

## ORDINANCE NO. 501

### AN ORDINANCE AMENDING CHAPTER 9 OF THE STAPLES CITY CODE

The City Council of the City of Staples ordains:

ARTICLE 1. Chapter 9 of the City Code of the City of Staples is hereby deleted.

ARTICLE 2. A new Chapter 9 is hereby adopted as follows:

### CHAPTER 9 – CRIMES, OFFENSES AND PUBLIC NUISANCES

#### **Sec. 9.1. Public Nuisance Prohibition.**

**Subd. a.** A person must not act, or fail to act, in a manner that is or causes a public nuisance. For purpose of this ordinance, a person that does any of the following is guilty of maintaining a public nuisance:

- (1) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public; or
- (2) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- (3) Does any other act or omission declared by law or this ordinance to be a public nuisance.

#### **Sec. 9.2. Public Nuisances Affecting Health.**

**Subd. a.** The following are hereby declared to be nuisances affecting health:

- (1) The exposed accumulation of decayed or unwholesome food or vegetable matter, except compost piles which are kept in such a manner so as not to create a nuisance, offensive odors or offensive sight to neighbors;
- (2) All diseased animals running at large;
- (3) All ponds or pools of stagnant water, except stormwater retention ponds which are defined as catch basins, ponds and other similar conveyances which are designed, designated and used for collecting, storing or conveying stormwater, whether owned or operated by the City or other person or entity;
- (4) The outdoor hanging of legally taken wild game and carcasses of animals not buried or destroyed within twenty-four (24) hours after death;
- (5) Accumulation of manure, refuse, or other debris;
- (6) Privy vaults and garbage cans which are not rodent-free or fly-tight, or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- (7) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- (8) All noxious weeds and other rank growths of vegetation upon public or private property;
- (9) Dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities;
- (10) All public exposure of people having a contagious disease; and

(11) Any offensive trade or business as defined by statute not operating under local license.

**Sec. 9.3. Public Nuisances Affecting Morals and Decency.**

**Subd. a.** The following are hereby declared to be nuisances affecting public morals and decency:

- (1) All gambling devices, slot machines, and punch boards, except otherwise authorized and permitted by federal, state, or local law;
- (2) Betting, bookmaking, and all apparatus used in those occupations;
- (3) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- (4) All places where intoxicating or 3.2 malt liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort, for the purpose of drinking intoxicating or 3.2 malt liquor, or where intoxicating or 3.2 malt liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place; and
- (5) Any vehicle used for the unlawful transportation of intoxicating or 3.2 malt liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

**Sec. 9.4. Public Nuisances Affecting Peace and Safety.**

**Subd. a.** The following are declared to be nuisances affecting public peace and safety:

- (1) All snow and ice that is not removed from public sidewalks within forty-eight (48) hours after the snow or other precipitation causing the condition has ceased to fall;
- (2) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
- (3) All wires and limbs of trees that are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- (4) Any person participating in any party or other gathering that causes the unreasonable disturbing of the peace, quiet, or repose of another person;
- (5) All unnecessary and annoying vibrations;
- (6) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds, except under conditions as are permitted by this ordinance or other applicable law;
- (7) Radio aerials or television antennae erected or maintained in a dangerous manner;
- (8) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk that causes large crowds or people to gather, obstructing traffic and the free use of the street or sidewalk;
- (9) All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated as to endanger public safety, or not constructed and maintained as provided by ordinance;
- (10) The allowing of rainwater, ice, or snow to fall from any building or structure upon any street or sidewalk or to follow across any sidewalk;
- (11) Any barbed wire fence located less than six (6) feet above the ground and within three (3) feet of a public sidewalk or way;
- (12) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- (13) Wastewater cast upon or permitted to flow upon streets or other public properties;

(14) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other materials in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or other safety hazards from such accumulation;

(15) Any well, hole, or similar excavation that is 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;

(16) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;

(17) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substances that may injure any person or animal or damage any pneumatic tire when passing over such substance;

(18) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

(19) Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one (1) footcandle when abutting any commercial or industrial parcel;

(20) The parking of a trailer, not attached to a licensed and operable vehicle, on a public right-of-way or street; and

(21) All other conditions or things that are likely to cause injury to the person or property of another.

#### **Sec. 9.5. Noise Violations.**

**Subd. a.** The following are declared to be nuisances affecting public health, safety, peace, or welfare:

(1) Any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person, or precludes their enjoyment of property, or affects their property's value (this general prohibition is not limited by any specific restrictions provided in this ordinance);

(2) All obnoxious noises, motor vehicle or otherwise, in violation of Minn. R. ch. 7030, as they may be amended from time to time, are hereby incorporated into this ordinance by reference;

(3) The use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise;

(4) The discharging of the exhaust or permitting the discharge of the exhaust of any statutory internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle (ATV), snowmobile, or any recreational device, except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;

(5) Any loud or excessive noise in the loading, unloading, or unpacking of any vehicle;

(6) The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle, except as a danger warning;

(7) The intentional use of dynamic (Jake) brake on any public highway, street, parking lot or alley in the City;

(8) The using, operating, or permitting to be played, any radio receiving set, tape or disc player, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such a manner, considering the time and place and the purpose for which the sound is produced, as to disturb the peace, quiet or repose of a person or persons or ordinary sensibilities; and

(a) The play, use or operation of any radio, tape or disc player, musical instrument, phonograph or other machine or device for the production or reproduction of sound in such manner as to be plainly audible at a distance of fifty (50) feet from such machine or device shall be prima facie evidence of a violation of this subsection (8).

