~ Building Officials or Fire Marshals ~~that who~~ identify conditions associated with a clandestine drug lab site or a chemical dump site that places neighbors, visiting public, or present and future occupants of the site at risk creates a risk of for exposure to harmful contaminants and other associated conditions hazardous chemicals; must promptly notify the appropriate municipal, child protection, and public health authorities of the property conditions, location, and identity of the property owner if known, ~~and conditions found.~~

~~2. Declaration of Property as a Public Health Nuisance.—If law enforcement or fire officials determine the existence of a clandestine drug lab site or chemical dumpsite, the property shall be declared a public health nuisance. All dwellings, accessory structures and buildings or adjacent property associated with a clandestine drug lab site are potentially unsafe due to health hazards and are considered a public health nuisance pursuant to M.S. § 463.15 and M.S. § 145A.01.~~

~~3. Notice of Public Health Nuisance to Concerned Parties. Upon notification by law enforcement or Fire Department authorities, the Building a Public Official or Fire Marshal shall who must promptly issue a Declaration of Public Health Nuisance for the affected property and prominently post a copy of the Declaration at all entrances to the dwelling, property or site. The Building Official or Fire Marshal issuing said Declaration shall must also notify the owner of the property by mail and notify the following parties via U.S. Mail:~~

(a) All owners of the property (if known);

~~A.~~(b) Occupants of the property (if known);

~~B.~~(c) Neighbors at potential risk;

~~C.~~(d) The Fridley Police Department, Fridley Fire Department, Fridley Public Safety Department, Anoka County Community Health and Environmental Services; and

~~D.~~(e) Other state and local authorities, such as Minnesota Pollution Control Agency (MPCA) and Minnesota Department of Health, which are known to have public and environmental protection responsibilities that are applicable to the situation.

~~E.~~(f) The Building Official or Fire Marshal issuing said Declaration may notify any financial institution with an interest of record of the Declaration of Public Health Nuisance and shall may notify such financial institution should the property owner fail to arrange for timely and appropriate assessment and clean up.

~~F.~~(g) The Building Official or Fire Marshal issuing said Declaration may notify the insurance company with a policy known to be applicable to the that insures the subject property and shall may notify such insurance company should the property owner fail to arrange for timely and appropriate assessment and clean up.

~~G.~~(h) The Building Official or Fire Marshal issuing said Declaration may cause a file a certified copy of the Declaration of Public Health Nuisance ~~to be filed with the Office of the Anoka County Recorder or Registrar of Titles.~~ Upon abatement of the nuisance as required herein, the Building Official or Fire Marshal issuing said Declaration shall must cause record a notice of successful abatement or removal of Declaration of Public Health Nuisance ~~to be so recorded.~~

4. Property Owner's Responsibility to Act - Order for Abatement. The Building Official or Fire Marshal shall must also issue an order to the property owner to abate the public health nuisance which will, including include the following conditions:

~~A.~~(a) That the owner, tenant, occupants, or other persons in possession of residing at or otherwise occupying the premises shall must immediately vacate those any portions of the property, including building and structure interiors, or dump site, which that may place themsuch persons at risk. No person shall may reside in or occupy any premises or property subject to an order for abatement under this Chapter until such time as the Building Official or Fire Marshal has determined that the contamination has been reduced to an acceptable level hazard has been abated and that the cleaning of hazardous waste was conducted in accordance with Minnesota Department of Health guidelines.

~~B.(b) Promptly~~ That the owner or occupant must promptly contract with appropriate an environmental testing and cleaning firms to conduct an on-site assessment, complete clean-up, and remediation testing, and follow-up testing, and determine that the property risks are sufficiently reduced in accordance with Minnesota Department of Health guidelines. The property owner shall must notify the City of actions taken and reach an agreement with the City on the clean-up schedule. The City shall may consider practical limitations and the availability of environmental or other contractors in approving the schedule for clean-up. The property owners must receive a determination from the cleaning firm or contractor stating that the risks created by the property are sufficiently reduced in accordance with Minnesota Department of Health guidelines.

~~C.(c) That the owner or occupant must Provide~~ provide written documentation of the clean-up process, including a signed, written statement that the contamination has been reduced to an acceptable level and that the clean-up was conducted in accordance with Minnesota Department of Health guidelines.

5. Property Owner's Responsibility for Costs. The property owner shall will be responsible for all costs of assessment, testing, abatement, or clean-up of the site, including contractor's' fees and public costs for services that were performed in association with a clandestine drug lab site or chemical dump site clean-up. The Building Official or Fire Marshal shall must prepare and provide to the property owner a Statement of Itemized Public Costs and send it to the property owner which shall will be due and payable upon receipt. Public costs may include, but are not limited to:

A.(a) Posting of the site;

B.(b) Notification of affected parties;

C.(c) Expenses related to the recovery of costs, including the assessment process;

D.(d) Laboratory fees;

E.(e) Clean-up services, including septic systems;

F.(f) Administrative fees;

G.(g) Emergency response costs;

H.(h) Other associated costs; and

I.(i) Any legal costs including attorney fees related to the nuisance abatement.

