

TITLE IX: GENERAL REGULATIONS

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**CHAPTER 90: ABANDONED, UNLICENSED, UNREGISTERED, OR INOPERABLE
VEHICLES**

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SECTION 90.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

ABANDONED MOTOR VEHICLE. A motor vehicle as defined in M.S. Chapter 169.01, subdivision 3, as it may be amended from time to time, that has remained for a period of more than 48 hours on public property illegally, or more than four hours on public property if that property is properly posted; or has remained on private property for a period of time, as determined under M.S. Chapter 168B.04, Subd. 2, as it may be amended from time to time, without the consent of the person in control of the property; and is lacking vital component parts, or is in an inoperable condition such that it has no substantial potential further use consistent with its usual function unless it is kept in an enclosed garage or storage building. It shall also mean any other motor vehicle defined as “unauthorized” in M.S. Chapter 168B.011, Subd. 4, as it may be amended from time to time, or a motor vehicle defined as “junk” in M.S. Chapter 168B.011, Subd. 3, as it may be defined from time to time, or a motor vehicle voluntarily surrendered by its owner to and accepted by the city. A classic car or pioneer car, as defined in M.S. Chapter 168, as it may be amended from time to time, shall not be considered an ***ABANDONED MOTOR VEHICLE*** within the meaning of this section. Vehicles on the premises of junk yards or automobile graveyards, which are licensed and maintained in accordance with the city code, shall not be considered ***ABANDONED MOTOR VEHICLES*** within the meaning of this section.

ABANDONED, UNLICENSED, UNREGISTERED OR INOPERABLE VEHICLES.
Defined in Chapter 94, Section 94.01 (E) (a and b).

VITAL COMPONENT PARTS. Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train and wheels as defined in M.S. Chapter 168B.011, Subd. 14, as it may be amended from time to time. ('83 Code, SEC. 2.70, Subd. 1, A.)

SEC. 90.02 ABANDONING VEHICLE UNLAWFUL.

It is unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of the property. For the purpose of this section, a ***MOTOR VEHICLE*** is as defined in M.S. Chapter 169.01, Subd. 3, as it may be amended from time to time.

('83 Code, SEC. 10.36) Penalty, see SEC. 10.99

SEC. 90.03 IMPOUNDMENT; DISPOSAL.

(A) *Custody.* The city may take into custody and impound any abandoned motor vehicle.

(B) *Custody*. The city may take into custody and impound any unlicensed, unregistered, or inoperable motor vehicle after proper notice according to Chapter 94, Sec. 94.01 (E)(3)(b).

(C) *Disposal*. The city will dispose of impounded vehicles in the manner indicated in SEC. 90.04 through SEC. 90.07 of this chapter.

(‘83 Code, SEC. 2.70, Subd. 1, B., C.)

SEC. 90.04 NOTICE OF IMPOUNDMENT.

(A) When the city has impounded a motor vehicle under SEC. 90.03 of this chapter, the city shall give notice of the taking within five days. The notice shall set forth the date and place of the taking, the year, make, model and serial number of the abandoned, unlicensed, unregistered, or inoperable motor vehicle, if the information can be reasonably obtained, and the place where the vehicle is being held, shall inform the owner and any lien holders of their right to reclaim the vehicle under SEC. 90.05 of this chapter, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the sale of the vehicle and contents at a public auction pursuant to SEC. 90.06 of this chapter.

(B) The notice shall be sent by mail to the registered owner and property owner, if any, of the abandoned motor vehicle and to all readily identifiable lien holders of record.

(‘83 Code, SEC. 2.70, Subd. 1, D.)

SEC. 90.05 RIGHT TO RECLAIM.

(A) The owner or any lien holder after providing proof of ownership, title, insurance and current license tabs of an abandoned motor vehicle, other than an unauthorized vehicle as defined in M.S. Chapter 168B.011, Subd. 4, as it may be amended from time to time, shall have a right to reclaim the vehicle from the city upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 days after the date of the notice required by this chapter.

(B) The owner or lien holder of any unauthorized motor vehicle, as defined in M.S. Chapter 168B.011, Subd. 4, as it may be amended from time to time, shall have the right to reclaim the vehicle upon payment of all towing and storage charges within 15 days after the date of the initial notice required by this chapter.

(C) Nothing in this chapter shall be construed to impair any lien of a garage keeper under the laws of this state, or the right of the lien holder to foreclose. For the purposes of this section **GARAGE KEEPER** is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

(‘83 Code, SEC. 2.70, Subd. 1, E.)

SEC. 90.06 PUBLIC SALE.

(A) An abandoned, unlicensed, unregistered, or inoperable motor vehicle and contents taken into custody and not reclaimed under SEC. 90.05 of this chapter shall be sold to the highest bidder at public auction or sale, following notification by mail to owner and any lien holder and one published notice published at least seven days prior to the auction or sale. The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

(B) From the proceeds of the sale of an abandoned motor vehicle, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred pursuant to this chapter.

(‘83 Code, SEC. 2.70, Subd. 1, F.)

SEC. 90.07 DISPOSAL OF VEHICLES NOT SOLD.

(A) Where no bid has been received for an abandoned motor vehicle, the city may dispose of it in accordance with this chapter. (‘83 Code, SEC. 2.70, Subd. 1, G.)

(B) Contracts and disposal.

(1) The city may contract with any qualified person for collection, storage, incineration, volume reduction, transportation or other services necessary to prepare abandoned motor vehicles and other scrap metal for recycling or other methods of disposal.

(2) Where the city enters into a contract with a person duly licensed by the Minnesota Pollution Control Agency, the Agency shall review the contract to determine whether it conforms to the Agency’s plan for solid waste disposal. A contract that does so conform may be approved by the Agency. Where a contract has been approved, the Agency may reimburse the city for the costs incurred under the contract which have not been reimbursed.

(3) If the city utilizes its own equipment and personnel for disposal of the abandoned motor vehicle, it shall be entitled to reimbursement for the cost thereof along with its other costs as herein provided.

(‘83 Code, SEC. 2.70, Subd. 1, H.)

Cross-reference:

City employees who may not purchase excess or unclaimed property, see SEC. 36.04

CHAPTER 91: ANIMALS

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ANIMALS AND FOWL

SECTION 91.01 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

ANIMALS. Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. ***ANIMALS*** shall be classified as follows:

(1) ***DOMESTIC ANIMALS*** shall mean those animals commonly accepted as domesticated household pets. Unless otherwise defined, the animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

(2) ***FARM ANIMALS*** shall mean those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, the animals shall include members of the equestrian family (horses and mules), bovine family (cows, bulls and oxen), sheep, poultry (chickens and turkeys), fowl (ducks and geese), swine, goats, bees, and other animals associated with a farm, ranch, or stable.