(b) When sound violating this subsection (8) is produced or reproduced by a machine or device that is located in or on a vehicle, the vehicle's owner is guilty of the violation, provided, however, that if the vehicle's owner is not present at the time of the violation, the person in charge or control of the vehicle at the time of the violation is guilty of the violation.

(c) This subsection (8) shall not apply to sound produced by the following:

(i) Amplifying equipment used in connection with activities that are authorized, sponsored or permitted by the City of Staples, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity.

(ii) Church bells, chimes or carillons.

(iii) School bells.

(iv) Anti-theft devices.

(v) Machines or devices for the production of sound on or in authorized emergency vehicles.

(d) With the exception of the machines or devices listed in subsection (c), this subsection (8) shall apply to all radios, tape and disc players, musical instruments, phonographs, and machines and devices for the production or reproduction of sound, whether on public or private property;

(9) The using, operating, or permitting to be played any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound that is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure;

(10) The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any persons in the vicinity;

(11) The blowing of a locomotive whistle or steam whistle attached to any stationary boiler or any siren whatsoever except to give notice of the time to begin or stop work or as a warning of fire or danger, or by public emergency vehicles;

(12) The erection (including excavating), demolition, alteration, or repair of any building between the hours of 10:00 p.m. and 7:00 a.m. where single individuals or families work on single family residences for their own occupancy owned by them, except that the Building Inspector may, in cases of emergency, grant permission to repair at any time when he/she finds that such repair work will not affect the health and safety of the persons in the vicinity;

(13) The creation of any excessive noise on any street or private property adjacent to any school, institution of learning, church, court, or hospital while the

same are in use that unreasonably interferes with the use thereof provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street;

(14) The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, power shovel, pneumatic hammer, derrick, power or electric hoist, or other appliance the use of which is attended by loud or unusual noise;

(15) The operation of any noise creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of aerating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise; and

(16) No person shall congregate at, or participate in any party or gathering of two or more people from which noise, including yelling, whistling and singing, emanates of a sufficient volume so as to disturb the peace, quiet, or repose of another person. No person shall knowingly remain at such a noisy party or gathering.

(a) Noise of such volume as to be clearly audible at a distance of 50 feet from the structure or building in which the party or gathering is occurring, or in the case of apartment buildings, in the adjacent hallway or apartment, shall be prima facie evidence of a violation of this subsection (16).

(b) When a police officer determines that a party or gathering is in violation of this subsection (16), the officer may order all persons present at the premises where the violation is occurring, other than the owner or tenants of the premises, to disperse immediately. No person shall knowingly remain at such a party or gathering.

(c) The following are exempt from violation of this subsection (16):

(i) Activities which are duly authorized, sponsored or licensed by the City of Staples, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity;

(ii) Church bells, chimes, or carillons;

(iii) Persons who have gone to a party for the sole purpose of abating the violation; and

(iv) Any snow removal activities or other emergencies related to natural disasters.

#### **Subd. b. Hourly restriction of certain operations.**

(1) **Domestic power equipment.** No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. Snow removal equipment is exempt from this provision.

(2) **Refuse hauling.** No person, except persons or haulers licensed by the City, shall collect or remove garbage or refuse in any residential district, except between the hours of 7:00 a.m. and 10:00 p.m.

(3) **Construction activities.** No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment, except between the hours of 7:00 a.m. and 10:00 p.m.

(4) **Radios, music devices, paging systems, and the like.** The operation of any device referred to in subdivision (a)(8) between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.

**Subd. c. Noise impact statements.** The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation, alteration, or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. The Council shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning changes requested.

**Subd. d. Exemptions Authorized by the City Council.** Upon special request by persons or businesses performing public works operations, the Council may exempt those persons or businesses from the time prohibitions contained in this section.

**Subd. e. Petty Misdemeanor.** Every person who violates any of the provisions of subdivision (a)(1) through subdivision (a)(16) is guilty of a petty misdemeanor.

**Subd. f. Misdemeanor.** Every person who fails to immediately comply with an order of a police officer pursuant to the provisions of subdivision (a)(1) through subdivision (a)(16) is guilty of a misdemeanor.

**Subd. g. Amendment.** This section may be amended at any time to meet or comply with State law, or to change, expand, or revise, or delete any or all of the text. All amendments shall comply with State and local public notice provisions.

**Subd. h. Severability.** Any part of this section, paragraph, sentence, or word found and determined by a competent court with jurisdiction to be invalid or void, shall not operate to affect any other paragraph, sentence, or word, of this section.

#### **Sec. 9.6. Nuisance Parking and Storage.**

**Subd. a. Declaration of nuisance.** The outside parking and storage on property used for residential purposes of large numbers of vehicles and vehicles, materials, supplies, or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it: (1) obstructs views on streets and private property, (2) creates cluttered and otherwise unsightly areas, (3) prevents the full use of residential streets for residential parking, (4) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (5) decreases adjoining landowners' and occupants' use and enjoyment of their property and neighborhood, and (6) otherwise adversely affects property values and neighborhood patterns.