6. Recovery of Public Costs

~~A.~~(a) If, after service of notification of the Declaration of Public Health Nuisance, the property owner fails to arrange appropriate assessment and clean-up, the Building Official or Fire Marshal is authorized to proceed in a prompt manner to initiate the on-site assessment and clean-up.

~~B.~~(b) If the City is unable to locate the property owner within ~~ten~~ (10) days of the Declaration of Public Health Nuisance, the City is authorized to proceed in a prompt manner to initiate the on-site assessment and clean-up.

~~C.~~(c) The City may abate the nuisance by removing the hazardous structure or building, ~~or otherwise,~~ according to Minnesota Statutes M.S. Chapter 463. ~~In cases involving motor vehicles, recreational vehicles, trailers, boats, or other movable property, the City may abate the nuisance by disposal of the property.~~

~~D.~~(d) If the City abates the public health nuisance, or otherwise incurs public costs, in addition to any other legal remedy, the City ~~shall be~~ is entitled to recover all public costs. The City may recover costs by civil action against the person or persons who own the property, ~~or by assessing such costs as a special tax against the property in the manner as taxes and special assessments are certified and collected pursuant to Minn. Stat. M.S. § 429.101.~~

~~E.~~(e) Nothing herein ~~shall limit~~ limits the authority of the City to enforce this ~~Chapter ordinance~~ or seek any other legal remedy to abate the nuisance through declaratory action, injunction, nuisance declaration, or otherwise.

7. Authority to Modify or Remove Declaration of Public Health Nuisance.

~~A.~~(a) The Building Official or Fire Marshal is authorized to modify the Declaration conditions or remove the Declaration of Public Health Nuisance.

~~B.~~(b) Such modifications or removal of the Declaration ~~shall~~ may only occur after documentation from a qualified environmental or cleaning firm stating that the health and safety risks posed by the property, ~~including those to neighbors and potential dwelling occupants,~~ are sufficiently abated ~~or corrected~~ in accordance with Minnesota Department of Health guidelines.

~~130.03.403.05~~ 403.05 City Council Review

The owner of the property or any party with a legal interest in the property who has been issued a Declaration of Public Health Nuisance, an Order for Abatement, or a Statement of Public Costs may appeal ~~the Declaration of Public Health Nuisance, the Order for Abatement or the Statement of Public Costs to the~~ the City Council. The appeal ~~shall~~ must be in writing, filed with the City Clerk and Anoka County Community Health and Environmental Services, ~~and must~~ must specifying the grounds for the appeal and ~~the relief requested.~~ The appeal must be filed within ~~10~~ ten days of the issuance of the item from which appeal is taken. The City Council ~~shall~~ will hear the appeal at the next available City

Council meeting. Upon review, the City Council may affirm, modify, or reverse the action taken. The filing of an appeal shall ~~may~~ suspend the terms of the Declaration of Public Health Nuisance, Order for Abatement, or Statement of Public Costs, whichever is applicable. However, in the instance of an appeal from an Order for Abatement, the appeal shall ~~may~~ not suspend that part of the order prohibiting occupancy of the property.

~~130.04. Violations and Penalties.~~

~~Any person violating any provision of this Article is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minn. Stat. § 609.02, Subd. 3.~~

403.06 Fees

Fees for the administration of this Chapter are set forth in the Fees chapter of the Code.

Section 5

That the Fridley City Code Chapter 114, Abandoned Junk or Unsafe Motor Vehicles, be hereby amended as follows:

Fridley City Code Chapter ~~114.~~404 Abandoned Junk or Unsafe Motor Vehicles

~~114.01.~~404.01 Purpose

~~Abandoned or junk and unsafe motor vehicles constitute a hazard to the health and welfare of the residents of the community, in that such~~ Abandoned or junk vehicles can harbor noxious diseases, furnish serve as shelter and breeding places for vermin, may contain fluids that can cause significant health risks, and otherwise present physical dangers to the safety and well-being ~~well-being of children and other citizens. Motor vehicles contain fluids that if released into the environment can and do cause significant health risks to the community. The condition of vehicles that are junked and abandoned, junk or unsafe significantly increase the likelihood that these dangerous fluids might be so released.~~

~~Abandoned, or junk or unsafe motor vehicles and other scrap metals also constitute a blight on the landscape of the City and therefore are detrimental to the environment. The abandonment and retirement of motor vehicles and other scrap metal constitutes a waste of a valuable source of useful metal. It is therefore in the public interest that the present accumulation of abandoned or junk junk, or unsafe motor vehicles and other scrap metals be eliminated, that future abandonment of motor vehicles and other scrap metals be prevented, and that other acceptable and economically useful methods for the disposal of abandoned or junk or unsafe motor vehicles and other forms of scrap metal be utilized.~~