(3) ***NON-DOMESTIC ANIMALS*** shall mean those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety and welfare of people. Unless otherwise defined, the animals shall include:

(a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted and domesticated house cats.

(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(d) Any relative of the rodent family, including any skunk (whether or not descended), raccoon, or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets.

(e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart, including but not limited to bears and deer.

(4) **SERVICE ANIMAL** shall mean any animal trained to assist a person with a disability.(M.S. Chapter 343.20, Subd. 7) ('83 Code, SEC. 10.21, Subd. 1)

SEC. 91.02 KEEPING OR HARBORING ANIMALS.

It is unlawful for any person to keep or harbor any animal, other than a domestic animal or a service animal as defined in this chapter, not in transit, except:

(A) Farm animals kept in that portion of the city zoned for agricultural purposes or animals that have been kept continuously by right of prior land use;

(B) Animals kept as part of a show licensed under the city code;

(C) Animals used in a parade for which a permit has been issued;

(D) Animals kept in a laboratory for scientific or experimental purposes; or

(E) Animals kept in an animal hospital or clinic for treatment by a licensed veterinarian.
(‘83 Code, SEC. 10.21, Subd. 2) Penalty, see SEC. 10.99

SEC. 91.03 TRANSPORTING ANIMALS.

It is unlawful for any person to transport animals unless they are:

(A) Confined within a vehicle, cage or other means of conveyance;

(B) Farm animals being transported in a portion of the city zoned for agricultural purposes;
or

(C) Restrained by means of bridles, halters, ropes or other means of individual restraint, or in the case of companion animals or service animals under the immediate control of the animal owner or designee.

(‘83 Code, SEC. 10.21, Subd. 3) Penalty, see SEC. 10.99

SEC. 91.04 CRUEL TREATMENT; INADEQUATE HOUSING.

(A) It is unlawful for any person to treat any animal as herein defined, or any other animal, in a cruel or inhumane manner. ('83 Code, SEC. 10.21, Subd. 4)

(B) It is unlawful for any person to keep any animal as herein defined, or any other animal,

in any structure infested by rodents, vermin, flies or insects, or inadequate for protection against the elements.

(C) The provisions of M.S. Chapter 343, Cruelty to Animals, as it may be amended from time to time, are adopted relating to doghouses and incorporated herein.
(‘83 Code, SEC. 10.21, Subd. 5) Penalty, see SEC. 10.99

SEC. 91.05 TRESPASS.

It is unlawful for any person to herd, drive or ride any animal over and upon any grass, turf, boulevard, city park, cemetery, garden or lot without specific permission therefor from the owner.

(‘83 Code, SEC. 10.21, Subd. 6) Penalty, see SEC. 10.99

SEC. 91.06 DANGEROUS ANIMALS.

(A) *Attack by an animal.* It shall be unlawful for any person’s animal to inflict or attempt to inflict bodily injury on any person or other animal. The provisions of SEC. 91.06 shall not apply to a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder.

(B) *Destruction of dangerous animal.* The Chief of Police or his designee shall have the authority to order the destruction of a dangerous animal in accordance with the terms established by SEC. 91.06.

(C) *Definitions.* For the purpose of SEC. 91.06 (dangerous animals) through 91.16 (regulation of licensing of dogs and cats), the following definitions shall apply.

(1) ***DANGEROUS ANIMAL.*** An animal which has:

- (a) Without provocation, inflicted substantial bodily harm on a human being on public or private property;
- (b) Killed a domestic animal without provocation while off the owner’s property;
- (c) Bitten one or more persons or animals on two or more occasions; or
- (d) Been found to be potentially dangerous and/or the owner has notice of the same, the animal aggressively bites, attacks, or endangers the safety of humans or animals.

(2) ***POTENTIALLY DANGEROUS ANIMAL.*** An animal which has:

- (a) When unprovoked, inflicts bites on a human or domestic animal on public or private property;
- (b) When unprovoked, chases or approaches a person upon public or private

property; or has engaged in unprovoked conduct threatening the safety of humans or domestic animals.

(3) **PROPER ENCLOSURE.** Securely confined indoors or in a securely locked pen or suitable structure to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which doors or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or suitable structure shall meet the following minimum specifications:

- (a) Have a minimum overall floor size of 32 square feet.
- (b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 1 ¼ inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.
- (c) A cover over the entire pen or suitable structure shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches.
- (d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or suitable structure.

(4) **UNPROVOKED.** The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

(5) **OWNER.** “Owner” means any person, firm, corporation, organization, or department possessing, harboring, keeping, feeding, boarding, having an interest in, or having care, custody, regulation or control of an animal.

(6) **ANIMAL POUND.** The location designated by the city administrative authority for the purpose of impounding and caring for animals held under the authority of this section. (Ord. 41, 2nd Series, effective 4-23-87).

(7) **MUZZLE OR MUZZLED.** The muzzle must be made in a manner which will not cause injury to the animal or interfere with its vision or respiration, but must prevent it from biting any person or animal.

(D) *Designation as potentially dangerous animal.* The Chief of Police or designee shall designate any animal as a potentially dangerous animal upon receiving evidence that the

potentially dangerous animal has, engaged in conduct set forth in SEC. 91.06 (C)(2). When an animal is declared potentially dangerous, the Chief of Police or designee shall cause the owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

(E) *Evidence justifying designation.* The Chief of Police or designee shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

(1) When the animal has exhibited any of the behavior outlined in SEC. 91.06 (C)(1).

(F) *Authority to order destruction.* The Chief of Police or designee, upon finding that an animal is dangerous, is authorized to order, as part of disposition, that the animal be destroyed based upon a finding that an animal is dangerous as defined by SEC. 91.06 (C)(1).

(G) *Procedure.* The Chief of Police or designee, after having determined that an animal is dangerous, may proceed in the following manner: The Chief of Police or designee shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to the basis for the designation of the animal as dangerous in accordance with SEC. 91.06 (C)(1), and shall be given ten (10) days to appeal this order by requesting a hearing before a hearing officer.

(1) If an owner requests in writing, directed to the Chief of Police or designee, and posts a bond of \$200.00, a hearing for determination as to the dangerous nature of the animal shall be conducted. The hearing shall be held before a hearing officer who shall set a date for a hearing not more than ten (10) days after demand for the hearing. The records of the Police Department shall be admissible for consideration by the hearing officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the hearing officer shall make an order as he or she deems proper. The hearing officer may order that the Chief of Police or designee take the animal into custody for destruction if the animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Chief of Police or designee.