#### **Subd. b. Unlawful parking and storage.**

(1) A person must not place, store, or allow the placement or storage of ice fishing houses, skateboard ramps, or other similar non-permanent structures outside continuously for longer than twenty-four (24) hours in the front yard area of residential property.

(2) A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in conjunction with a business, outside on residential property.

(3) A person must not cause, undertake, permit, or allow the outside parking and storage of vehicles or trailers on residential property unless it complies with the following requirements:

(a) No more than four (4) vehicles or trailers or combination thereof per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. The maximum number does not include vehicles or trailers of occasional guests who do not reside on the property.

(b) Vehicles or trailers that are parked or stored outside in the front yard areas, as defined by Section 5.6, must be on a paved or graveled parking surface or driveway area.

(c) Vehicles, trailers, watercraft, and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away from school for periods of time but still claim the property as their legal residence will be considered residents on the property.

#### **Sec. 9.7. Inoperable Motor Vehicles.**

**Subd. a.** Any motor vehicle, as defined by Minnesota Statute 169.011, as it may be amended from time to time, described in this section shall constitute a hazard to the health and welfare of the residents of the community as such vehicles can harbor noxious diseases, furnish a shelter and breeding ground for vermin, and present physical danger to the safety and well-being of children and citizens. Motor vehicles also contain various fluids which, if released into the environment, can and do cause significant health risks to the community.

**Subd. b.** It shall be unlawful to keep, park, store, or abandon any motor vehicle that is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operation within the state, pursuant to Minn. Stat. § 168B.011, subd. 3, as it may be amended from time to time.

**Subd. c.** This section does not apply to a motor vehicle enclosed in a building.

**Subd. d.** Any peace officer of proper jurisdiction, firefighter, or other duly authorized personnel of the City, including City employees charged with road maintenance or snow removal responsibilities, may order a junk vehicle that is a public nuisance to be immediately removed and impounded, and the vehicle shall be surrendered only to the duly identified owner or his/her authorized agent upon payment of all impoundment fees and duly itemized expenses of the City. Any vehicle under the control of the City of Staples pursuant to this section shall be disposed of in accordance with Section 12.4.04 related to disposal of motor vehicles. The impounding of a vehicle pursuant to this section shall not prevent or preclude the prosecution of proceedings for violation of any other Minnesota law or City ordinance or violation of any other provision of the Staples City Code.

#### **Sec. 9.8. Noxious Weeds and Grass.**

**Subd. a.** It is the policy of the City that residents be protected from the injurious effects of noxious weeds on public health, the environment, public roads, crops, livestock, and other property.

**Subd. b.** The Minnesota Noxious Weed Law, Minn. Stat. §§ 18.76 to 18.91, contains procedures for controlling and eradicating noxious weeds on all lands within the State. The provisions of Minn. Stat. §§ 18.76 to 18.91, as may be amended from time to time, are hereby adopted by reference and are made a part of this ordinance as if set out in full. It is the intention of the City Council that all future amendments to Minn. Stat. §§ 18.76

to 18.91 are hereby adopted by reference or referenced as if they had been in existence at the time this ordinance is adopted.

**Subd. c.** Any weeds or grass, whether noxious as defined by law or not, upon any lot or parcel of land outside the traveled portion of any street or alley in the city, growing to a greater height than seven (7) inches, or which have gone or are about to go to seed, are declared a nuisance; the owner and the occupant shall abate or prevent such nuisance on such property and on land outside the traveled portion of the street or alley abutting on such property.

**Subd. d.** When the owner and occupant permit a weed or grass nuisance to exist, the City Inspector or designated representative shall serve notice upon the owner of the property, if he/she resides in the City and can be found therein, or upon the occupant or other person in charge of the property in other cases, by registered mail or by personal service, ordering such owner, occupant or person in charge of the property to have such weeds or grass removed within five (5) days after receipt of the notice, stating that, in case of noncompliance, such work will be performed by the City or its agents and the cost thereof made a special assessment against the property concerned. When no owner or occupant can be found, notice shall be mailed to the owner as shown in the records of the County Auditor by certified mail return receipt.

**Subd. e.** If the person upon whom the notice is served fails, neglects or refuses to cut and remove or to cause to be cut and removed, the weeds, grass or other plants within five (5) days after receipt of the notice, the inspector shall cause the weeds, grass or plants on the land to be cut and removed and the actual cost of such cutting and removal plus the actual cost of supervision, including the cost of serving the notice upon the person responsible for the cutting and/or removal, shall be certified by the Inspector to the City Council. The amount charged against the land shall be a lien upon the land and shall be added to the taxes to be assessed and levied upon the land and the Council shall, by appropriate resolution, assess the costs against the land and certify the same to the County Auditor of Todd or Wadena County, Minnesota.

**Subd. f. Penalty.** Any person violating this section shall be guilty of a petty misdemeanor on the first offense and a misdemeanor upon the second and subsequent offenses.