~~114.02.~~404.02 Definitions

~~1. Abandoned Motor Vehicle: A motor vehicle that has remained illegally outdoors on public property within the City for a period of more than 48 hours on public property illegally or, or has remained for a period of more than four hours48 hours on private property without consent of the person in control of thesuch property and, or lacks vital component parts or is in an inoperable condition such that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building. in an inoperable condition such that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building. It shall also mean a motor vehicle voluntarily surrendered by its owner to the City or a duly authorized agent of the City. A classic car or pioneer car, as defined by Minnesota Statutes (M.S.) § 168.10 in Minnesota Statutes, is shall not be considered an abandoned motor vehicle within the meaning of this Section. Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with M.S. § 161.242, or that are licensed and maintained in accordance with local laws and zoning regulations, are not considered abandoned vehicles. A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ, or court order is in effect.~~

Garagekeeper: An operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair, or maintenance of motor vehicles.

~~2. ——— Unsafe Motor Vehicle.~~

~~Any vehicle located outdoors on property within the city in which any systems, including braking, steering, suspension, electrical, lighting, motor, or drive train system are not functioning or a vehicle that cannot legally be driven or is in violation of any state, federal or local vehicle equipment or safety regulation including, but not limited, to Minnesota statutes.~~

~~3. Junk Motor Vehicle~~

~~A motor vehicle that is located outdoors on property in the city that meets allany of the following criteria shall be defined as a junk vehicle:~~

- ~~a. Any motor vehicle that is not in operable condition.~~
- ~~b. Any motor vehicle that is partially dismantled.~~
- ~~c. Any motor vehicle that is a source of repair or replacement parts for other vehicles.~~
- ~~d. Any motor vehicle that lacks vital component parts.~~
- ~~e. Any motor vehicle that is not currently registered and properly licensed for operation with and by the State of Minnesota.~~

Junk Vehicle: A vehicle that meets all of the following criteria:

1. Is extensively damaged with the damage including such things as broken or missing wheels, motor, drive train, transmission or appears to be otherwise inoperable; and

2. Does not have a valid and current registration plate.

4. ~~_____ Vital Component Parts.~~

~~Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train and wheels.~~

Motor Vehicle: Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks including automobiles, trucks, trailers, motorcycles, and tractors.

5. ~~Motor Vehicle Definition~~

~~A machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides and transports persons or property or pulls machinery and shall include, without limitation, automobiles, trucks, trailers, motorcycles, tractors, 3-wheelers, 4-wheelers and snowmobiles.~~

~~114.03.404.03 Impoundment~~ ABATEMENT

~~The City, or its duly authorized agent, may take into custody and impound any abandoned or junk or unsafe motor vehicle.~~

~~A vehicle may be impounded after notice of such proposed impoundment (in a form similar to that set forth herein) has been securely attached to and conspicuously displayed on the vehicle for a period of five days prior to such impoundment excluding Saturdays, Sundays and city holidays for the following reasons:~~

~~A. _____ When such vehicle is parked and/or used in violation of any law, ordinance or regulation; or~~

~~B. _____ When such vehicle is abandoned, junk or unsafe.~~

~~114.04.404.04 Vehicles Immediately Subject to Public Sale~~ Sale of Abandoned or Junk Vehicles

An impounded abandoned or junk vehicle is eligible for disposal or sale 15 days after notice to the owner. This includes junk vehicles that have a valid, current registration plate. When an abandoned motor vehicle is more than seven (7) model years of age, lacks vital component parts and does not

display a license plate currently valid in Minnesota or in any other state or foreign country, it shall immediately be eligible for sale by a duly authorized agent of the City or at public auction and shall not be subject to the notification or reclamation procedures established by this Chapter. (Ref 1236)

114.05.404.05 NOTICE - Notice of Sale

~~1. When an abandoned an abandoned motor vehicle does not fall within the provisions of Section 114.04, the City shall give notice of the taking within ten (10) days. The notice shall set forth the date and place of the taking, the year, make, model and serial, number of the abandoned, junk or unsafe motor vehicle and the place where the vehicle is being held, shall inform the owner and any lienholders of their right to reclaim the vehicle under Section 114.06 and shall state that failure of the owner or lienholders to exercise their right to reclaim the vehicle shall be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the sale of the vehicle at a public auction pursuant to Section 114.07.~~

~~2. The notice shall be sent by mail to the registered owner, if any, of the abandoned, junk or unsafe motor vehicle and to all readily identifiable lienholders of record. The notice shall be mailed to the registered owner at the address provided by the motor vehicle division of the Minnesota Department of Public Safety or the corresponding agency of any other state or province. A copy of such notice may be sent to the property owner where the vehicle is found. If the person mailing the notice has reason to believe that the registered owner of the vehicle, or one who claims to be the registered owner of the vehicle, is residing or in custody at some different address, a copy of the notice shall be mailed or personally delivered to such owner or claimant in a manner designed, as nearly as may be practicable, to give actual notice to him or her. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was abandoned junk or unsafe. Published notices may be grouped together for convenience and economy.~~