(2) No person shall harbor an animal after it has been found by a hearing officer to be dangerous.

(H) *Stopping an attack.* If any police officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

(I) *Notification of new address.* The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Chief of Police or designee in writing if the animal is to be relocated from its current address or given, transferred, or sold to another person. The notification shall be given in writing at least fourteen (14) days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, the transfer address and the name of the new owner or custodian, if any.

SEC. 91.07 DANGEROUS ANIMAL REQUIREMENTS

(A) *Requirements.* If the Chief of Police or designee does not order the destruction of an animal that has been declared dangerous, the owner shall, within fourteen (14) days after mailing of the notice that the animal has been declared dangerous, complete all of the following:

(1) The owner shall provide and maintain a proper enclosure for the dangerous animal as specified in SEC. 91.06 (C)(3);

(2) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property, as specified in M.S. § 347.51, as may be amended from time to time;

(3) Provide as your proof annually of public liability insurance in the minimum amount of \$100,000.00;

(4) If the animal is outside the proper enclosure, the animal must be muzzled and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be made in a manner as defined by this section.

(5) If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. § 347.51, as it may be amended from time to time, and shall have a microchip implanted as provided by M.S. § 347.151, as it may be amended from time to time.

(6) All animals deemed dangerous by the Chief of Police or designee or hearing officer shall be registered with the city within fourteen (14) days after the date the animal was so deemed and provide satisfactory proof thereof to the Chief of Police or designee.

(7) If the animal is a dog, the dog must be licensed and current on rabies vaccination. If the animal is a cat or ferret, it must be current on rabies vaccination.

SECTION 91.08 NUISANCES.

(A) DEFINITIONS.

(1) For purposes of this Section, the following are declared to be a public nuisance:

(a) Any violation of Section 91.18 on three or more occasions within a twelve-month period.

(b) Any violation of Section 91.19, Subd. (A), on three or more occasions within a twelve-month period.

(c) Any violation of Section 91.19, Subd. (D)(6), on three or more occasions within a twelve-month period.

(d) A designation of the animal as a potentially dangerous animal or dangerous animal as defined by Section 91.06, Subd. (C)(1) or (C)(2), on three or more occasions within a twelve-month period.

(2) A violation is defined as:

- (a) A plea of, or adjudication of guilt to a citation for any of the offenses indicated above; or,
- (b) The payment of a City administrative fine for any of the offenses indicated above.

(B) ABATEMENT.

An animal found to be a nuisance under this Section shall be abated by the owner or keeper of such animal by the disposition of the animal within fourteen (14) days after receipt of notice to the owner or keeper thereof. "Disposition" shall mean the destruction of the animal or its permanent removal from the City. Notice shall be sent by the Chief of Police or designee by registered mail. If the owner or keeper of the animal fails to comply with the above-specified period, the City's designated animal control authority is authorized and directed to capture and immediately dispose of such animal. The owner or keeper of the animal shall immediately make the animal available to the City's designated animal control authority.

(C) PROCEDURE.

The Chief of Police or designee, after having determined that an animal is a nuisance as defined by this Section, may proceed in the following manner: The Chief of Police or designee shall cause one owner of the animal to be notified in writing or in person that the animal is a nuisance and may order the animal seized or make orders as deemed proper. This owner shall be notified as to the basis for the designation of the animal as a nuisance in accordance with Section 91.08 and shall be given ten (10) days to appeal this order by requesting a hearing before a hearing officer.

(1) If an owner requests in writing, directed to the Chief of Police or designee and posts bond of \$200.00, a hearing for determination as to the nuisance nature of the animal shall be conducted. The hearing shall be held before a hearing officer who shall set a date for a hearing not more than ten (10) days after demand for the hearing is received by the Chief of Police or designee. The record of the Police Department shall be admissible for consideration by the hearing officer without further foundation. After considering all evidence, the hearing officer shall make an order as he or she deems proper. The hearing officer may order that the Chief of Police or designee take the animal into custody if the animal is not currently in custody. If the animal is ordered to be disposed of as defined by this Section, and the owner chooses destruction, the owner shall immediately make the animal available to the Chief of Police or designee. If the animal is ordered to be disposed of and the owner chooses to have the animal permanently removed from the City, the owner shall do so within five (5) days of the hearing officer's order, and the owner shall provide to the Chief of Police or designee a written and notarized statement regarding steps taken to permanently remove the animal from the City.

(D) KEEPING OR HARBORING ANIMALS.

(1) No person shall harbor an animal after it has been found by a hearing officer to be a nuisance.

(Ord. 5, 3rd Series, effective 3-28-08)

REGULATION AND LICENSING OF DOGS AND CATS

SEC. 91.15 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

ANIMAL POUND. The location designated by the city administrative authority for the purpose of impounding and caring for animals held under the authority of this section. (Ord. 41, 2nd Series, effective 4-23-87)

MUZZLE or MUZZLED. A device or the securing of a dog's jaws by a device constructed of strong, soft material or a metal muzzle such as that used commercially with greyhounds; the muzzle must be made in a manner which will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal. (Ord. 43, 2nd Series, effective 6-11-87)

OWNER. A person who owns, harbors, feeds, boards or keeps an animal hereby regulated.

UNCONFINED. Not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner; the pen or structure must have secure sides and a secure top and if the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot.
(‘83 Code, SEC. 10.20, Subd. 1)

SEC. 91.16 LICENSE REQUIRED; APPLICATION, FEE AND TAG.

(A) *License required.* It is unlawful for the owner of any dog or cat, six months of age or more, to fail to obtain a license therefor from the city.

(B) *Application.* Application for a dog or cat license shall be upon a form supplied by the city and accompanied by a certificate of a veterinarian, duly licensed to practice veterinary medicine within the State of Minnesota, which certificate shall state that the dog or cat for which application for a license is made, has been inoculated against rabies for at least the period for which the license is applied.

(C) *Period and fee.* All dog and cat licenses shall expire on December 31 of each year. License fees shall be established by the Council by resolution, which may in the same manner be amended from time to time, and uniformly enforced.

(D) *Tag required.* All licensed dogs and cats shall wear a collar and have a tag firmly affixed thereto evidencing the license for the current year. A duplicate for a lost tag may be

issued by the city upon presentation of the receipt showing the payment of the license fee for the current year. Tags shall not be transferable, and no refund shall be made on any license fee because of leaving the city or death of the dog or cat before the expiration of the license. ('83 Code, SEC. 10.20, Subds. 3-6) Penalty, see SEC. 10.99

SEC. 91.17 MAXIMUM NUMBER OF ANIMALS PERMITTED.