### **Sec 9.9. Shade Tree Disease.**

**Subd. a. Declaration of Policy.** The City Council has determined that the health of shade trees within the municipal limits is threatened by various Shade Tree pests and/or diseases, such as Dutch Elm, Oak Wilt, and Emerald Ash Borer, and the loss or ill health of trees growing upon public and private property substantially depreciates the value of property within the city and impairs the safety, good order, general welfare and convenience of the public. The City Council hereby declares its intention to control and prevent the spread of such diseases and the insect pests and vectors that carry such disease and declares them a public nuisance. It is further determined that the loss of shade trees growing upon public and private property would substantially depreciate the value of property within the City and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the City Council to control and prevent the spread of these pests and or diseases. In addition to and in accordance with Minn. Stat. §§ 89.001, 89.01 and 89.51-.64, the provisions of this section are adopted as an effort to control and prevent the spread of these shade tree pests.

**Subd. b. Shade Tree Disease Control Program.** This program is directed specifically at the control of Shade Tree pests and/or diseases. These regulations are directed specifically at the control and elimination of Dutch Elm Disease, Oak Wilt, and Emerald Ash Borer and other epidemic diseases and infestations of shade trees and is undertaken

at the recommendation of the Commissioner of Agriculture. The City Administrator shall direct the shade tree disease control program and be the contact between the Commissioner of Agriculture and the City Council.

Subd. c. Nuisances Declared.

- (1). The following things are public nuisances whenever they may be found within the city:
  - (a) Any living or standing Elm tree or part thereof infected with the Dutch Elm disease fungus, *Ceratocystis Ulmi* (Buisam) Moreau; or which harbors any of the Elm Bark Beetles, *Scolytus Multistriatus* (Eich.) or *Hylurgopinus Rufipes* (Marsh.);
  - (b) Any living or standing Oak tree or part thereof infected to any degree with the Oak Wilt fungus, *Ceratocystis Fagacerarum*;
  - (c) Any dead Elm or Oak tree or part thereof, including logs, branches, stumps, firewood or other material from which the bark has not been removed and burned; or
  - (d) Any living or dead *Fraxinus* spp tree or part thereof infested to any degree with the insect Emerald Ash Borer (*Agrilus Planipennis*).

Subd. d. Inspection and Investigation.

(1). The City Administrator shall inspect all premises and places within the city to determine whether any condition described in Subd. c. of this section exists thereon. This inspection shall be done in accordance with the Minnesota Department of Agriculture recommendations or as often as necessary. The City Administrator shall investigate all reports of the existence of nuisances described in Subd. c. The City Administrator shall be entitled to designate duly authorized agents to carry out inspections and abatements regarding the provisions of Subd. c. The purpose of this section is to allow the City Administrator to appoint agents to inspect and abate problems regarding public nuisances concerning diseased trees.

(2). Entry on Private Premises. Except in situations of imminent danger to human life and safety, the City Administrator shall not enter private property for the purpose of inspecting or preventing maintenance of public nuisances without the permission of the owner, resident, or other person in control of the property, unless the tree inspector has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.

(3). Diagnosis. The City Administrator may, upon finding conditions indicating the existence of nuisances described in Subd. c., send appropriate samples to the State Shade Tree Disease Laboratory or other qualified laboratory for diagnosis or follow diagnostic recommendations of the Commissioner of Agriculture.

Subd. e. Abatement of Shade Tree Disease Nuisance

Abatement of shade tree disease nuisances shall be carried out in accordance with methods prescribed by Section 9.11.

Subd. f. Transporting Diseased Shade Tree Wood is Prohibited. It is unlawful for any person to transport within the city any bark-bearing diseased tree wood defined in Subd. c. without having obtained a permit from the City Administrator. The City Administrator

shall grant such permits only in conformity with the State approved removal and wood disposal practices.

Subd. g. Interference Prohibited. It is unlawful for any person to prevent, delay or interfere with the City Administrator or his agents while this are engaged in the performance of duties imposed by this code.

Subd. h. Penalty. Any person, firm or corporation who violates this section, upon conviction thereof, shall be guilty of a petty misdemeanor and shall be punished in accordance with the provision of this code. Each day of violation of this section shall constitute a separate offense.

#### **Sec. 9.10. Public Nuisance Building or Structure.**

Subd. a. Any building or structure is a public nuisance that is dangerous to public safety or health or to other property by reason of:

- (1) Damage by fire.
- (2) Defective chimneys or decay.
- (3) Dilapidated condition or decay.
- (4) Defective electric wiring.
- (5) Defective gas installation.
- (6) Defective heating apparatus.
- (7) Defective sewage disposal system or plumbing.
- (8) Any other defect endangering the public safety, health or other property.

#### **Sec. 9.11. Nuisance Enforcement.**

Subd. a. **Duties of City Officials.** City officials may apply and enforce any provision of this ordinance relating to public nuisances within this jurisdiction. Any peace officer or other designated city official shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no peace officer or designated city official will enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing entry.

Subd. b. **Notice and Abatement Procedure.** Any public nuisance as described in sections 9.1 through 9.10, unless otherwise provided for in this chapter, shall be abated in accordance with the following procedure:

- (1) Any peace officer or designated official, upon complaint or after investigation, may order a public nuisance abated by written notice to the owner of record as determined by the County Auditor and any known tenants.
- (2) Such written notice shall specify 48 hours or such longer time as is reasonable for the abatement of such nuisance.
- (3) Such written notice shall be served upon the owner and lessee and occupant of the premises and shall be served either personally or by certified mail.

