

CHAPTER 7
HEALTH, SANITATION AND BLIGHT

SECTION 1

701.000. BURNING OF TRASH, REFUSE, RUBBISH, AND OTHER COMBUSTIBLE MATERIALS REGULATIONS.

701.001. DEFINITIONS. Whenever the following words are used in this Ordinance they shall mean:

- A. "Open Fire" shall mean any fire from which the products of combustion are emitted directly into the open atmosphere without passing through an adequate stack, duct or chimney in accordance with Minnesota Pollution Control Agency Regulation 368.2, as amended.
- B. "Person" shall mean any individual, natural person, firm, association, organization, partnership, business, trust, corporation, company, trustee, syndicate, club, institution, agency, or any Federal, State, or local governmental agency or instrumentality or other entity recognized by law as the subject of rights and duties; the masculine, feminine, singular or plural is included; and whenever acts prohibited here are done or acts required herein are omitted by any one as employee or agent of another person shall include employers, supervisory personnel and principals.
- C. "Refuse and Trash" shall include any combustible waste material, trade waste, garbage, paper, leaves or other similar such substance as may be defined as refuse in the Minnesota Pollution Control Agency Solid Waste Regulation, SW1 (T2), and all other waste materials which, if burned, would produce or emit air contaminance into the atmosphere, whether odorous or otherwise.

(Ord. 70-03, Sec. 1, 9/8/70)

701.002. OPEN FIRE REFUSE BURNING PROHIBITED. No person shall cause, or allow the open burning of any sweeping, trash, lumber, leaves, straw, paper, grass, refuse, or other combustible materials.

(Ord. 70-03, Sec. 2, 9/8/70)

701.003. TRASH BURNING REGULATED. No person shall allow or cause any burning of materials described in Section 701.001. without filing an approved burning permit from the MPCA with the city.

(Ord. 70-03, Sec. 3, 9/8/70 amended by Ord. _____)

701.004. FIREPLACES AND OUTDOOR COOKING FIRES.

- A. INDOOR FIRES. Indoor fires may be used for cooking, warmth or recreational purposes without permit, provided, however, that such fires shall not be used for purposes of refuse disposal and shall not violate any other Ordinance of the City of Winsted.
- B. Repealed by Ord. 07-06; Adopted on 05/15/2007
- C. SITE REQUIREMENTS.
 - a. Repealed by Ord. 07-06; Adopted on 05/15/2007.
 - b. Outdoor fire sites must be at least 25 feet away from any structure.
 - c. Outdoor fire sites include permanent outdoor wood-burning fireplaces, manufactured fireplaces, and any similar wood-burning devices. The fire must be contained within an area:
 - i. no more than three (3) feet in diameter (measured from the inside of the ring or border);
 - ii. completely surrounded by noncombustible and nonsmoke- or odor-producing material (either natural rock, cement brick, tile, or metal).
 - d. A garden hose connected to an unlimited water source (for fire extinguishment purposes) shall be available at all times.
 - e. Manufactured outdoor fireplace devices may be placed upon the premises as long as a permit is obtained for same, and the permittee follows the manufacturer's recommendations for use of same.
- D. REQUIRED CONDITIONS FOR A RECREATIONAL FIRE.
 - a. The person listed on the permit shall be present and have the permit in possession for the duration of the fire.
 - b. The prevailing winds at the time of the burning must be away from nearby residences.
 - c. No flammable or combustible liquid shall be used.
 - d. Leaves, trash or garbage shall not be burned or used as starting materials.
 - e. Only wood shall be used in outdoor recreational fires. Any wood used shall be clean and produce little detectable smoke or odor.

- f. Flames from the fire shall not exceed three feet above the fire pit.
- g. The fire must be fully extinguished when unattended.
- h. The Fire Chief or its designee is authorized to require that recreational fires be immediately discontinued if smoke emissions are offensive to occupants of surrounding properties or if the Fire Chief or its designee determines that the fire constitutes a hazardous condition.
- i. The permit is valid for as long the permittee occupies the premises to which the permit applies, and as long as said permittee is not otherwise in violation of this Ordinance or other Ordinances of the City of Winsted.
- j. Repealed by Ord. 07-06; Adopted on 05/15/2007.
- k. Outdoor fires are not allowed when the DNR (Minnesota Department of Natural Resources) has declared a burning ban or air quality alert.

E. Repealed by Ord. 07-06; Adopted on 05/15/2007.

F. Repealed by Ord. 07-06; Adopted on 05/15/2007

(Ord. 70-03, Sec. 4, 9/8/70)

(Ord. 02-01, Sec. 4, 6/4/02)

(Ord. 07-06, Sec. 4, 5/15/07)

701.005. OFFICIAL FIRES. Open fires may be set in performance of an official duty by a public officer if the fire is necessary for one or more of the following reasons or purposes:

- A. For the prevention of a fire hazard which cannot be abated by other means;
- B. For the instruction of public fire fighters or industrial employees under the supervision of the Village Fire Chief;
- C. For the protection of public health or welfare;
- D. Disposal of dangerous materials if no alternate means of disposal is reasonably available. Such fires may be set by such officers upon their own initiative, if required as part of their official duties, or upon application of interested parties.

(Ord. 70-03, Sec. 5, 9/8/70)

701.006. PENALTY. Any violation of the provisions of this Ordinance is a misdemeanor, and shall be punishable by a fine of not to exceed \$700.00, or by imprisonment in the

Village or County Jail for a period of not to exceed 90 days; but such imprisonment shall not be imposed for a first offense unless any fine imposed therefore is not paid as ordered.