The number of licensed dogs and cats permitted per dwelling unit shall not exceed three animals exceeding three months of age, which number shall consist of no more than two dogs and one cat or two cats and one dog. Any existing dwelling unit which becomes nonconforming on the effective date of this subchapter shall not have the number of permitted dogs and cats enlarged, but may continue with the existing dogs and cats until the expiration of the lives of those excess dogs and cats.

('83 Code, SEC. 10.20, Subd. 18) Penalty, see SEC. 10.99

SEC. 91.18 RUNNING AT LARGE PROHIBITED.

It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large. A person, who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading "Dogs or Cats Prohibited."

Penalty, see SEC. 10.99

SEC. 91.19 UNLAWFUL ACTS.

(A) It is unlawful for any owner to suffer or permit any dog or cat to defecate upon public property, or the private property of another, without immediately removing the excrement and disposing of it in a sanitary manner.

(B) It is unlawful for any owner to suffer or permit any dog or cat to be upon public property or the private property of another, unless the dog or cat is in the custody of a person of suitable age and discretion having in his or her possession equipment and supplies for excrement removal.

(C) The provisions of this section do not apply to a guide dog accompanying a blind person, a service dog accompanying a disabled person or a dog while engaged in police or rescue activity.

(‘83 Code, SEC. 10.20, Subd. 17)

(D) It is unlawful for the owner of any dog or cat to:

(1) Fail to have the animal currently immunized for rabies;

(2) Fail to have the license tag issued by the city firmly attached to a collar worn at all times by the licensed animal;

(3) Interfere with any police officer, or other city employee, in the performance of his or her duty to enforce this section;

(4) Abandon any animal in the city;

(5) Fail to provide the animal with sufficient good and wholesome food and water, proper shelter and protection from the elements, veterinary care when needed to prevent suffering, and humane care and treatment; or

(6) Fail to keep his or her dog from barking, howling or whining.

(‘83 Code, SEC. 10.20, Subd. 19) (Ord. 115, 2nd Series, effective 1-18-97) Penalty, see SEC. 10.99

SEC. 91.20 ANIMAL BITES; QUARANTINE.

(A) *Reporting.*

(1) *Animal owner.* When any person owning a dog or cat has been notified by any person injured or by someone in his or her behalf, or by someone with knowledge of the injury, that the person has been bitten or attacked by the animal, or when any person owning a dog or cat has been notified by any person that the animal has been bitten by a rabid animal, the owner shall immediately report his or her name and address, the nature of any attack, so far as is known, and the circumstances of the animal to the Police Department.

(2) *All persons.* Anyone having knowledge or reason to believe that any dog or cat in the city has bitten a person shall immediately report, so far as is known, the name and address of the owner and circumstances of the animal.

(B) *Control/quarantine.*

(1) Whenever any dog or cat has bitten a person, it shall be confined in the animal pound for a period of ten days under the care and observation of a licensed veterinarian with the expense thereof borne by the owner of the dog or cat. This confinement may be waived by the Police Department under the following conditions:

(a) The attack was not excessively violent in nature and that the injuries inflicted

do not meet the definition of substantial bodily harm as set out in M.S. Chapter 609.02, Subd. 7a, as it may be amended from time to time;

(b) The animal owner can provide proof that the animal is current on all applicable immunizations;

(c) The Police Department can reasonably determine that the animal will be confined by the owner for the required 10-day period, and that the animal will be accessible to the Police Department during that period;

(d) The animal owner agrees to have the animal examined, at the owner's expense, by a licensed veterinarian at the conclusion of the ten-day confinement; and

(e) The victim does not request impoundment.

(2) It shall be lawful for the Chief of Police, or an agent of the Chief of Police, to destroy in a humane manner any dog or cat that has been determined to have rabies. If at the end of the ten-day period, a licensed veterinarian is convinced that the dog or cat is then free from rabies, the dog or cat may be released from the pound, provided the provisions of SEC. 91.21 are met.

(‘83 Code, SEC. 10.20, Subd. 7) (Ord. 41, 2nd Series, effective 4-23-87)

SEC. 91.21 IMPOUNDMENT; NOTICE AND RELEASE PROCEDURES.

(A) *Impoundment.* Any dangerous dog, as defined in SEC. 91.06, any dog or cat found in the city without a tag, any dog or cat running at large, or any dog or cat found to be or to be kept in violation of this chapter, may be captured and impounded. (‘83 Code, SEC. 10.20, Subd. 8) (Ord. 115, 2nd Series, effective 1-18-97)

(B) *Notice of impounding.* Upon the impounding of any dog or cat, except under M.S. § 343.22 or § 343.29 (Investigation of Cruelty Complaints) or M.S. § 343.29 (Exposure of Animals), as these sections may be amended from time to time, reasonable effort will be made to identify and notify the owner of the animal as to the time and place of the taking and the reason for impoundment. (‘83 Code, SEC. 10.20, Subd. 9)

(C) *Animal pound records.* An accurate record of the time of the placement of the dog or cat in the animal pound shall be kept on each animal. Every dog or cat so placed in the animal pound shall be held for redemption by the owner for a period of not less than five regular business days. In the case of a dog or cat quarantined because it has bitten a person, the five-day period shall begin after the termination of the quarantine. A **REGULAR BUSINESS DAY** is one during which the pound is open for business to the public for at least four hours between 8:00 a.m. and 7:00 p.m. Impoundment records shall be preserved for a minimum of six months and shall show the description of the animal by specie, breed, sex, approximate age, and other distinguishing traits; the location at which the animal was seized; the date of seizure; the name and address of the person from whom any animal three months of age or over was received; and, the name and address of the person to whom any animal three months of age or over was transferred.

(D) *Release from animal pound.* Dogs and cats shall be released to their owners, as follows:

(1) If the dog or cat is owned by a resident of the city, after purchase of a license as aforesaid, and payment of the impounding fee for the period for which the dog or cat was

impounded and all expenses of observation or treatment.

(2) If the dog or cat is owned by a person not a resident of the city, after immunization of any the dog or cat for rabies, and payment of the impounding fee for the period for which the dog or cat was impounded and all expenses of observation or treatment.