1. When an abandoned or junk vehicle is taken into custody, the City must give written notice of the taking within five business days, to the registered vehicle owner and any lienholders. The notice must set forth the date and place of the taking, the year, make, model and serial number of impounded vehicle (if such information can be reasonably obtained), and the place where the vehicle is being held. The notice must further inform the owner and any lienholders of their right to reclaim the vehicle under this Chapter, and state that failure of the owner or lienholders to exercise their right to reclaim the vehicle will be deemed a waiver by them of all right, title, and interest in the contents and a consent to the sale of the vehicle at a public auction pursuant to this Chapter. The notice must also state that a vehicle owner who provides to the impound lot operator documents from a government or nonprofit agency or legal aid office that the owner is homeless, receives relief based on need, or is eligible for legal aid services, has the unencumbered right to retrieve any and all contents without charge. "Contents" does not include any permanently affixed mechanical or nonmechanical automobile parts; automobile body parts; or automobile accessories, including audio or video players.

2. The notice will be sent by mail to the registered owner, if any, of the impounded vehicle and to all readily identifiable lienholders of record. The notice shall be mailed to the registered owner at the address provided by the motor vehicle division of the Minnesota Department of Public Safety or the corresponding agency of any other state or province. If the person mailing the notice has reason to believe that the registered owner of the vehicle, or any person who claims to be the registered owner of the vehicle, is at a different address, a copy of the notice shall be mailed or personally delivered to the owner or claimant so as to give them actual notice of the sale. If it is impossible to determine, with reasonable certainty, the identity and address of the registered owner or any lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy.

114.06.404.06 Reclaim

1. The owner or any lienholder of an abandoned, ~~or junk or unsafe~~-motor vehicle shall ~~will~~ have a right to reclaim such vehicle from the City upon payment of all towing and storage charges resulting from taking the vehicle into custody within ~~fifteen (15)~~ days after the date of the notice required by Section ~~114.05~~this Chapter.

2. Nothing in this Chapter shall ~~may~~ be construed to impair any lien of a garagekeeper ~~under the laws of this State~~, or the right of a lienholder to foreclose. ~~For the purposes of this Section, "garagekeeper" is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.~~

3. ~~To reclaim a motor vehicle impounded pursuant to this ordinance, the owner or lienholder must pay any costs and administrative fees incurred by the city, and must agree to relocate the vehicle in accordance with local state and federal regulations. The owner or lienholder reclaiming such vehicle shall sign a "Release of Property" and shall agree to immediate impoundment without notice if such vehicle again violates this section. In addition, the City may require a bond to be posted if said vehicle has been subject to a prior impoundment.~~

114.07404.07 Hearing Appeals

~~Any property owner who feels aggrieved by an impoundment of a vehicle under this chapter may request a hearing before the Hearing Examiner. Such request shall be filed in writing with the office of the Community Development Director within twenty (20) days after the date of service of the notice by the City or other duly authorized agent. The Community Development Director shall notify the Hearing Examiner who shall notify the property owner of the date, time and place of the hearing. The hearing shall be conducted no more than twenty (20) days after the Hearing Examiner receives notice of the request, unless a later date is mutually agreed to by the Hearing Examiner, the property owner and the City. Both the property owner and the city may appear at the hearing with counsel and may call such witnesses and present such evidence as is determined by the Hearing Examiner to be relevant. Within ten (10) days after such hearing, the Hearing~~

~~Examiner shall affirm, repeal or modify the order of the City or other duly authorized agent. Notice of the decision shall be mailed to the owner at the address given in the hearing request. The Hearing Examiner's order shall be accompanied by written findings of fact, and may include a finding of fact as to the violation of this chapter. Any person aggrieved by the decision of the Hearing examiner may appeal that decision to the City Council by filing notice of such appeal with the Community Development Director within twenty (20) days of the mailing of the Hearing Examiner's decision. At its next available regular meeting following the filing of a notice of appeal, the Council shall review the decision and findings of fact of the Hearing Examiner and shall affirm, repeal or modify that decision. If the Council affirms the Hearing Examiner's decision declaring that a violation of this chapter exists, the City shall proceed to sell the vehicles after twenty (20) days following the Council's final determination, unless the property owner obtains a court order to the contrary within said twenty (20) days. (Ref Ord 1236)~~

1. Any person contesting a citation or decision associated with violations of this Chapter may file an appeal pursuant to the Appeals and Administrative Citations chapter of the Code.

2. Within 14 business days of a determination by the Hearing Examiner, any person contesting that decision may appeal to the Council by submitting a written appeal to the City Clerk. At its next regular meeting following the Hearing Examiner's decision, the Council will affirm, repeal, or modify that decision.