(Ord. 70-03, Sec. 6, 9/8/70)

SECTION 2

702.000. REGULATIONS TO PREVENT, REDUCE, OR ELIMINATE BLIGHTING FACTORS OR CAUSE OF BLIGHT WITHIN THE CITY.

702.001. CAUSES OF BLIGHT OR BLIGHTING FACTORS. It is hereby determined that the uses, structures and activities and causes of blight or blighting factors described herein, if allowed to exist, will tend to result in blighted and undesirable neighborhoods so as to be harmful to the public welfare, health and safety. No person, firm or other legal entity, shall maintain or permit to be maintained any of the causes of blight or blighting factors hereinbelow mentioned, upon any property in the City of Winsted, owned, leased, rented or occupied by such person, firm or other legal entity:

A. In any area, the outside (i.e. not in a closed garage) storage upon any property of junk vehicles. For the purpose of this Section Two of Chapter Seven of this Municipal Code, the term "junk vehicle" shall include any motor vehicle, part of a motor vehicle or former motor vehicle, stored in the open which:

1. Has vehicle registration which is more than three months past due; OR,
2. Is unusable or inoperable due to lack of or defects in component parts; OR,
3. Is unusable or inoperable due to damage done from a collision, deteriorations, or having been cannibalized; OR,
4. Is beyond repair and therefore not intended for future use as a motor vehicle; OR,
5. Is being retained on the property for the possible use of salvageable parts.

B. **TRAILERS.**

1. Any trailer required to have a current registration to be operated on a public highway in the State of Minnesota, shall not be stored in the open if current registration is more than 3 months past due, OR if any said trailer is in violation of Sections A 2-5 of Section Two of Chapter Seven of this Municipal Code;
2. Any trailer containing materials defined as blight in this Section Two of Chapter Seven of this Municipal Code.

C. Other vehicles not required to have a current registration, shall not be stored in the open if it is in violation of Sections A 2-5 of this Section Two of Chapter Seven of this Municipal Code;

- D. Paragraphs A, B & C hereinabove shall not apply to vehicles stored in an orderly fashion at a place of business at which they are to be repaired; however, in no case shall such a vehicle be stored outside for more than thirty (30) days at a place of business, which conducts repairs.
- E. In any area the storage or accumulation of junk, trash, rubbish or refuse of any kind. The term "junk" shall include, but is not limited to, parts of machinery or motor vehicles, unused stoves or other appliances stored in the open; barrels, tires, dilapidated fences or sheds, broken cement, dilapidated lawn furniture and ornaments, dilapidated bicycles, dilapidated children's toys or other similar materials, remnants of wood; decayed, weathered or broken construction materials; metal or any other material or cast off material of any kind whether or not the same could be put to any reasonable use. Boats, snowmobiles, campers, ATV's or other motorized vehicles that are not operable, being used for parts, decayed, dismantled, or no longer serve their original use.
- F. In any area the existence of any structure or part of any structure which because of fire, wind or other natural disaster, or physical deterioration is no longer habitable as a dwelling or useful for any other purpose for which it may have been intended.
- G. In any area the existence of any vacant dwelling, garage, or other out-building, unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals.

702.002. ENFORCEMENT AND PENALTIES.

- A. When acting upon a complaint or when acting upon reasonable suspicion to determine if a blight condition exists, the City's enforcement officer shall be allowed access on to the suspect property for blight inspection. If the person who has control of this property does not allow for this inspection to take place, or hampers this inspection in any way, this person shall be in violation of this Section Two of Chapter Seven of this Municipal Code.
- B. The owner and the occupant of any property upon which any of the causes of blight or blighted factors are set forth in Section 1 hereof is found to exist shall be notified by writing by the City of Winsted to remove or eliminate such causes of blight or blighting factors from such property within ten (10) days after service of the notice upon him. Such notice may be served by posting an official notice on the property, personally or by registered mail, return receipt requested, to the last known address of the owner, and, if the premises are occupied, to the premises. Additional time may be granted by the enforcement officer where bona fide efforts to remove or eliminate such causes of blight or blighting factors are in progress.
- C. Failure to comply with such notice within the time allowed shall constitute a violation of this Section Two of Chapter Seven of this Municipal Code.

D. Violation of this Section Two of Chapter Seven of this Municipal Code shall be a misdemeanor. Violators of this Section Two of Chapter Seven of this Municipal Code may also be subject to an administrative fine with the fine set as adopted by the City Council.

E. **PROCEDURE TO REMOVE BLIGHT.**

1. In case of failure to remove any blight as defined in this Section Two of Chapter Seven of this Municipal Code. Within the time prescribed, the City Council may also prescribe a method in which the blight must be removed; but if the appropriate person fails to remove same, then the City shall have the right to remove same and correct the blighted condition and certify the cost thereof to the City Clerk. The City Clerk shall certify such cost to the County Auditor as a special assessment against the property involved for collection in the same manner as other special assessments. As an additional or alternative remedy, the owner of any interest in said land and occupant shall be jointly and severally liable for such cost and the costs shall be recoverable in any action brought against any of them in the name of the city.

2. NOTICE AND PROCEDURE:

- a. The City of Winsted will provide five (5) days notice of its intent to remove the blighting conditions from the property. The notice shall be delivered in the manner prescribed earlier in this Section Two of Chapter Seven of this Municipal Code.
- b. Costs for the removal of the items will include storage, transportation, labor and administrative fees associated with the removal, which will annually be set by the City Council.

SECTION 3

CLEANUP OF CLANDESTINE DRUG LAB SITES.

703.000. Title and Statutory Authority

- A. This ordinance shall be known and referenced as the ACleanup of Clandestine Drug Lab Sites Ordinance.@
- B. This ordinance is enacted pursuant to the powers specified in Minn. Stat. ' 145A.10.