(3) All impounding fees shall be established, and may be amended, by resolution of the Council.
(Ord. 41, 2nd Series, effective 4-23-87)

(4) A dangerous dog shall not be released to its owner but shall be destroyed as provided in this section. (Ord. 115, 2nd Series, effective 1-18-97)
(‘83 Code, SEC. 10.20, Subd. 11)

(E) *Exceptions.*

(1) Any dog or other animal seized under M.S. § 343.22 or § 343.29, as it may be amended from time to time, shall be held for ten regular business days. For the purposes of this section, the term **REGULAR BUSINESS DAY** shall have the meaning as stated in division (C) of this section. A person claiming an interest in an animal in custody under this section may prevent disposition of the animal by posting security in an amount sufficient to provide for the animal’s actual costs of care and keeping. The security must be posted within ten days of the seizure inclusive of the date of the seizure. (‘83 Code, SEC. 10.20, Subd. 12)

(2) Any dog or other animal seized as dangerous as defined in this chapter shall be held for ten regular business days as set out in division (C) of this section. In the case of a dog or other animal quarantined because it has bitten a person, the ten-day period shall be concurrent with the period of the quarantine. A person claiming an interest in an animal in custody under this section, or a person contesting the determination of the animal as dangerous, may prevent disposition of the animal by posting security in an amount sufficient to provide for the animal’s actual costs of care and keeping, and costs associated with the destruction of the animal should the determination that the animal be destroyed be upheld. This security must be posted within ten days of the seizure inclusive of the date of the seizure.

(F) *Notice of impounding under state law.* Upon impounding an animal under division (E) above, notice shall be given the owner or person claiming interest in the animal by delivering or mailing it to a person claiming an interest in the animal or by posting a copy of it at the place where the animal is taken into custody or by delivering it to a person residing on the property, and telephoning, if possible. The notice shall include:

(1) A description of the animal seized, the authority and purpose for the seizure, the time, place, and circumstances under which the animal was seized, and the location, address, telephone number, and contact person where the animal is kept;

(2) A statement that a person claiming an interest in the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure or impoundment and that failure to do so within ten days of the date of the notice will result in

disposition of the animal.

(3) A statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the person claiming an interest in the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law; and

(4) A form or specific instructions that can be used by a person claiming an interest in the animal for requesting a hearing under this section.
(‘83 Code, SEC. 10.20, Subd. 13)

(G) *Right to hearing and release from animal pound.* Upon request of a person claiming interest in the animal, which request must be made within ten days of the date of seizure, a hearing shall be held within five business days of the request to determine the validity of the seizure and impoundment. If the seizure was done pursuant to a warrant under M.S. § 343.22, as it may be amended from time to time, the hearing must be conducted by the judge who issued the warrant. If the seizure was done under M.S. § 343.29, as it may be amended from time to time, the city may either authorize a licensed veterinarian with no financial interest in the matter or professional association with either party or use the services of a hearing officer to conduct the hearing. If the seizure was done under the dangerous animal provisions of this chapter, the city shall use the services of a hearing officer to conduct the hearing. A person claiming interest in the animal who is aggrieved by a decision of a hearing officer under this section may seek a court order governing the seizure or impoundment within five days of the notice of the order.

(1) The judge or hearing officer may authorize the return of the animal, if the judge or hearing officer finds that:

(a) The animal is physically fit;

(b) The person claiming an interest in the animal can and will provide the care required by law for the animal; and

(c) If the animal is determined dangerous and the person claiming interest in the animal consents to abide by the provisions of M.S. § 347.50 through § 347.56, as amended from time to time, regarding the registration and keeping of dangerous dogs.

(2) The person claiming an interest in the animal is liable for all actual costs of the care, keeping, and disposal of the animal, except if a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs shall be paid in full or a mutually satisfactory arrangement for payment must be made between the city and the person claiming an interest in the animal before return of the animal to the person.
(‘83 Code, SEC. 10.20, Subd. 14) (Ord. 130, 2nd Series, effective 5-16-98)

(H) *Personal liability.* The owner of a dog or cat which is impounded under this section is personally liable for the impounding fees and expenses of observation, disposal or treatment associated with the animal’s impoundment. If the owner fails to properly claim the dog or cat or the animal, if found to have rabies or to be a dangerous dog representing a continuing threat of severe injury to human beings, is destroyed, the city may prepare a bill for the fees and expenses and mail it to the owner and the amount thereof shall then be due and payable to the city.
(‘83 Code, SEC. 10.20, Subd. 15) (Ord. 43, 2nd Series, effective 6-11-87)

(I) *Unclaimed dogs and cats.* If an impounded dog or cat is unclaimed, the animal shall be

humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under authority of M.S. § 35.71, as it may be amended from time to time. Provided, however, that if a tag affixed to the animal, or a statement by the animal's owner after seizure specifies that the animal should not be used for research, the animal shall not be made available to any institution but be destroyed after the expiration of the five-day period. ('83 Code, SEC. 10.20, Subd. 16) (Ord. 41, 2nd Series, effective 4-23-87)

CHAPTER 92: FAIR HOUSING

Section

- 92.01 Declaration of fair housing policy
- 92.02 Definitions
- 92.03 Prohibited acts in regard to housing
- 92.04 Enforcement procedures
- 92.05 Statute of limitations
- 92.06 Civil enforcement procedure

SECTION 92.01 DECLARATION OF FAIR HOUSING POLICY.

Discrimination with regard to housing on the basis of race, sex, creed, religion, marital status, and disability adversely affects the health, welfare, peace, and safety of the community. Persons subject to the discrimination suffer depressed living conditions, and create conditions which endanger the public peace and order. The public policy of the city is declared to be to foster equal opportunity for all to obtain decent, safe and sanitary housing without regard to their race, creed, color, national origin, marital status, disability status, sex and strictly in accord with their individual merits as human beings. It is also the policy of the city to protect all persons from all unfounded charges of discrimination. ('83 Code, SEC. 10.50, Subd. 1)

SEC. 92.02 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

DISABILITY. A mental or physical condition which constitutes a handicap. Nothing in this section shall be construed to prohibit any program, service, facility or privilege afforded to a person with a disability which is intended to habitate, rehabilitate or accommodate that person.

DISCRIMINATE* or *DISCRIMINATION. Includes segregate or separate.

MARITAL STATUS. The standing, state or condition of one as single or married person. ('83 Code, SEC. 10.50, Subd. 2)

SEC. 92.03 PROHIBITED ACTS IN REGARD TO HOUSING.

It is an unlawful discriminatory practice and unlawful:

(A) For any person to discriminate on grounds of race, creed, religion, color, sex, marital status, status with regard to public assistance, national origin, age or disability, in the sale, lease, or rental of any housing unit or units.

(B) For any broker, salesperson or other person acting in behalf of another to so discriminate in the sale, lease, or rental of any housing unit or units belonging to the other person.