114.08.404.08 Public Sale

~~1. An abandoned, or junk or unsafe motor vehicle taken into custody and not reclaimed under Section 114.06this Chapter becomes the property of the duly authorized agent of the City or shalland may be sold by the City to the highest bidder at public auction or sale, following notice published a reasonable time in advance. The purchaser of the vehicle shall must be given a receipt in a form prescribed by the registrar of motor vehiclesCity, which shall will be sufficient title to dispose of the vehicle. The receipt shall may also entitle the purchaser of the vehicle to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.~~

~~2. Disposing of unsold vehicles. Abandoned vehicles Vehicles not sold pursuant to subdivision 1 this Section shall must be disposed of in accordance with Minnesota StatutesM.S. § 168B.09.~~

~~3. Disposition of sale proceeds.—From the proceeds of the sale under this section of the abandoned motor vehicles, the City shall will reimburse itself for the cost of towing, preserving, and storing the anythe vehicles and all administrative, notice and publication costs incurred in handling the vehicle pursuant to sections 114.01 to 114.09. The City may retain all proceeds from the sale of any personal belongings and contents in the vehicle that were not claimed by the owner or the owner's agent before the sale, except that any suspected contraband or other items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency. Any remainder from the proceeds of a sale shall must be held for the~~

owner of the vehicle or entitled lienholder for 90 days and then shall must be deposited with the City in the treasury of the unit of government.

114.09.404.09 Disposal Authority

1. ~~Units of government.~~ The ~~city~~ City may contract with others ~~or and~~ may utilize its own equipment and personnel for the inventory of ~~impounded abandoned~~ motor vehicles and abandoned scrap metal, and if no bids are received, may utilize its own equipment and personnel for the collection, storage and transportation of ~~these abandoned motor vehicles and abandoned scrap metal~~; provided, however, that ~~the City~~ a unit of government may utilize its own equipment and personnel for the collection and storage of not more than five abandoned motor vehicles without advertising for or receiving bids in any 120 day period.

114.10. Penalties

~~Any person who abandons a motor vehicle on any public or private property, without the consent of the person in control of such property, or is otherwise in violation of this Chapter, is guilty of a misdemeanor and is subject to all penalties provided for such violations in Chapter 901 of this Code.~~

404.10 Vehicle Towing

1. All persons who tow or otherwise transport vehicles into, from, or through the City of Fridley (City), or who are under contract with the City to tow or transport vehicles, must not tow or otherwise transport a vehicle without taking reasonable steps to prevent or minimize the loss of parts or leaking of fluid from the vehicle, in accordance with safety concerns of both the public and the person transporting or towing the vehicle.

2. If fluids from the vehicle have leaked prior to towing or transporting the vehicle, or a leak from the vehicle occurs during towing or transportation, reasonable steps must promptly be taken by the person towing or transporting the vehicle to clean up and otherwise contain and remove the leaked fluids.

3. Persons who store vehicles towed or transported under this Chapter must comply with all environmental laws and regulations governing the leakage of motor vehicle fluids once the vehicle reaches the towing or transportation destination.

4. Any person removing a wrecked or damaged vehicle from a highway, road, alley, or street must also remove any glass, fluids, vehicle pieces, or other injurious substances from the highway, road, alley, or street.

Section 6

That the Fridley City Code Chapter 124, Noise, be hereby amended as follows:

Fridley City Code
Chapter ~~124.405~~ Noise

~~124.01.405.01~~ Purpose

The Fridley City Council (Council) ~~of the City of Fridley~~ deems that certain levels and amounts of noise are detrimental to the health, safety, and general welfare of the public.

~~124.02.405.02~~ Definitions

~~1-~~ Air Circulation Device: A mechanism designed ~~and used for the~~ to controlled the flow of air used in ventilating, cooling, or conditioning systems including, but not limited to, central and window air conditioning units.

~~2-~~ City: A noise control officer, peace officer, or any other duly appointed representative of the City as designated by the City Manager.

~~3-~~ Decibel: A unit of sound pressure level, ~~abbreviated~~ dBA.

~~4-~~ dBA: A unit of sound level. dBA is the weighted pound pressure level by the use of the A metering characteristic and weighting as specified in ANS1 Specification for Sound Level Meters, SL4-1971, which is hereby incorporated by reference. For the purpose of those regulations, dBA is used as a measure of human response to sound.

~~5-~~ Exhaust System: A combination of components that provides for enclosed flow of exhaust gas from engine parts to the atmosphere.

Engine Retarding Brake: A Dynamic Brake, Jake Brake, Jacobs Brake, C-Brake, Paccar Brake, transmission brake or other similar engine retarding brake system which alters the normal compression of the engine and subsequently releases that compression.

~~6-~~^L10: The sound level, expressed in decibels (dBA), which is exceeded ~~ten percent (10%)~~ of the time for a one ~~(1)-~~hour period, as measured by a sound level meter having characteristics as specified in the latest standards, 1.4. of the American National Standards Institute, and using test procedures approved by the City of Fridley (City).