- (4) The owner shall have until the date and time specified on the written notice to abate the nuisance or appeal the written notice in writing to the City Council.
- (5) In the event the owner appeals the written notice, abatement shall be stayed until the City Council rules on the appeal.
- (6) In the event the City Council rules against the owner, the City Council may stay enforcement of the written notice for such period of time as determined by the City Council.
- (7) In the event the owner shall not abate the public nuisance in accordance with the written notice or appeal the written notice to the City Council in writing, the peace officer or designated official may order such nuisance abated by the City, its agents or employees.
- (8) Any personal property removed from the abated property shall be held by the City for a period of fourteen days. The City shall provide written notice to the owner, lessee and occupant of the abated property of the fact that personal property is being held by the City. Upon payment of all storage costs, the owner of the personal property may retrieve the personal property, provided that the personal property is not returned in such a manner to any location within the City limits so as to constitute a nuisance as defined in this Section. If the owner of the personal property fails to reclaim the personal property within two weeks as provided for herein, the City may sell or dispose of the personal property. Any proceeds obtained from the sale of the personal property shall be used to offset the abatement costs. The City shall be under no obligation to sell the personal property.

**Subd. c. Immediate Abatement.** Nothing in this chapter shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

**Subd. d. Penalty.** Any person who violates any provision contained in Sections 9.1 through 9.11, unless otherwise provided for in this Chapter, upon conviction thereof shall be guilty of a misdemeanor and shall be punished in accordance with the provisions of this Code. Each day of violation of sections 9.1 through 9.11 shall constitute a separate offense.

**Subd. e. Assessment Procedure.** The City shall recover its costs as follows:

- (1) The owner of the premises on which a nuisance has been abated by the city and a person who has caused a public nuisance on property not owned by that person, shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the city clerk or other city official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city clerk.
- (2) After notice and hearing as provided in Minn. Stat. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the city clerk shall, on or before December 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minn. Stat. § 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and any other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding ten (10), as the City Council may determine in each case.

### **Sec. 9.12. Open Burning**

**Subd. a.** Minn. Stat. §§ 88.01 through 88.195 are hereby adopted in their entirety and shall be incorporated in the City Code.

**Subd. b.** The City Clerk shall cause copies of Minn. Stat. §§ 88.01 through 88.195 to be on file in the City Administration Offices for availability to the public on request.

**Subd. c.** Open burning shall be permitted for dried leaves only and shall be permitted only from the time period of 6:00 p.m. to 12:00 midnight from October 1 to November 15 each year; provided, however, that these restrictions shall not apply to campfires not more than three feet in diameter confined within non-combustible material, and shall not apply to fires contained in a gas or charcoal grill, camp stove, or other device designed for cooking or heating.

**Subd. d.** Permitted fires shall not be less than fifteen (15) feet from any structure, wood fence, hedge or bush, and no less than five (5) feet from any property line, but the burning of dried leaves is prohibited on City streets, boulevards, alleys, or any public property by private citizens.

### **Sec. 9.13. Dogs and Cats**

**Subd. a. Running at Large Prohibited.** It shall be unlawful for any owner or keeper of dogs or cats to permit any dog or cat to run at large upon the premises or property of another person within the limits of the City. This restriction does not prohibit the appearance of any dog or cat upon the streets or public property when the dog or cat is on a leash and is kept under immediate control of the person charged with its care.

#### **Subd. b. Licenses.**

- (1) **License Required.** It shall be unlawful for any person to own or harbor dogs or cats within the limits of the City without having first obtained a license from the City Clerk, who shall keep a record of all licenses issued and shall issue a metal tag for each license. No license shall be issued until the owner has provided the City Clerk with evidence that the dog or cat has been currently vaccinated against rabies. No boarding or kennel facility shall be allowed in a residential zone.
- (2) **License Fees; Expiration.** The City Council, by resolution, shall establish license fees for keeping dogs and cats, and the resolution shall be filed in the City offices. The expiration date of each license shall be indicated on the license. The term of the dog or cat license shall be for three (3) years and expire on December 31 of the third year; provided, however, that if a license is issued after November 30 of a given year, the license's effective date is the following January 1. No license shall be transferred except upon application with the City.
- (3) **Means of Identification.** The owner shall permanently identify a dog or cat by means of a tag or chip. The owner shall be responsible for this identification to be on the dog or cat at all times.

- (4) Abandonment. It shall be unlawful for any person to abandon dogs or cats within the City limits, including in a vacated or unoccupied dwelling.

**Subd. c. Dog or Cat Nuisances.** The owner or custodian of any dog or cat shall prevent the dog or cat from committing, within the City limits, any act that constitutes a nuisance. It shall be unlawful for any person, owner or custodian to harbor or maintain any dog or cat that, by its barking, howling, whining, meowing or other noise disturbs the people in the locality where these dogs or cats are owned, kept or maintained. It shall be unlawful for the owner or custodian of any dog or cat not to prevent any dog or cat from committing, within the City limits, any act that constitutes any other nuisance that includes but is not limited to, to molest or annoy any person away from the property of it's owner or custodian, or to damage, defile, deposit feces on public or private property without the property owner's consent, or destroy public or private property.

**Subd. d. Confinement of Certain Dogs or Cats.** Every female dog or cat in heat shall be confined in a building or other secure enclosure in such manner that it cannot come into contact with another dog or cat, except for planned breeding.