(C) For any person engaged in the business of financing the purchase, rehabilitation, remodeling or repair of housing units or in the business of selling insurance with respect to housing units to refuse to provide the financing or insurance or to discriminate with regard to the terms or conditions thereof by reason of the race, color, sex, religion, creed, national origin, marital status, status with regard to public assistance, age or disability of the applicant or because of the location of the unit or units in areas of the city occupied by persons of a particular race, color, sex, religion, creed, national origin, marital status, status with regard to public

assistance, age or disability; or to discriminate by treating differently any person or group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair or maintain real property in a specific urban area because of social, economic or environmental conditions of the area in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions, or privileges of any such financial assistance or in the extension of services in connection therewith. The bona fide programs of federal, state or local

governmental units or agencies, however structured or authorized to upgrade or improve in any manner a specific urban area shall not be deemed to be a violation of this section.

(D) For any person, having sold, leased, or rented a housing unit or units to any person, to discriminate with respect to facilities, services, or privileges of occupancy by reason of race, color, sex, creed, religion, national origin, age or disability, marital status or status with regard to public assistance.

(E) For any person to make or publish any statement evidencing an intent to discriminate, on grounds of race, creed, religion, color, sex, national origin or ancestry, marital status, status with regard to public assistance, age or disability, in the sale, lease, or rental of a housing unit or units.

(F) For any person to make any inquiry regarding race, color, sex, creed, religion, national origin, marital status, status with regard to public assistance, age or disability, or to keep any record or use any form of application, designed to elicit the information, in connection with the sale, lease, rental, or financing of a housing unit or units.

(G) For any person, for the purpose of inducing a real estate transaction from which he or she may benefit financially:

(1) To represent that a change has occurred or will or may occur in the composition of the block, neighborhood, or area in which the property is located, in respect of the race, color, sex, creed, religion, national origin, marital status, status with regard to public assistance, age or disability of those living there; or

(2) To represent that this change will or may result in the lowering of property values, an increase in crime, or anti-social behavior, or a decline in the quality of schools in the block, neighborhood, or area concerned.

(H) Nothing in this section shall be construed to require any person or group of persons selling, renting or leasing property to modify the property in any way, or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this section be construed to relieve any person or persons regardless of any disability in a written lease, rental agreement, or contract or purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations of the lease, agreement or contract.

(I) The provisions of this section shall not apply to:

(1) The rental of a portion of a dwelling containing accommodations for two families, one of which is occupied by the owner; or

(2) The rental by an owner or occupier of a one-family accommodation in which he or she resides of a room or rooms in the accommodation to another person or persons if the discrimination is by sex, marital status, status with regard to public assistance or disability.

Nothing in this section shall be construed to require any person or group of persons selling, renting or leasing property to modify the property in any way, or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this section be construed to relieve any person or persons of any obligations generally imposed on all persons regardless of any disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement or contract. ('83 Code, SEC. 10.50, Subd. **SEC. 92.04 ENFORCEMENT PROCEDURES.**

The city is designated as the enforcement agency for this chapter and shall have the power to receive, hear and determine complaints as provided herein. The proper official shall investigate any complaint delivered to the city. The city shall promptly investigate, upon complaint or upon its own motion, any violations of this section. If after investigation, it shall have reason to believe a violation has occurred it may refer the matter to the City Attorney for criminal prosecution, initiate civil enforcement procedures as herein provided, or enter into a settlement agreement which, when approved by the city shall have the same force as a city order. ('83 Code, SEC. 10.50, Subd. 4)

SEC. 92.05 STATUTE OF LIMITATIONS.

No action may be brought for civil enforcement or criminal prosecution unless the charge of alleged discriminatory practice was filed with the city within 180 days from the occurrence of the practice. ('83 Code, SEC. 10.50, Subd. 5)

SEC. 92.06 CIVIL ENFORCEMENT PROCEDURE.

Civil enforcement procedures shall be prosecuted by the city before the Council in the following manner:

(A) The city shall serve upon respondent by certified mail a complaint, signed by it, which shall set forth a clear and concise statement of the facts constituting the violation, set a time and place for hearing, and advise the respondent of his or her right to file an answer to appear in person or by an attorney and to examine and cross-examine witnesses.

(B) The hearing shall not be less than 20 days after service of the complaint. At any time prior to the hearing the respondent may file an answer. Facts not denied by answer shall be deemed admitted. If the answer sets out new matter, it shall be deemed denied by the city.

(C) The complaint or answer may be amended at any given time prior to the hearing with the consent of the opposing party.

(D) Hearings shall be before the Council.

(E) The city may obtain subpoenas from the district court to compel the attendance of witnesses and the production of documents at any hearing.

(F) If, after hearing, the panel shall conclude that a violation has occurred, it shall prepare an order which may contain any provision deemed desirable to do justice to the complainant or to prevent further violations. It may include provisions which require the respondent to rent, sell, or lease particular housing to the complainant or to do any other thing as may be just. The panel's findings of fact and order shall be served on the respondent and each member of the Council by mail shall become the findings and order of the city unless, within ten days after mailing of the findings and order, the city shall revoke or amend the order, but any order of a panel may be modified by the city at any time.

(‘83 Code, SEC. 10.50, Subd. 6) (Ord. 527, effective 12-20-80)

CHAPTER 93: FIRE PREVENTION

Section

International Fire Code

- 93.01 Minnesota State Fire Code
- 93.02 Enforcement
- 93.03 Definitions
- 93.04 Districts in which certain substances prohibited

Fire Prevention Regulations

- 93.15 Permit required for installation of tank
- 93.16 Storage of wood

Cross-reference:

Fire Department established, see SEC. 32.030

Fireworks not permitted in city parks, see SEC. 95.27

Display, Sale Storage, Possession and Use of Fireworks, see Chapter 120

MINNESOTA STATE FIRE CODE

SECTION 93.01 MINNESOTA STATE FIRE CODE.

Adoption. The Minnesota State Fire Code, as adopted, by the Commissioner of Public Safety pursuant to Minnesota Statutes chapter 299f.011, including amendments, rules and regulations established, adopted and published from time to time by the Commissioner of Public Safety is hereby adopted by reference and made a part of this Section as if fully set forth herein. ('83 Code, SEC. 10.32, Subd. 1) (Ord. 112, 2nd Series, effective 8-28-96; Am. Ord. 136, 2nd Series, passed 11-10-98) (Ord. 157, 2nd Series, effective 6-26-03)

SEC. 93.02 ENFORCEMENT.