~~7-~~^L50: The sound level similarly expressed and measured that is exceeded ~~fifty percent (50%)~~ of the time for a one ~~(1)-~~hour period.

~~8-~~ Noise: Any excessive and unnecessary sound not occurring in a natural environment including, but not limited to, sounds emanating from aircrafts and highways, and industrial, commercial, and residential sources.

9. Person: An individual, firm, partnership, corporation, trustee, association, the state and its agencies and subdivisions, or any body of persons whether incorporated or not. With respect to acts prohibited or required herein, "person" ~~shall~~ will include employees and licensees.

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

11. Sound Pressure Level (SPL): 20 times the logarithm to the base 10 of the ratio of the pressure of a sound, p, to the reference pressure, pr. For the purposes of ~~these regulations~~ this Chapter, the reference pressure shall be 20 micronewtons per square meter (20 u N/m²). In equation form, Sound Pressure Level in units of decibels is expressed as $SPL (dB) = 20 \log 10p/Pr$.

12. Sound Receiving Unit: A person, activity, animal life, or property that is affected by noise.

~~124.03.405.03~~ Receiving Land Use Standards

1. The sound level requirements of this Section shall apply at the property ~~linear zoning~~ lines of the sound receiving unit. Measurements may be made at any location on the property for evaluation purposes and to aid in the enforcement of other sections of this Chapter.

2. The sound levels as stated below shall be the highest sound levels permitted in each of the zoning districts as defined in zoning chapters of the Fridley City Code (Code) ~~Chapter 205 of the Fridley Code~~.

	Day (7 a.m. - 9 p.m.)		Night (9 p.m. - 7 a.m.)	
Zoning Districts	L50	L10	L50	L10
Residential, Public and Commercial	60	65	50	55
Planned Unit Development	65	70	65	70
Industrial	75	80	75	80

3. Sound levels resulting from cumulative travel of motor vehicles on State and County highways and railroads are exempt from these Receiving Land Use Standards, but are not exempt from other relevant sections of this Chapter relating to motor vehicles and railroads. This ordinance Chapter does not exempt individual motor vehicles from applicable ~~any and all~~ federal, state, or local regulations. It is the intent of the City to reduce highway noise in the various land areas surrounding highways to, or below, the requirements of this Section when ~~and wherever~~ possible.

~~124.04.405.04~~ Motor Vehicles Noise Limits

No person shall ~~may~~ operate a motor vehicle in the City in violation of the motor vehicle noise rules ~~limits adopted by~~ of the Minnesota Pollution Control Agency. ~~(Minnesota Statutes Section 169.693).~~

124.05. Central Air Conditioning Equipment

No person shall permanently install or place any central air conditioning device, except a window air conditioning unit, in any front or side yard without a permit from the City. Window air conditioning units are exempt from the provisions of this Section, except that the noise produced by such window units, as well as by all existing air circulation devices, shall not be in violation of Section 124.03 of this Chapter.

124.06.405.05 Operational Limits

1. Recreational Motor Vehicles. Recreational motor vehicles shall be subject to Minnesota Statutes Section 84.90 and Chapter 703, the Snowmobile Regulations Chapter of the City Code.

2. Outdoor Power Implements. No person shall ~~may~~ operate any outdoor power implement including, but not limited to, ~~gasoline or electric~~ lawn mowers, hedge clippers, chain saws, mulchers, garden tillers, edgers, leaf blowers, or ~~such other~~ any other implements designed primarily for outdoor use, at any time other than ~~between the hours of~~ before 7:00 a.m. and after 9:00 p.m. on weekdays and before 9:00 a.m. and after 9:00 p.m. on weekends and national legal holidays. Snow removal equipment is exempted from this provision.

3. Construction Activities. Construction work hours shall be subject to Chapter 206 the Building Code chapter of the City code Code.

4. Refuse Hauling. Refuse hauling hours shall be subject to Section 113.10 the Solid Waste Management Chapter of the City Code.

124.07.405.06 Public Nuisance Noises Prohibited

It shall be ~~is~~ unlawful for any person to make, or cause to be made, any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the health, safety, and general welfare of any persons, or precludes their enjoyment of property, or affects their property's value. The following acts, ~~among others,~~ are declared to be nuisance noises in violation of this Chapter, but said list enumeration shall not be deemed to be not exclusive.

1. Horns and Audible Signaling Devices. No person shall sound any horn or signaling device on any vehicle except as a warning of danger in accordance with (Minnesota Statutes (M.S.) §Section 169.68).

2. Radios and, or other Sound Amplification Devices.

A. (a) No person shall use, operate, or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for the production or reproduction of sound in a distinctly and loudly audible manner as to disturb the peace,

~~quiet and comfort of any persons nearby.~~ No person may use, operate or permit the use or operation of any radio or other sound amplification device in a manner that disturbs the peace, quiet and comfort of any persons nearby.