703.001. Purpose

- A. Professional reports, based on assessments, testing, and investigations show that chemicals used in the production of illicit drugs can condense, penetrate, and contaminate on the land, surfaces, furnishings, and equipment in or near structures where Clandestine drug labs are located.
- B. These conditions present health and safety risks to occupants and visitors of such structures and land through fire, explosion, and skin and respiratory exposure to chemicals.
- C. This ordinance establishes responsibilities and guidelines for involved parties to assure that:
 - 1. People are not unnecessarily exposed to the dangers of these contaminated structures or land; and
 - 2. Proper steps are taken to remove and dispose of contaminants and assure appropriate tests are completed to verify that affected structures and land are sufficiently cleaned for human contact.
- D. This ordinance assists and guides appropriate public authorities, property owners, and occupants to prevent injury and illness to members of the public, particularly children.
- E. This ordinance is intended to reduce exposure to chemicals used at clandestine drug lab operations in structures including dwellings, buildings, motor vehicles, trailers, appliances or the land where they are located.
- F. This ordinance is intended to minimize the cost to the City of Winsted for clean up of clandestine drug lab sites.

703.002. Jurisdiction

- A. This ordinance shall apply to all lands within the boundaries of the City of Winsted.

703.003. Interpretation and Application

- A. The provisions of this ordinance shall be interpreted and applied as the minimum requirements necessary to protect public health, safety, and welfare.

- B. Where the conditions imposed by any provision of this ordinance are either more restrictive or less restrictive than comparable provisions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall apply.

703.004. Disclaimer of Liability

Liability on the part of, or a cause of action against the City of Winsted or any employee or agent thereof for any damages that may result from reliance on this ordinance shall be eliminated or limited as provided by Minn. Stat. ' 466.02.

703.005. Fees

Fees for the administration of this ordinance may be established and amended periodically by resolution of the Winsted City Council.

703.006. Definitions, Rules, and Word Usage

For the purpose of this ordinance, the following terms or words shall be interpreted as follows:

- A. Child means any person less than 18 years of age.
- B. Chemical investigation site means a clandestine drug lab site that is under notice and order for cleanup and/or remediation as a public health nuisance, as authorized by Minnesota Statute Chapter 145A, and this ordinance.
- C. Clandestine drug lab operation means the unlawful manufacture or attempt to manufacture a controlled substance within any area or any area of a structure such as a dwelling, building, motor vehicle, trailer, boat, or other structure or appliance. This definition also includes the presence of any combination of chemicals or ingredients (precursors) typically used in the manufacture of controlled substances.
- D. Clandestine drug lab site means any parts within any area or any area of a structure such as a dwelling, building, motor vehicle, trailer, or appliance occupied or affected by conditions and/or chemicals, typically associated with a clandestine drug lab operation.
- E. Cleanup means proper removal and/or containment of substances hazardous to humans and/or the environment at a chemical investigation site. Cleanup is a part of remediation.
- F. Controlled substance means a drug, substance or immediate precursor in Schedules I through V of Minnesota Statute ' 152.02, as amended in the future. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors, or tobacco.

- G. Owner means any person, firm, or corporation who owns, in whole or in part, the land and/or structures such as buildings, motor vehicle, trailer, boat or other appliance at a clandestine drug lab site.
- H. Public Health Nuisance shall have the meaning attributed to it in Minnesota Statutes ' 145A.02, Subd. 17.
- I. Public Health Authority means the Public Health Director and/or his/her designee, who is authorized to act as an agent of the Winsted City Council, in their role as the Community Health Board, pursuant to the Local Public Health Act, Minnesota Statutes ' 145A.09 to 145A.13. Unless otherwise designated by City Council Resolution said Public Health Authority is the Winsted City Administrator.
- J. Remediation means methods such as assessment, evaluation, testing, venting, detergent scrubbing, enclosure, encapsulation, demolition, and/or removal of contaminated materials from a chemical investigation site.
- K. Structure means a dwelling, building, motor vehicle, trailer, boat, appliance or any other area or location, either fixed or temporary.

703.007. Declaration of Site as a Chemical Investigation Site Public Health Nuisance

Clandestine drug lab sites, as defined herein, are declared by this ordinance to be Achemical investigation site public health nuisances.@

703.008. Medical guidelines for assessing health status of exposed persons

Medical guidelines for assessing the health status and determining medical care needs of persons - particularly children, pregnant women, and vulnerable adults - who are found or known to be occupants or frequent visitors at a clandestine drug lab site, may be established and updated as necessary by the AMedical Consultant@ (i.e. such medical person(s) that the City Administrator or its designee consults with concerning medical issues concerning clandestine drug lab sites) who provides consultation services for the City of Winsted.

703.009. Law Enforcement notice to affected public, public health, and child protection authorities

- A. Law Enforcement authorities who identify a clandestine drug lab site or clandestine drug lab operation shall notify the City of Winsted and McLeod County departments responsible for health and child protection within one working day of identifying the lab site. The obligation to promptly notify may be delayed to accomplish appropriate law enforcement objectives, but only to the extent that public health and child protection responsibilities are not unnecessarily compromised. The notice shall include sufficient information to inform the recipients of the following:

1. Property location by street address and other identifiable location;
2. Property owner=s and occupant=s identities - especially the identities of any children and pregnant women found or known to be associated with the site;

3. Presumed chemicals found and indications of presumed chemical residues;
 4. Presumed duration of the lab;
 5. Equipment in a dwelling or structure that is typically associated with the manufacture of a controlled substance; and
 6. Conditions typically associated with a clandestine drug lab site or operation including weapons, illicit drugs, filth, fire, or electrical shock and other harmful conditions as determined by Minnesota law.
- B. Upon identification of the clandestine drug lab site or operation, law enforcement agencies may treat, store, transport or dispose of all hazardous waste found at the site in a manner consistent with Minnesota Department of Health, Minnesota Pollution Control, McLeod County, and City of Winsted rules and regulations.
- C. When a law enforcement agency completes its work under B. and is prepared to leave such sites, the agency shall affix a warning sign to the entrance of the affected part of the structure. The warning sign shall be those that have been prepared in advance for such situations through the collaboration of the County Law Enforcement, Public Health, and City officials, if applicable. The warning sign shall be of a size and contain information sufficient to alert visitors or returning occupants that the site is a chemical investigation site public health nuisance, may be dangerous to enter, and must not be entered except by authorization of the Public Health Authority and/or Law Enforcement agency identified on the sign.