**Subd. e. Quarantine of Certain Dogs or Cats.** Any dog or cat that bites a person shall be quarantined for such time as may be directed by the City. During quarantine, the animal shall be securely confined and kept from contact with any other animal. At the discretion of the City, the quarantine may be on the premises of the owner; however, if the City requires any other confinement, the owner shall surrender the animal for the quarantine period to an animal shelter or shall, at his/her own expense, place it in a veterinary hospital.

**Subd. f. Muzzling Proclamation.** Whenever the prevalence of rabies renders such action necessary to protect the public health and safety, the Council shall issue a proclamation ordering every person owning or keeping a dog or cat to muzzle it securely so that it cannot bite. No person shall violate such proclamation, and any unmuzzled dog or cat unrestrained during the time fixed in the proclamation shall be subject to impoundment as heretofore provided, and the owner of such dog or cat shall be subject to the penalty hereinafter provided.

**Subd. g. Impounding.**

- (1) It shall be lawful and the duty of any peace officer or any person duly designated and appointed by the City Council to enforce the provision of this section to capture, seize, and deliver to the keeper of a public pound, any dog or cat found within the City limits to run at large, and may give notice to the owner or custodian of such dog or cat, if known. If any dog or cat is not claimed within five (5) working days of impoundment, it will be properly disposed of. The City Council, by resolution, shall establish a dog and cat impound fee, and the resolution shall be filed in the City offices.
- (2) Vaccination and Redemption. Any dog or cat held by the pound for which evidence of a current vaccination against rabies is not provided shall be vaccinated against rabies before redemption from the pound by its owner. In order to redeem the dog or cat, the owner shall first pay any veterinarian expense incurred, plus the impounding fee established by the City, as well as a license fee for the dog or cat, if any.

(3) **Disposition of Unclaimed Dogs or Cats.** Any dog or cat that is not redeemed within the time specified in Subdivision a. may be sold, only if spayed or neutered, for not less than the amount provided in Subdivision b. to anyone desiring to purchase the dog or cat if it is not requested by a licensed educational or scientific institution under Minn. Stat. § 35.71. All sums received in excess of the fees fixed by Subdivision b. shall be paid to the owner or custodian if he/she makes a claim within one (1) year of the sale and furnishes satisfactory proof of ownership. Any dog or cat that is not claimed by the owner or custodian or sold shall be painlessly euthanized and properly disposed of by the person having custody of the dog or cat.

**Subd. h. Penalty.** Any person keeping any dogs or cats who is found guilty of violating any provision of this section is guilty of a petty misdemeanor.

#### **Sec. 9.14. Other Animals**

**Subd. a. General Prohibition.** No person shall keep any horse, cattle, sheep, goat or similar animal in the City or permit such animal to be kept on premises owned, occupied or controlled by him/her except under the conditions prescribed by this chapter.

**Subd. b. Areas Where Keeping Prohibited.** No horse, cattle, sheep, goat or similar animal shall be kept in the City except as permitted in an Agricultural District pursuant to Sec. 5.6 of the Staples City Code.

**Subd. c. Treatment.** No person shall treat any animal in a cruel or inhumane manner.

**Subd. d. Animals at Large.** No person shall permit any horse, mule, donkey, pony, cattle, sheep, goat, swine, rabbit, chicken, geese, duck or turkey of which he/she is the owner, caretaker or custodian to be at large within the City. Any such animal is deemed to be at large when it is off the premises owned or rented by the owner or his/her agent and not under his individual restraint.

**Subd. e. Diseased Animals.** Any animal with a contagious disease shall be so confined that it cannot come within 50 feet of any public roadway or any place where animals belonging to or harbored by another person are kept.

**Subd. f. Manner of Keeping.** No person shall keep any dog, cat or other animal in the City in an unsanitary place or condition or in a manner resulting in objectionable odors or in such a way as to constitute a nuisance or disturbance by reason of barking, howling, fighting or other noise or in such a way as to permit the animal to annoy, injure or endanger any person or property.

#### **Subd. g. Care of Premises.**

(1) **Clean Shelters.** Every structure and yard in which animals or fowl are kept shall be maintained in a clean and sanitary condition and free of all rodents, vermin and objectionable odors. The interior walls, ceilings, floors, partitions and appurtenances of any such structure shall be whitewashed or painted as the Health Officer shall direct. Upon the complaint of any individual or otherwise, the Health Officer shall inspect such structure or yard and issue any such order as may be reasonably necessary to carry out the provisions of Section 9.5.

- (2) **Manure.** Manure shall be removed with sufficient frequency to avoid nuisance from odors or from the breeding of flies, at least once per month from October 1 to May 1 each year and once every two weeks at other times. Unless used for fertilizer, manure shall be removed by hauling beyond the City limits. If used for fertilizer, manure shall be spread upon the ground evenly and turned under at once or as soon as the frost leaves the ground.