(A) The Chief of the Fire Department is authorized to enforce the provisions of the Minnesota State fire Code and this ordinance.

(B) The Chief of the Fire Department may detail such members of the Fire Department as may be necessary to administer and enforce the provisions of this ordinance. ('83 Code, SEC. 10.32, Subd. 2) (Ord. 179, 2nd Series, effective 9-4-07)

SEC. 93.03 DEFINITIONS.

(A) Wherever the term ***CORPORATION COUNSEL*** is used in the Minnesota State Fire Code, it shall be held to mean the attorney for the city.

(B) Wherever the word ***JURISDICTION*** is used in the Minnesota State Fire Code, it shall be held to mean the city. ('83 Code, SEC. 10.32, Subd. 3)

SEC. 93.04 DISTRICTS IN WHICH CERTAIN SUBSTANCES PROHIBITED.

(A) *Establishment of limits of districts in which storage of flammable or combustible liquids in outside tanks is to be prohibited.*

(1) The limits referred to in the Minnesota State Fire Code in which storage of flammable or combustible liquids in outside tanks is prohibited, are hereby established as follows: Except for outside aboveground storage of Class 1B liquids in the I-1 or I-2 Zoning Districts pursuant to conditional use permit, outside aboveground storage of Class 1 liquids is prohibited within the city limits. Outside underground storage of Class 1 liquids is prohibited in the R-1, R-2, and R-3 Zoning Districts.

(2) The limits referred to in the Minnesota State Fire Code in which new bulk plants for flammable or combustible liquids are prohibited, are hereby established as follows: The limits shall be within the city limits. ('83 Code, SEC. 10.32, Subd. 4) (Ord. 150, 2nd Series, passed 6-11-02)

(B) *Establishment of limits in which bulk storage of liquified petroleum gases is to be restricted.* The limits referred to in the Minnesota State Fire Code in which bulk storage of liquified petroleum gas is restricted, are hereby established as follows: The limits shall be within the city limits. ('83 Code, SEC. 10.32, Subd. 5)

(C) *Establishment of limits of districts in which storage of explosives and blasting agents is to be prohibited.* The limits referred to in the Minnesota State Fire Code in which storage of explosives and blasting agents is prohibited, are hereby established as follows: The limits shall be within the city limits. ('83 Code, SEC. 10.32, Subd. 6) (Ord. 46, 2nd Series, effective 7-18-87)

(D) *New materials, processes or occupancies which may require permits.* The City Administrator, the Building Inspector/Official and the Fire Chief shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which shall require permits, in addition to those now enumerated in said Code. The Fire Chief shall post the list in a conspicuous place in his or her office, and distribute copies thereof to interested persons. ('83 Code, SEC. 10.32, Subd. 7)

FIRE PREVENTION REGULATIONS

SEC. 93.15 PERMIT REQUIRED FOR INSTALLATION OF TANK.

(A) *Definition.* As used in this section, the term **TANKS** means any above-ground or underground container used, or to be used, for the storage of flammable or non-flammable matter, except containers regulated by an agency of this state and for which a permit has been issued by the agency.

(B) *Permit required.* It is unlawful for the owner of any premises to install, or permit the installation, thereon without a permit therefor from the city. ('83 Code, SEC. 10.38) (Ord. 66, 2nd Series, effective 7-21-90) Penalty, see SEC. 10.99

SEC. 93.16 STORAGE OF WOOD.

(A) *Definition.* **WOOD** shall include, but not be limited to, firewood and lumber, whether rough, pre-cut, construction grade or finished, which is stored or kept on property in the city.

(B) *Persons exempt.* This section shall not apply to:

(1) Persons having property upon which new construction is taking place and the wood on the property is being used for said construction, unless the wood has remained on the property for more than six months and is not a permanent part of the new construction at the end of that time;

(2) Persons storing or keeping wood on property, when the wood is stored or kept in neat and secured stacks in a covered structure impervious to the elements; and

(3) Commercial construction businesses, including, but not necessarily limited to, lumberyards, when operating on property other than residential property.

(C) *Conditions of outside storage.* Wood stored or kept in the city which is not contained within a covered enclosure impervious to the elements shall be stored or kept in neat and secure stacks in accordance with this section. Stacks shall not exceed four feet in height. Stacks shall be no less than five feet from any side property line on corner lots, 30 feet from any front property line or any front of a house, whichever is closer, and two feet from any rear property line or any side property line of interior lots. Grass height around all wood stacks shall be maintained at a maximum height of six inches.

(D) *Maximum amount.* No more than four cords of wood shall be stored on any residential property.

(E) *Existing wood piles.* Any woodpile in existence on the effective date of this section which does not comply with the provisions of this section shall be removed or placed in compliance.

(‘83 Code, SEC. 10.29) (Ord. 115, 2nd Series, effective 1-18-97; Am. Ord. 153, 2nd Series, passed 7-9-02) Penalty, see SEC. 10.99

CHAPTER 94: HEALTH AND SAFETY; NUISANCES

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GENERAL PROVISIONS

SECTION 94.01 ASSESSABLE CURRENT SERVICES.

(A) *Definition. CURRENT SERVICE* as used in this section, means one or more of the following:

- (1) Remove snow, ice, dirt, and refuse from sidewalks;
- (2) Eliminate weeds and cut grass on private property and on non-traveled portions of abutting streets;
- (3) Remove or eliminate public health or safety hazards from private property;
- (4) Repair abutting sidewalks;
- (5) Street sprinkling, street flushing, light street oiling, or other dust treatment of streets;
- (6) Trimming and care of trees and removal of unsound trees from public streets or private property;
- (7) The operation of a street lighting system;
- (8) Remove and dispose of or eliminate junk from private property; and
- (9) Fees of Rental Certification Program; including late fees, re-inspection fees and re-scheduling fees.

(B) *Responsibility of owner or occupant.* It is unlawful for the owner or occupant of private property to fail to and it is the primary responsibility of all owners and occupants of private property to:

- (1) Remove snow, ice, dirt, and refuse from adjacent sidewalks;
- (2) Eliminate weeds and cut grass thereon and non-traveled portions of abutting streets;
- (3) Remove or eliminate junk or public health and safety hazards therefrom;
- (4) Repair abutting sidewalks; and
- (5) Removal and storage of junk vehicles.

(C) *Ice, snow, dirt and refuse on sidewalks.* All ice and snow within 48 hours after it ceases to be deposited thereon, and all dirt and refuse deposited thereon, shall be removed by the owner or occupant of abutting private property. If ice, snow, dirt or refuse is not so removed the city may do so and keep a record of the cost attributable to each property.