703.010. Notice of Chemical Investigation Site Public Health Nuisance to Owner and Occupant

- A. After the Public Health Authority receives notice from a law enforcement agency that they=ve identified a clandestine drug lab site and posted the appropriate Chemical Investigation Site Public Health Nuisance warning sign, the Public Health Authority shall serve the known lawful occupants and owners of the site pursuant to Minnesota Statute ' 145A.04, Subd. 8(b) with notice of their responsibilities relative to the chemical investigation site public health nuisance.
- B. The public health authority shall notify and order the property owner of record and known occupant or agent to have the public health nuisance removed or abated within 10 days as provided in Minnesota Statute ' 145A.04 and this ordinance. Public Health notice and order shall include the following:
1. A replica of the Chemical Investigation Site Public Health Nuisance declaration that is posted at the site=s entrance(s).
 2. Information about the potentially hazardous condition of the chemical investigation site.
 3. A summary of the property owner=s and occupant=s responsibilities under this ordinance.
 4. Information on locating professional services necessary to remove and abate the chemical investigation site public health nuisance status as provided in

this Ordinance and Minnesota Statute ' 145A.04.

- C. The public health authority shall endeavor to provide information in writing about the Chemical Investigation Site Public Health Nuisance declaration and potential hazard(s) to the following additional concerned parties:
1. Neighbors within close proximity that can be reasonably affected by the conditions found;
 2. McLeod County law enforcement;
 3. Local law enforcement;
 4. Other state and local authorities, such as the Minnesota Pollution Control Agency and Minnesota Department of Health that may have public and environmental protection responsibilities at the site.

703.011. Notice Filed with Property Record and/or Motor Vehicle Record

- A. If after 10 days notice and order, the Public Health Authority is unable to obtain any reasonable assurance or plan from the property owner or occupant that the structure is being properly vacated, cleaned, remediated, and tested, the Public Health Authority may provide a copy of the Chemical Investigation Site Public Health Nuisance notice and order to the County Recorder and to the lien and mortgage holders of the affected structure and/or properties. The County Recorder is authorized to file or record that notice and order against the property record. The Public Health Authority may notify other persons with interest in the property about the property=s chemical investigation site public health nuisance status.
- B. When the affected property is a motor vehicle, boat, or trailer, the Public Health Authority shall notify the appropriate State and local agency that maintains motor vehicle, boat or trailer records, and the holders of liens or security interests against the vehicle or trailer.

703.012. Property Owner=s and Occupant=s Responsibility to Act

- A. Property owner(s) and occupant(s) provided with a notice, which also includes the posted warning sign informing them about the chemical investigation site public health nuisance, shall promptly act to vacate occupants from those parts of a structure that are a chemical investigation site public health nuisance. This includes dwellings, buildings, motor vehicles, trailers, boat, appliances or any other affected area or location.
- B. Within ten business days of receiving the Public Health Authority notice and order to cleanup the Chemical Investigation Site Public Health Nuisance, the property owner(s) and/or occupant(s) shall take the following actions:
1. Notify City of Winsted Public Health Authority that the affected parts of the dwellings, buildings, and/or motor vehicles have been and will remain

vacated and secured until the Public Health Authority provides notice that the public health nuisance no longer exists.

2. Contract with one or more acceptable environmental hazard testing and cleaning firms (acceptable firms are those that have provided assurance of appropriate equipment, procedures, and personnel, as determined by the Minnesota and/or City of Winsted Departments of Health) to accomplish the following:
 - a. A detailed on-site assessment of the extent of contamination at the site and the contamination of the personal property therein;
 - b. Soil testing of the site and testing of all property and soil in proximity to the site that the environmental hazard testing and cleaning firm determines may have been affected by the conditions found at the site.
 - c. A complete clean-up of the site (including but not limited to the clean-up or removal of contaminated plumbing, ventilation systems, fixtures and contaminated soil) or a demolition of the site and a complete clean-up of the demolished site;
 - d. A complete clean-up, or disposal at an approved dumpsite, of all personal property in the site;
 - e. A complete clean-up of all property and soil in proximity to the site that is found to have been affected by the conditions found at the site, and
 - f. Remediation testing and follow-up testing to determine that all health risks are sufficiently reduced, according to Minnesota Department of Health guidelines, to allow safe human occupancy and use of the site and use of the personal property therein.
3. Provide City of Winsted Public Health Authority with the identity of the testing and cleaning firm the owner or occupant has contracted with for remediation of the structure(s) as described above.
4. Provide City of Winsted Public Health Authority with the contractor=s plan and schedule for remediation that will abate the chemical investigation site public health nuisance declaration.
5. The property owner or occupant may request an extension of time to consider options for arranging cleanup or removal of the affected parts of the structure. The owner or occupant must show good cause for any such extension. Any such extension shall be dependant on the owner=s assurance that the affected parts of the structure will not be occupied pending appropriate cleanup or demolition.
6. The Public Health Authority may authorize extensions, up to 90 calendar

days from date of request. Any extension beyond 90 calendar days must be approved by the City Attorney's Office.