**Subd. h. Impounding.**

- (1) **Who Impounds.** Any police officer or any person duly designated and appointed by the City Council may take up and impound in the City pound any animal or fowl found running at large in violation of this section and shall provide proper sustenance for every animal impounded.
- (2) **Notice.** Within 24 hours after any animal has been impounded, any police officer shall post notices in three conspicuous places in the City, one of them at the pound, describing the animal and stating that it has been impounded. He/She shall also make a reasonable attempt to give oral or written notice to the owner where known.
- (3) **Release.** No animal impounded shall be released except to a person displaying a receipt from the Clerk showing payment of the impounding fee or the sale price.
- (4) **Fees.** Any animal may be redeemed from the pound by the owner within the time stated in the notice by the payment to the Clerk of the impounding fee established by resolution of the City, plus any veterinarian expense incurred.
- (5) **Sale.** If any impounded animal is not redeemed within 6 days, the police officer shall give an additional 3-day posted notice, as provided in Subdivision b. of the time and place, when and where the animal shall be sold. If the police officer is unable to sell the animal on the day stated, he/she may sell the animal as soon thereafter as possible without further notice.
- (6) **Proceeds of Sale.** From the proceeds of sale, the Clerk shall pay the police officer the costs of impounding. The balance shall be paid, on order of the Council, to the owner of the animal or fowl if claimed within one year from the date of sale, otherwise, it shall be forfeited to the City.
- (7) **Illegal Release.** No unauthorized person shall break into the pound or release any animal legally placed therein.

**Sec. 9.15. Weapons.**

**Subd. a. Definition.** The term "deadly weapons" as used in this section shall include the following:

- (1) All firearms;

- (2) Bows and arrows when the arrows are pointed or tipped;
- (3) All instruments used to expel at high velocity any pellets of any kind, including, but not limited to, BB guns and air rifles;
- (4) Sling shots;
- (5) Metal knuckles; and
- (6) Switchblade knives, being knives with retractable blades.

**Subd. b. Discharge Prohibited Generally.** Except as herein specifically authorized, the discharge or use of deadly weapons within the City is hereby prohibited, except that the discharge or use of deadly weapons shall be allowed if all of the requirements in at least one subpart described below are fulfilled where the discharge of the deadly weapon takes place.

- (1) The property is in an agricultural district and the discharge is for hunting or predatory control purposes and written permission from the owners and occupants of any occupied buildings within 500 feet of the discharge has been obtained, with the written permission to be in possession of the person discharging the deadly weapon, and all State and Federal regulations are obeyed.
- (2) The property is in an agricultural district with size of at least 40 acres, and the discharge is in conjunction with the slaughtering of livestock for purposes of human consumption, and the projectile does not carry beyond the property boundary line.
- (3) The property is in one of the following described non agricultural parcels, and only a bow and arrow is used for hunting or predatory control purposes, and all State and Federal regulations are obeyed.

(i) Wadena County:

Thomastown Plat, Township 134N, Range 33W  
 Section 26 (SE ¼)  
 Section 35 (NW ¼), (NW ¼ of SW ¼), (S ½ of NE ¼ of SW ¼)  
 Section 34 (SE ¼)  
 Section 25 (N ½ of SW ¼), (E ½ of SE ¼ of SW ¼)

(ii) Todd County:

Staples Plat, Township 133N, Range 33W  
 Section 3 (NE ¼), (That Portion of the SE ¼ Lying North of Highway No. 10)  
 Section 2 (N ½ of NW ¼), (NW ¼ of NE ¼)

**Subd. c. Aiming Prohibited.** The aiming of any deadly weapon, whether loaded or not, at or towards any human being is hereby prohibited.

**Subd. d. Furnishing to Minors.** The selling, giving, loaning or furnishing in any way of any deadly weapon to a minor without the written consent of his parents or guardian is hereby prohibited.

**Subd. e. Use by Minor.** No minor under the age of fourteen (14) years shall handle or have in his/her possession or under his/her control, except while accompanied by or under the immediate charge of his parent or guardian, any deadly weapon.

**Subd. f. Discharge Restricted.** The firing of a gun or use of other deadly weapon in the lawful defense of the person, property or family of the user of said weapon is excepted from the prohibitions set forth in this section and similarly, the firing of a gun or use of other deadly weapons in the necessary enforcement of the law, whether by a police officer or a private individual, is also excepted from the prohibitions contained herein.

**Subd. g. Permits.** The City Council may promulgate regulations for the suitable protection of persons and property and, subject to such regulations, the Council may issue special permits to duly organized clubs and their members for shooting or the use of air rifles or bow and arrows on lands owned or leased by such clubs. Such permits shall be issued by the Clerk upon direction of the Council, shall be in writing, and shall be valid only when in the possession of the person to whom issued.

#### **Sec. 9.16. Trespassing and Disorderly Conduct in School Areas**

**Subd. a. Trespassing.** It shall be unlawful for any person to remain in a public or private school building or upon the grounds and office after being requested to leave the premises by the school principal or other persons lawfully responsible for the control of said premises. These premises shall include the Community Center parking lot and related Community Center areas when high school classes and activities are being held.

**Subd. b. Disturbances.** It shall be unlawful for any persons whether on or off school premises willfully to annoy, disturb, interfere with, or obstruct any classroom instruction, teaching program or other school organization or assembly being conducted upon the premises of any public or private school.

**Subd. c. Disorderly Conduct.** No person shall willfully or maliciously make or assist in making on any school grounds adjacent to any school building or structure any noise, disturbance or improper diversion or activity by which peace, quiet and good order shall be disturbed.

**Subd. d. Petty Misdemeanor Violation.** Any violation of the provision of this ordinance shall constitute a petty misdemeanor, and upon conviction thereof, the offender may be fined not more than \$200.00.