~~B.(b) No person may operate, or park, stop or leave standing a motor vehicle while using a radio or other electronic sound amplification device emitting sound from or around the vehicle that is audible from a distance of 75 or more feet, unless the electronic sound amplification device is being used to request assistance or warn against an unsafe condition.~~

This subsection does not apply to any of the following:

- (1) Operators of emergency vehicles when responding to an emergency.
- (2) Operators of public utility vehicles.
- (3) Operators of vehicles lawfully being used for advertising purposes.
- (4) Operators of vehicles that are being used in a licensed or permitted event, or celebration, procession, or assemblage.
- (5) The activation of a vehicle theft alarm signal device.

3. Participation in Noisy Parties or Gatherings.

~~No person shall participate in host or attend any unruly party or other gathering of people in a residentially zoned or used area giving rise to which causes noise that, disturbing significantly disturbs or annoys the peace, quiet, or repose of other persons a reasonable person.~~ No person shall participate in host or attend any unruly party or other gathering of people in a residentially zoned or used area giving rise to which causes noise that, disturbing significantly disturbs or annoys the peace, quiet, or repose of other persons a reasonable person. When a peace officer determines that a ~~gathering party~~ gathering party is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person ~~shall~~ may refuse to leave after being ordered by a peace officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance ~~shall~~ must make every reasonable effort to see that the disturbance is stopped.

4. Loudspeakers, Amplifiers for Advertising

~~Except as permitted by Section 124.07.5 this Chapter, no person shall may operate use or permit the use or operation of any loudspeaker, sound amplifier, or other device for the production or reproduction of sound, on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle, or activity. This Section is not meant to prohibit the reasonable use of amplified sound for religious purposes, including but not limited to, the tolling of church bells or a religious call to prayer.~~

5. Exception for Food/Beverage Vehicles

Notwithstanding any other provision to the contrary, food/beverage vehicles may sound a manually operated bell ~~while operating~~ between the hours of 10:00 a.m. and 4:30 p.m., and 6:00 p.m. to 8:00 p.m. in any area zoned commercial or industrial, and only between the hours of 1:00 p.m. and 4:30 p.m. and 6:30 p.m. to 8:00 p.m. in any area zoned residential or other than commercial or industrial, which ~~can~~ produces a noise level measured at a distance of 50 feet from the source no greater than 65 decibels.

6. Animals

Animals shall ~~be~~ subject to ~~Chapter 101~~ the Animal Control Chapter of the City Code.

7. Exhausts

No person shall ~~may~~ discharge the exhaust or ~~permit the discharge of the exhaust of~~ any steam engine, stationary internal combustion engine, or motor boat, motor vehicle, or snowmobile except through a muffler or other device which will effectively prevent loud or explosive noises therefrom and complies with all applicable state laws and regulations, including but not limited to M.S. § 169.69. (Minnesota Statutes Section 169.69).

8. Defective Vehicle or Load

No person shall ~~may~~ use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling or other noise.

9. Loading, Unloading, Unpacking

No person shall ~~may~~ create loud and excessive noise in connection with loading, unloading, or unpacking of any vehicle.

10. Engine Retarding Brakes Restricted

No operator of any truck may intentionally use an engine retarding brake on any City street, parking lot or alley within the City which causes abnormal or excessive noise from the engine, except in an emergency.

~~124.08.405.07~~ Exception for Emergency Work

Noise created exclusively in the performance of emergency work to preserve the public health, safety, or general welfare, or in the performance of emergency work necessary to restore a public service or eliminate a public hazard, shall ~~will~~ be exempt from the provisions of this Chapter. Any persons responsible for such emergency work shall must take all reasonable actions to minimize the amount of noise they create.

~~124.09.405.08~~ Enforcement

1. Administration

The noise control program established by this Chapter ~~shall~~will be administered by the City.

2. Testing Procedures

The City ~~shall~~must adopt guidelines establishing the test procedures and instrumentation to be used in enforcing the provisions of ~~Section 124.03 this Chapter, which imposes noise standards.~~ A copy of ~~such~~the guidelines shall be kept on file in City Hall and ~~shall~~will be available to the public for reference during office hours.

3. Studies

The City ~~shall~~will conduct such research, monitoring, and other studies related to sound as are necessary or useful in enforcing this Chapter and reducing noise in the City. The City ~~shall~~will make such investigations and inspections in accordance with law as required in applying the requirements of this Chapter.

4. Noise Impact ~~Assessment~~Statements

The City may require any person applying to the City for a change in zoning classification ~~or a permit or license for any structure, operation, process, installation or alteration or project that may be considered as a potential noise source to submit a noise impact statement~~assessment on a form prescribed by the City to the City. Such assessment must be submitted in a format prescribed by the City.

5. Civil Action

The provisions of this Chapter may be enforced through injunction, mandamus, or any other appropriate civil remedy that the City may deem appropriate.