703.013. Property Owner's Responsibility for Costs and Opportunity for Recovery

- A. Consistent with Minnesota Statutes Chapter 145A, the property owner shall be responsible for a) private contractor's fees, cleanup, remediation, and testing of chemical investigation site public health nuisance conditions; and b) City of Winsted's fees and costs of administering notices and enforcing, vacating, cleanup, remediation, and testing of the affected parts of the property.
- B. Nothing in this ordinance is intended to limit the property owners, agents, occupants, or the City of Winsted's right to recover costs or damages, from persons contributing to the public health nuisance, such as the operators of the clandestine drug lab and/or other lawful sources.
- C. The City of Winsted's administrative and enforcement services, referenced in subsection 703.013.A., above, include but are not limited to, the following:
 - 1. Posting warning notices or signs at the site;
 - 2. Notification of affected parties;
 - 3. Securing the site, providing limited access to the site, and prosecution of unauthorized persons found at the site;
 - 4. Expenses related to the recovery of costs, including the assessment process;
 - 5. Laboratory fees;
 - 6. Clean-up services;
 - 7. Administrative fees; and
 - 8. Other associated costs.

703.014. Special Assessment to Recover Public Costs

- A. The City of Winsted is authorized under Minnesota Statute ' 145A.04, Subd. 8(c) to proceed within ten business days of service of a notice for abatement or removal of the Public Health Nuisance to initiate the assessment and cleanup when a) the property owner is not located, or b) the Public Health Authority determines that the owner refuses to, or cannot pay the costs, or arrange timely assessment and cleanup that is acceptable to the designated Public Health Authority.
- B. The City Administrator (or their formally identified designee) shall be fully authorized to act, consistent with Minnesota Law, on behalf of the City of Winsted to direct funds to assure prompt remediation of chemical investigation sites.
- C. When the estimated cost of testing, cleanup, and remediation exceeds seventy-five percent of the County Assessor's market value of the structure and land, the City Administrator (or the Auditor's formally identified designee) is authorized to notify the property owner of the City of Winsted's intent to remove and dispose of the affected real property instead of proceeding with cleaning and remediation.

- D. The property owner shall be responsible for all costs, including those of the City of Winsted incurred to abate the public health nuisance, 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 City of Winsted=s costs may also include, but shall not be limited to those set forth in 703.013.C. Fees and costs specified above that are not paid for in any other way may be collected through a special assessment on the property as allowed by Minnesota Statute ' 145A.08, or by any other applicable Federal, State, County and City Laws, Ordinances, and/or applicable County Board Resolution.
- E. Payment on the special assessment shall be at the annual rate of at least One Thousand Dollars (\$1000) or more as needed to assure full payment to the City of Winsted within five (5) years. This amount shall be collected at the time real estate taxes are due. The amount due and/or payment rate may be adjusted by action of the Winsted City Council.
- F. The City of Winsted may also seek recovery of costs through other methods allowed by Federal, State or County law.

703.015. Authority to Modify or Remove Declaration of Chemical Investigation Site Public Health Nuisance

- A. The designated Public Health Authority may modify conditions of the declaration and order removal of the declaration of Chemical Investigation Site Public Health Nuisance.
- B. Such modification or removal shall occur only after the Public Health Authority has determined that levels of contamination are sufficiently reduced through remediation to warrant modification or removal of the declaration. The Public Health Authority may rely on information from competent sources, including those supplied by the property owner and/or others such as state and local health, safety, law enforcement and pollution control authorities to reach such decisions.
- C. When the declaration is modified or removed the Public Health Authority shall forward that information to the county Recorder for addition to the property record if notice of the nuisance declaration was previously filed with the Recorder as described above. Similarly, notice shall be provided to the motor vehicle or other license records agencies and lien holders if a notice had previously been provided to them.

703.016. Waste Generated From Cleaning Up a Clandestine Drug Lab

Waste generated from chemical investigation site public health nuisances shall be treated, stored, transported, and disposed in accordance with applicable Minnesota Department of Health, Minnesota Pollution Control Agency, McLeod County, and City of Winsted rules and regulations.

703.017. Exceptions, Appeals, and Penalties

Administration of this ordinance, including guidance for, challenges to, and penalties shall be according to the authorities providing in Minnesota Statute Chapter 145A, other applicable Minnesota law, McLeod County, and City of Winsted ordinances, rules and regulations.

703.018. Severability and Savings Clause

If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation of, or affect the validity or enforceability of any other section or provision of this ordinance.

SECTION 4

704.000. WEEDS. This section shall be cited as the “Weed Ordinance.”

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

704.002. DEFINITIONS.

A. **DESTRUCTION ORDER.** The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the ordinance violation.

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

C. **WEEDS, GRASSES AND RANK VEGETATION.** Includes but is not limited to the following:

1. Noxious weeds and rank vegetation shall include but not limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip.
2. Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years;
3. Bushes of the species of tall, common, or European barberry, further known as *berberis vulgaris* or its horticultural varieties;
4. Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding 12 inches.
5. Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants.
6. The term **WEEDS** does not include shrubs, trees, cultivated plants or crops.

704.003. EXCLUSIONS.

- A. In no event shall cultivated plants or crops include plants, which have been defined by state statute or administrative rule as being noxious or detrimental

plants.

704.004. OWNERS RESPONSIBLE FOR TRIMMING, REMOVAL AND THE LIKE.

- A. All property owners shall be responsible for the removal, cutting, or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property, which at the time of notice, is in excess of 12 inches in height.

704.005. FILING COMPLAINT.

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

704.006. NOTICE OF VIOLATION.

- A. Upon receiving notice of the probable existence of weeds in violation of this section, a person designated by the City Council shall make an inspection and prepare a written report to the City Clerk regarding the condition. The City Clerk, upon concluding that there is a probable belief that this section has been violated, shall forward written notification in the form of a "Destruction Order" to the property owner or the person occupying the property as that information is contained within the records of the City Clerk or any other city agency. Such notice may be served by posing an official notice on the property, personal service, or by certified/registered mail (return receipt requested to the last known address of the owner), and if the premises are occupied, to the premises. The notice shall provide that within seven regular business days after the service of the notice that the designated violation shall be removed by the property owner or person occupying the property.
- B. Certified Registered/mail by the City Clerk or others is being served on the date of posting to the United States Postal Service.