#### **Sec. 9.17. Procedures for Enforcing Administrative Offenses.**

**Subd. a. Purpose.** Administrative offense procedures established pursuant to this Section are intended to provide the public and the City of Staples with an informal, cost effective, and expeditious alternative to traditional criminal charges for violations of certain City Code provisions. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to the payment of the administrative penalty as is provided for thereafter, the individual may withdraw from participation in the procedures, in which event the City may bring criminal charges in accordance with law.

Likewise, the City of Staples, in its discretion, may choose not to initiate an administrative offense and may bring criminal charges in the first instance. In the event a party participates in the administrative offense procedures but does not pay the monetary penalty that may be imposed, the City of Staples will seek to collect the costs of the administrative offense procedures as part of a subsequent criminal sentence in the event the party is charged and is adjudicated guilty of the criminal violation.

**Subd. b. Administrative Offense Defined.** An administrative offense is a violation of a provision of the City Code and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in Subdivision (g), entitled "Offenses and Penalties," hereafter.

**Subd. c. Notice.** Any officer of the City of Staples Police Department or any other person employed by the City, authorized in writing by the City Administrator, and having authority to enforce this Code, shall, upon determining that there has been a violation, notify the violator, or, in the case of a vehicular violation, attach to the vehicle a notice of the violation. Said notice shall set forth the nature, date, and time of violation, the name of the official issuing the notice, and the amount of the scheduled penalty.

**Subd. d. Payment.** Once such notice is given, the alleged violator shall, within seven (7) days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

**Subd. e. Failure to Pay.** In the event a party charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes. If the penalty is paid no further charge shall be brought by the City of Staples for the same violation.

**Subd. f. Disposition of Penalties.** All penalties collected pursuant to this Section shall be paid to the City of Staples and deposited in the City's General Fund.

**Subd. g. Offenses and Penalties.** Offenses which may be charged as administrative offenses and the penalties for such offenses may be established by resolution of the City Council from time to time. Copies of such resolution shall be maintained in the Office of the City Administrator.

**Sec. 9.18. Penalty.** Unless otherwise designated, any person convicted of violating any provision of sections 9.12 through 9.18 shall be guilty of a misdemeanor and punished in accordance with the provisions of this Code.

**Sec. 9.19. Severability.**

If any provision of this Chapter is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

**Sec. 9.20. Effective Date.**

This ordinance becomes effective on the date of its passage and publication according to law.

**Sec. 9.21. Summary Approved**

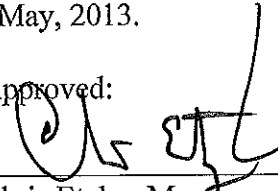
The Council hereby determines that the text of the summary of this ordinance marked "Official Summary of Ordinance No. 501," and a copy of which is attached to this ordinance, clearly informs the public of the intent and effect of

this ordinance. The Council further determines that publication of the title and this summary will clearly inform the public of the intent and the effect of this ordinance. The Clerk shall file a copy of this ordinance and the summary in the Clerk's office which shall be available for inspection by any person during regular office hours. A copy of the ordinance shall be available in the community library, if there is one, or if not, in any other public location which the Council designates.

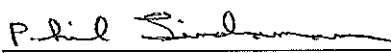
ARTICLE 3. This ordinance becomes effective from and after its passage and publication.

Passed by the City Council on this 28<sup>th</sup> day of May, 2013.

Approved:

  
Chris Etzler, Mayor

Attested:

  
Phil Lindaman, City Clerk

First Reading: May 14, 2013

Second Reading: May 28, 2013

Publication: June 6, 2013

## SUMMARY PUBLICATION

### Official Summary of Ordinance No. 501.

Amendment of Chapter 9 to the Staples City Code - Crimes, Offenses and Public Nuisances.

**NOTICE: THE FOLLOWING PUBLISHED MATERIAL IS ONLY A SUMMARY OF CHAPTER 9 TO THE STAPLES CITY CODE. A PRINTED COPY OF THE ENTIRE 19 PAGE ORDINANCE IS AVAILABLE FOR INSPECTION BY ANY PERSON DURING REGULAR OFFICE HOURS AT THE STAPLES CITY HALL.**

THE CITY COUNCIL OF THE CITY OF STAPLES DOES ORDAIN:

CHAPTER 9. CRIMES, OFFENSES AND PUBLIC NUISANCES.

Chapter 9 of the Staples City Code contains 21 sections. The purpose of the ordinance is to identify those standards which constitute crimes, offenses and public nuisances within the City of Staples. The Ordinance will assist the police and other City officials in determining what constitutes crimes, offenses and public nuisances within the City.

The Ordinance sets forth the relevant definitions of terms as used throughout the Ordinance, and establishes those factors which constitute crimes, offenses and public nuisances. Sections 1 through 11 of the Ordinance specifically address those items which constitute public nuisances throughout the City and provide for their enforcement. Sections 12 through 16 address and define certain crimes and offenses. Section 17 addresses administrative remedies available to City officials. Sections 18 through 21 address miscellaneous provisions of the ordinance.

EFFECTIVE DATE: This Ordinance will be in full force and effect from and after its passage and publication according to law.

ENACTED BY THE CITY COUNCIL OF THE CITY OF STAPLES THIS 28TH DAY OF MAY, 2013.

CITY OF STAPLES

/s/ Chris Etzler  
Chris Etzler, Mayor

ATTEST:

/s/ Phil Lindaman  
Phil Lindaman, City Clerk