6. Other Powers and Duties

The City ~~shall~~will exercise ~~such other~~its powers and perform ~~such other~~its duties as are ~~are~~may be reasonable and necessary to enforce this Chapter.

~~124.10.407.09~~ Variances ~~Exemptions~~

The City ~~Council shall have authority, consistent with this Section~~has the authority to grant ~~exemptions~~variances from the requirements of all sections of this Chapter.

~~124.11.~~ Penalties

The violation of any provision of this Chapter, except Section 124.04, shall be subject to Chapter 901 of the City Code.

Section 7

That the Fridley City Code Chapter 123, Junk Vehicles, be hereby amended as follows:

Fridley City Code
Chapter 123. Junk Vehicles

123.01. Purpose

This Chapter is established for the following purposes:

1. — To promote health, safety, order, convenience, prosperity and general welfare in the City of Fridley by establishing that the outside parking or storage, on or near residential district properties, of vehicles, materials, supplies or equipment not customarily used or needed for the use in connection with the occupancy of residential property for residential purposes, is hereby found to create a nuisance.
2. — To prevent obstruction of view on streets and on private property, unhealthful and noxious odors and materials in residential neighborhoods, cluttered and otherwise unsightly areas and adverse effects to residential property values and neighborhood patterns.
3. — To allow the full use of residential streets for residential parking.

123.02. Definitions

The following definitions shall apply in the interpretation and enforcement of this Chapter:

1. — Junk Car.

Any motor vehicle that is not in operable condition, or that is partially dismantled or that is used for sale of parts or as a source of repair or replacement parts for other vehicles, or that is kept for scrapping, dismantling, or salvage of any kind, or that is not properly licensed for operation with, and by, the State of Minnesota.

2. — Person.

Any person, firm, partnership, association, corporation, company or organization of any kind.

3. — Property.

Any real property within the City that is not a street or highway.

4. ~~Street or Highway.~~

~~The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.~~

5. ~~Vehicle.~~

~~A machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides, and transports persons or property or pulls machinery and shall include, without limitation, automobiles, trucks, trailers, motorcycles and tractors.~~

~~123.03. Parking and Storage of Junk Cars and Vehicles on Private Property~~

~~No person in charge or control of any property within the City, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, nonoperating wrecked, junked or discarded vehicle to remain on such property longer than ten (10) days after notification by the City of a violation of this Chapter; and no person shall leave any such vehicle on any property within the City for a longer time than ten (10) days after notification by the City of a violation of this Chapter; except that this Chapter shall not apply with regard to a vehicle in an enclosed building; or a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise; or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City; or a single inoperable vehicle that is in the reasonable process of restoration to an operable vehicle provided it has current registration and does not constitute a nuisance. (Ref. 710)~~

~~123.04. Impounding~~

~~The City or its duly authorized agent is hereby authorized to remove or have removed any vehicle left at any place within the City that reasonably appears to be in violation of this Chapter or is otherwise lost, stolen or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with Chapter 114 of the City Code.~~

Section 8

That the Fridley City Code Chapter 111, Vehicle Towing, be hereby amended as follows:

Fridley City Code
Chapter 111. Vehicle Towing

111.01. Vehicle Towing

~~1. All persons who tow or otherwise transport vehicles into, from or through the City of Fridley, or who are under contract with the City of Fridley to tow or transport vehicles, shall not tow or otherwise transport a vehicle without taking reasonable steps to prevent or minimize the loss from the vehicle or fluids to the extent practicable and in accordance with safety concerns of both the public and the person transporting or towing the vehicle.~~

~~2. In the event that fluids from the vehicle have drained from the vehicle prior to towing or transporting, or a loss from the vehicle occurs during towing or transportation, reasonable steps shall promptly be taken by the person towing or transporting the vehicle to clean up and otherwise contain and remove the fluids lost.~~

~~3. Persons who store vehicles towed or transported under this section shall comply with all environmental laws and regulations governing the loss of motor vehicle fluids once the vehicle reaches the towing or transportation destination.~~

~~4. The person towing or transporting the motor vehicles shall be entitled to charge the owner of the motor vehicle, or the person, excluding a police officer engaged in his authorized duties, requesting that a vehicle be towed or transported, a reasonable fee for the services herein.~~

~~5. Any person removing a wrecked or damaged vehicle from a highway or street shall remove any glass or other injurious substance dropped upon the highway or street from such vehicle.~~

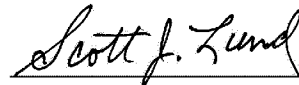
~~111.02 Penalty~~

~~Whoever does any act forbidden by this Chapter or omits or fails to do any act required by this Chapter shall be guilty of a misdemeanor and is subject to all penalties provided for such violations under the provisions of Chapter 901 of the Fridley City Code.~~

Passed and adopted by the City Council of the City of Fridley on this 28th day of August, 2023.



Melissa Moore - City Clerk



Scott J. Lund - Mayor

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First Reading: August 14, 2023

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