(Ord. O-10-07; 7/6/10)

704.007. APPEALS.

- A. The property owner may appeal by filing written notice of Appeal stating objections with the City Clerk within seven days of the service of the notice, if the property owner contests the "Destruction Order". It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants or crops or is not otherwise in violation of this section, and should not be subject to destruction under the section.

- B. An appeal by the property owner shall be brought before the City Council and shall be decided by a majority vote of the Council Members in attendance and being at a regularly scheduled or special meeting of the City Council.

704.008. ABATEMENT BY CITY.

- A. In the event that the property owner shall fail to comply with the “Destruction Order” within seven regular business days and has not filed a notice within seven days with the City Clerk of a notice of appeal, the City Council may employ the services of city employees or outside contractors and remove the weeds to conform to this section by all lawful means.

704.009. LIABILITY.

- A. The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subchapter.
- B. The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorney's fees and interest on any unpaid amounts incurred by the city. If the city uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals, which may be used.
- C. All sums payable by the property owner are to be paid to the City Clerk and to be deposited in a general fund as compensation for expenses and costs incurred by the city.
- D. All sums payable by the property owner may be collected as a special assessment as provided by M.S. § 429.101, and amended from time to time.
- E. The property owner is assessed a fee of \$75.00 if it fails to comply with the “destruction order” within 7 regular business days and does not file a notice of appeal within 7 days with the City Clerk. Said \$75.00 fee is in addition to the other costs and expenses mentioned hereinabove.

(Ord. O-07-11, 10/2/07)

SECTION 5

705.000. TATTOOS, BODY ART AND BODY PIERCING. This Section 5 shall be cited as the “Tattoo Ordinance.”

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

705.002 DEFINITIONS. As used in this Section 5, unless stated otherwise, the following definitions shall apply:

- A. **BODY ART:** The practice of physical body adornment by licensed establishments and operators using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification.
- B. **BODY ART ESTABLISHMENT:** Any place or premises where the practices of body art, whether or not for profit, are performed, except where such practices are performed by a physician or surgeon who has a current license for the practice of medicine issued by the state of Minnesota.
- C. **BODY PIERCING:** Puncturing or penetration of the skin of a person with presterilized single-use needles and the insertion of presterilized jewelry or other adornment thereto in the opening, except that puncturing the outer perimeter or lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system shall not be included in this definition.
- D. **OPERATOR:** Any person who controls, operates, manages, conducts, or practices body art activities at a body art establishment. The term includes an assistant or technician who performs body art activities and who works under the supervision, control or authority of somebody else who is an operator.
- E. **PERSON:** An individual, any form of business or social organization or any other nongovernmental legal entity, including, but not limited to, corporations, partnerships, limited liability companies, trusts or unincorporated organizations.
- F. **PHYSICIAN:** A person currently licensed by the state of Minnesota to practice medicine.
- G. **TATTOOING:** Any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing. Additionally, the term “Tattoo” or “Tattooing” includes any conduct that places an indelible mark or figure affixed on the body by insertion of pigment under the skin or by production of scars.

705.003. UNLAWFUL TO OPERATE BODY ART ESTABLISHMENT WITHOUT LICENSE; EXEMPTIONS. It shall be unlawful to operate a body art establishment unless a license is first obtained from the city clerk. The provisions of this Section 5 do not apply to physicians nor to individuals who pierce only the noncartilaginous perimeter and lobe of the ear with a presterilized single use stud and clasp ear piercing system are exempt from these regulations; provided, however, that such individuals shall not be exempt from the applicable U.S. food and drug administration requirements.

705.004. LICENSE TO OPERATE BODY ART ESTABLISHMENT ISSUED ANNUALLY; DISPLAY OF LICENSE REQUIRED; ADOPTION OF REGULATIONS. The license shall be issued annually, January 1, by the city clerk after an inspection and approval of the proposed body art establishment by the Building Inspector of the City of Winsted or his/her designee. The license shall be nontransferable. The license shall be displayed prominently in the body art establishment where it may be readily observed by clients.

The city does hereby adopt the regulations for owners and operators of body art establishments for the City of Winsted. A copy of such regulations shall be posted in all body art establishments in a prominent location so that they may be read by clients and by operators and technicians of a body art establishment.

705.005. APPLICATION FOR LICENSE.

- A. Any person desiring a license to conduct a business where body art is practiced or to engage in the practice of body art shall file with the city an application in writing, signed by the applicant, containing the name of the applicant, if an individual; the names of copartners, if a partnership; and if a corporation, the names of the principal officers of such corporation and the individuals who will engage in the practice of body art, together with a brief description of the place or location at which the business is to be conducted, including therein for each individual named in the application, the appropriate date of birth.
- B. Each application shall be accompanied by the license fee and surety bond as hereinafter required.
- C. All applications for license shall be made upon forms furnished by the city, and upon presentation of the application, the license fee and the surety bond, the application shall thereafter be forwarded for investigation of the persons named in the application and inspection of the proposed location.
- D. The City of Winsted police department shall conduct criminal background investigations on the persons named in the application. In the event a national criminal background investigation is required, the applicant shall be responsible for all additional fees incurred for such and, upon request, provide additional information required to complete this process. All applicants are required to complete an informed consent authorizing the disclosure of all criminal history record information.

- E. Upon completion of the investigation, the application shall be forwarded to the council with recommendations for the council approval or denial of the license.

705.006. LICENSE FEES AND TERM.

- A. License Fees: As established by the city's fee schedule.
- B. License Term: All licenses issued under this Section 5 shall be for a period of one year with the initial license to expire on December 31 of each year and all renewals thereof to run from January 1 to December 31 of each year.

705.007. SURETY BONDS. A surety bond in the penal sum of five thousand dollars (\$5,000.00) with sufficient sureties, to be approved by authorized city personnel, shall accompany each application for a license and shall become effective upon the issuance of each license. The surety bond shall be conditioned upon the licensee and every person named in the application for such license, in every particular, conforming to the requirements of this Section 5 and with requirements of any law or other ordinance which may hereafter be passed regulating and licensing body art within the city.

705.008. HEALTH AND SANITARY REQUIREMENTS. No person shall engage in the practice of tattooing, body art, body piercing or ear piercing at any place within the city without complying with the following regulations.

- A. Every place where tattooing or body piercing is done shall be equipped with a sewer and water connected toilet and hand basin or sink. The hand basin or sink shall be supplied with hot and cold running water under pressure, and shall be maintained in good working order at all times; it shall be kept in a clean and sanitary condition.
- B. No person having any skin infection or other disease of the skin or any communicable disease shall be tattooed.
- C. All equipment including needles, knell bars, tubes, pigment and receptacles, stencils, razors and razor blades, shall be kept in a dust-proof glass case when not in use.
- D. All needles and operating instruments shall be individually pre-packaged, pre-sterilized and disposable. No such equipment shall be used on more than one customer, but shall be discarded in a safe and sanitary manner after its first use.
- E. All bandages and surgical dressings used in connection with tattooing or body piercing of any person shall be individually pre-packaged, pre-sterilized and disposable.
- F. Every person who practices tattooing or body piercing shall wear clean, washable outer garments when engaged in the practice of tattooing.

- G. Every person who practices tattooing shall wash his or her hands thoroughly with soap and water and then dry them in a clean, unused towel before and after each tattooing. The customer's skin shall also be thoroughly cleansed with soap and water and disinfected by an antiseptic solution before the use or application of any tattooing instrument or equipment.
- H. Whenever it is necessary to shave the skin, a safety razor must be used. A new blade must be used for each customer. The razor shall be cleaned with soap and water after each use and shall be kept in a closed case when not in use. All electric hair clippers shall be sanitized by a method approved by the Commissioner of Health.
- I. Pigments used in tattooing shall be sterile and free from bacterial and noxious agents and substances. The pigments used from stock solutions for each customer shall be placed in a single service receptacle and this receptacle and remaining solution shall be discarded in a safe and sanitary manner after use on each customer.
- J. Every person to be tattooed or have their body pierced shall be asked whether he or she has had viral hepatitis in the preceding six months. No person suspected of presently having viral hepatitis or having had viral hepatitis within the last six months, shall be tattooed without the written consent of a licensed physician.
- K. No place used for the practice of tattooing or body piercing shall be used or occupied for living or sleeping quarters or for any purpose other than tattooing.
- L. There shall be a minimum of 150 square feet of floor space at the place where the practice of tattooing is conducted and the place shall be adequately ventilated and lighted. All tables, chairs and operating furniture shall be constructed of metal with white enamel or porcelain finish or stainless steel, and shall be kept in a clean and sanitary condition.
- M. No person shall practice tattooing or body piercing while under the influence of alcohol or drugs. No customer shall be tattooed or body pierced while under the influence of alcohol or drugs.
- N. A person tattooed or body pierced shall be provided with written instructions on the approved care of the tattoo and/or body piercing during the healing process.

705.009. INSPECTIONS OF LICENSED PREMISES. The chief of police, or any officer of the police department, or any agency which the city has contracted to do such work, may, at any time, enter upon any licensed premises for the purpose of inspection or to determine whether the licensed premises are in compliance with any and all ordinances of the city and regulations adopted by the City of Winsted. A copy of the inspection report must be furnished to the license holder or operator of the body art establishment.

705.010. LICENSES; TERMINATION, SUSPENSION, REVOCATION. All licenses issued under the provisions of this Section 5, unless otherwise specifically provided, shall terminate on December 31 following the date of issuance; provided, however, that any license issued under the provisions of this Section 5 may, under certain circumstances, be terminated, suspended or revoked by the City Council.

A. The City Council may, in its discretion, suspend or revoke for cause any license issued under the provisions of this Section 5. The grounds for suspension or revocation shall, among others, include the following:

- i. The licensee has filed a petition in bankruptcy;
- ii. An individual licensee, one of the partners in a partnership licensee, or one of the officers in a corporation licensee, or any individual in active management of the licensed business is convicted of violating any of the provisions of this Section 5;
- iii. The licensee has been convicted of a felony under the laws of the United States or under the laws of one of the several states;
- iv. The licensee has made any false statement in his application for a license;
- v. The licensee has violated one or more of the regulations created pursuant to this ordinance.
- vi. The Licensee has violated one or more statutes, rules, regulations, ordinances, or other requirements of the State of Minnesota and/or County of McLeod.

B. The grounds enumerated herein shall not be deemed to be exclusive and any license issued under the provisions of this Section 5 may be suspended or revoked by the council for any other reason deemed by the City Council to be sufficient in order to promote and protect the health, safety, and welfare of the public. When any license is suspended or revoked by the council pursuant to the provisions of this Section 5, or when the licensee voluntarily ceases business, no portion of the permit fee previously paid shall be returned to the licensee or to anyone claiming under or through him.

C. No license issued under the provisions of this Section 5 shall be suspended or revoked for cause by the City Council without a public hearing. In the event that the council intends to consider the suspension or revocation of any license for cause, it shall direct the city clerk to notify the licensee of its intention to consider the same. The notice shall specify the time and place of the suspension or revocation hearing and shall be served upon the licensee or his managing agent in the same manner as provided by law for the service of a summons in a civil action. No suspension or revocation hearing shall be held before the expiration of fifteen (15) days after the date of the service of the notice upon the licensee.

If, upon such hearing, it appears to the council that sufficient cause exists for the suspension or revocation of a license issued pursuant to the provisions of

this Section 5, the council shall make its order suspending or revoking the said license.

705.011. UNLAWFUL PRACTICES. In addition to such other prohibitions as are contained in this Section 5:

- A. No person shall perform body art on any body part of a person under the age of eighteen (18) without the written consent of the parent or legal guardian of such minor and without said parent (includes both the custodial and non custodial parent) or legal guardian being present during such procedure.
- B. No person shall obtain or attempt to obtain any body art establishment license by means of fraud, misrepresentation or concealment.
- C. No person shall perform body art procedures unless such procedures are performed in a body art establishment with a current license.
- D. No person shall perform body art procedures unless they are at least eighteen (18) years of age.
- E. No person shall interfere with an appropriate enforcement officer in the performance of an inspection or in the performance of any other duties. Willful failure by the licensee to post regulations which are required to be posted pursuant to this ordinance shall be unlawful.
- F. No person shall perform any body art or body piercing between the hours of midnight (12:00 A.M.) and 6:00 A.M. on any day.

705.012. LOCATION RESTRICTIONS. No person shall engage in the practice of body art at any place other than the place or location named or described in the application and license, nor, in any event, shall such business or practice be conducted at a location other than within the C-1 or C-2 commercial classification districts within the city.

705.013. PENALTY. Any violation of the provisions of this Section 5, the regulations adopted pursuant to same, any state statutes, rules, regulations, and ordinances or rules adopted by the county, shall be guilty of a misdemeanor and subjected to the penalties defined by Minnesota State statutes for a misdemeanor (i.e. currently M.S.A. § 609.02 subdivision 3).

(Ord. O-10-01; 1/5/10)

SECTION 6

706.000. REGULATIONS FOR THE BURNING OF SOLID FUELS IN EXTERNAL SOLID FUEL-FIRED HEATING DEVICES.

706.001. **Purpose.** This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the City of Winsted by regulating the air pollution and fire hazards of outdoor fire boilers.

706.002. **Applicability.** This ordinance applies to all outdoor fire boilers within the City of Winsted.

- A. This ordinance does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- B. This ordinance does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.
- C. This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.
- D. This ordinance does not apply to campfires; a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.

706.003. **Definitions.**

- A. "External solid fuel-fired heating device" means a device designed for external solid fuel combustion so that usable heat is derived for the interior of a building and includes solid fuel-fired stoves, solid fuel-fired cooking stoves, and combination fuel furnaces or boilers which burn solid fuel. Solid fuel-fired heating devices do not include natural gas-fired fireplace logs or wood-burning fireplaces or wood stoves in the interior of a dwelling.
- B. "Stacks or chimneys" means any vertical structure incorporated into a building and enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device, especially the part of such a structure extending above a roof.
- C. "Person" means an individual, partnership, corporation, company or other association.
- D. "Refuse or garbage" means any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.

This would include but not be limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes; asphalt and products containing asphalt; treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives; any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam and synthetic fabrics, plastic films and plastic containers; rubber including tires and synthetic rubber-like products.

706.004. Permit required.

- A. The City of Winsted requires any person to obtain a permit for any external solid fuel-fired heating device or external storage unit that is sold, purchased or installed after the this ordinance becomes effective.
- B. Installation should be made and inspected by a licensed contractor who is knowledgeable about the type of system being installed.

706.005. Other requirements upon the effective date of this ordinance.

- A. All external solid fuel-fired heating devices, used, installed or purchase within the city limits of Winsted, Minnesota, are required to meet emission standards currently required by the Environmental Protection Agency (EPA) and Underwriters Laboratories (UL) listing. No person shall use an external solid fuel-fired heating device in violation of this paragraph.
- B. All outdoor external solid fuel-fired heating devices and storage units are subject to being a public nuisance as described either in this Municipal Code or Minnesota State Statutes. Winsted shall have such authority to act on such a public nuisance as it is authorized pursuant to said provisions of this Municipal Code and of Minnesota State Statutes.
- C. Any dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities, or any use of an external solid fuel-fire heating device to burn solid fuels other than those solid fuels for which the external solid fuel-fired heating device was designed, is declared a public nuisance. The outdoor external solid fuel-fired heating devices shall not be located less than 50 feet from any combustible or structures. Clearance may be reduced to 20 feet provided that the unit is enclosed in a noncombustible building (steel or concrete). The outdoor external solid fuel-fired heating device shall be located at least 500 feet from the nearest building which is not on the same property as the unit. Persons should check with their individual insurance carrier for any required limits that do not comply with this paragraph and inform the city clerks' office of individual policy requirements.

- D. All stack or chimneys must be so constructed to withstand high winds or other related elements and according to the specifications of the manufacturer of the external solid fuel-fired heating device. The stack height shall be a minimum of (20 feet)(maximum 40 feet) above ground level, but shall also extend at least as high as the height of the roofs of residents within 500 feet. All stacks or chimneys must be of masonry or insulated metal with a minimum 6 inch flue. A factory-built or masonry chimney with a spark arrester screen is also required. No person shall use an external solid fuel-fired heating device in violation of this paragraph.
- E. Only fuels designed for burning in an external solid fuel-fired heating device may be burned. No garbage or refuse may be burned in an external solid fuel-fired heating device. No person shall use an external solid fuel-fired heating device in violation of this paragraph.
- F. Ashes removed from a wood heating appliance may contain hot (live) embers which remain live for days. Ashes must be placed in a metal container equipped with a lid or cover.
- G. Wood/fuel must be stored at least 48 inches away from the external solid fuel- fired heating device. The areas surrounding said unit must be kept clear of combustibles or wood chips, bark and debris.

706.006. Liability.

A person utilizing or maintaining an outdoor fire boiler shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

706.007. Penalty.

Any violation of provision of this Section 6, the regulations adopted pursuant to same, any state statutes, rules, regulations, and ordinances or rules adopted by the county, shall be guilty of a misdemeanor and subjected to the penalties defined by Minnesota State statutes for a misdemeanor (i.e. currently M.S.A. § 609.02 Subd. 3.)

(Ord. 12-11; 11/20/12)