(D) *Weeds and grass.* The city shall mail notice to affected property owners to cut and

remove all weeds whether noxious or not, and cut all grass, on private property having attained a height of six inches, and on non-traveled portions of abutting streets, within three (3) days after the notice. If weeds are not so cut and removed, or if grass is not so cut, the city may do so and keep a record of the cost attributable to each property. See Section 94.35. (Ord. 26, 3rd Series, effective 1-28-11)

(E) *Junk and public health and safety hazards.*

(1) *Junk.* As used in this section, **JUNK** means and includes:

(a) Any unlicensed, unregistered, or inoperable (including, but not limited to the lack of component parts) motor vehicle, motorized vehicle, bicycle, boat, outboard motor, or trailer and all furniture, household furnishings, or appliances, or parts or components thereof, metal, paper, or rags, unless housed within an enclosed garage or storage building;

(b) Inoperable (including, but not limited to, the lack of component parts) agricultural implements or parts or components thereof, machines and mechanical equipment of all kinds or parts or components thereof, unless housed within a building or on the premises of a licensed junk dealer and bi-products or waste from manufacturing operations of all kinds;

(c) Used lumber or waste resulting from building construction, renovation, remodeling, or demolition; or

(d) Felled trees and tree branches that are not immediately processed into lumber, wood for fuel, fence components, or other such ultimate use.

(2) *Public health and safety hazards.* As used in this section, **PUBLIC HEALTH AND SAFETY HAZARDS** means:

(a) Organic or inorganic material resulting from the manufacture, preparation, or serving of food or food products, spoiled, decayed, or waste food from any source, bottles, cans, glassware, paper, or paper products, crockery, ashes, rags, and discarded clothing, or human or household waste of all kinds not stored in the manner provided in city code, Chapter 51 for the storage of refuse;

(b) Carcasses of animals not buried or destroyed within 24 hours after death; or

(c) Any condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public

(3) *Procedure for removal or elimination.*

(a) *Observation, report, and investigation.* Any condition whether or not lawful relating to junk or public health and safety hazard permitted or maintained on private property and reported to the city will be referred to the City Administrator, who will assign the report to

the city employee or department he or she deems appropriate for investigation.

(b) *Notice-no emergency.* Where, in the opinion of the City Administrator, junk or a public health and safety hazard should be removed or eliminated, and no emergency exists, notice of the required removal action will be given to the owner and occupant of the property. The notice will require completion of the removal within ten days.

(c) *Notice-emergency.* Where, in the opinion of the City Administrator, junk or a public health and safety hazard should be removed or eliminated, and an emergency exists, no notice or such notice of the required removal as is reasonable under the circumstances will be given to the owner and occupant of the property.

(d) *Failure of owner and occupant to remove or eliminate.* If the owner and occupant do not so remove or eliminate the junk or public health and safety hazard, the city may do so or cause the same to be done and keep a record of the cost thereof.

(F) *Repair of sidewalks.*

(1) *Notice-no emergency.* Where, in the opinion of the city, no emergency exists, notice of required repair or reconstruction shall be given to the owner and occupant of the abutting property. The notice shall require completion of the work within 90 days.

(2) *Notice-emergency.* Where, in the opinion of the city, an emergency exists, notice of required repair or reconstruction shall be given to the owner and occupant of the abutting property. The notice shall require completion of the work within ten days.

(3) *Failure of owner and occupant to repair or reconstruct.* If the owner and occupant do not so repair or reconstruct the sidewalk, the city may do so and keep a record of the cost thereof.

(G) *Street sprinkling, street flushing, and tree care.*

(1) The Council may each year determine what streets shall be sprinkled or flushed, oiled, or given other dust treatment during the year and the kind of work to be done on each. The Council may also determine from time to time the streets on which trees (other than diseased trees) shall be trimmed and cared for, the kind of work to be done, and what unsound trees shall be removed. The City Administrator shall, under the Council's direction, publish notice that the Council will meet to consider the projects. The notice shall be published in the official newspaper at least once no less than two weeks prior to the meeting of the Council and shall state the date, time, and place of the meeting, the streets affected and the particular projects proposed and the estimated cost of each project, either in total or on the basis of the proposed assessment per front foot or otherwise.

(2) At the hearing the Council shall hear property owners with reference to the scope and desirability of the proposed projects. The Council shall thereupon adopt a resolution

confirming the original projects with the modifications as it considers desirable and shall provide for doing the work by day labor or by contract. The city shall keep a record of the cost and the portion of the cost properly attributable to each lot and parcel of property abutting on the street.

(H) *Street lighting system.* The City Administrator may keep a record of the cost of operation of the street lighting system for the twelve months preceding September 1 of each year and the proportion of the cost properly attributable during that period to each lot and parcel of property abutting on the street in which the system is located.

(I) *Personal liability.* The owner and occupant of the property on or adjacent to which a current service has been performed are individually and jointly personally liable for the entire cost of the service, including any administrative fees, fines or penalties and any other obligation owed to the city, which relates to the current service. When the service has been completed and the cost, along with any administrative fees, fines or penalties and any other obligation owed to the city which relate to the service, determined, the city may prepare a bill and mail it to the owner and occupant and the amount will then be due and payable. (Ord. 26, 3rd Series, effective 1-28-11)

(J) *Assessment.* Charges for any current services and for administrative fees, fines or penalties and for any other obligation owed to the city which relate to the current services unpaid after billing, and after notice and hearing, may be certified to the County Auditor and collected as any other special assessment. ('83 Code, SEC. 2.72) (Ord. 71, 2nd Series, effective 7-13-91; Ord. 113, 2nd Series, effective 10-1-96; Am. Ord. 137, 2nd Series, passed 12-8-98; Ord. 26, 3rd Series, effective 1-28-11) Penalty, see SEC. 10.99

SEC. 94.02 TREE DISEASES.

(A) *Trees constituting nuisance declared.* The following are public nuisances whenever they may be found within the city:

(1) Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus *Ceratocystis Ulmi* (*Buisman*) *Moreau* or which harbors any of the elm bark beetles *Scolytus Multistriatus* (*Eichh.*) or *Hylungopinus Rufipes* (*Marsh*);

(2) Any dead elm tree or part thereof, including branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide;

(3) Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt fungus *Ceratocystis fagacearum*;

(4) Any dead oak tree or part thereof which in the opinion of the designated officer constitutes a hazard, including but not limited to logs, branches, stumps, roots, firewood or other

oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide;

(5) Any other shade tree with an epidemic disease.

(B) *Abatement of nuisance.* It is unlawful for any person to permit any public nuisance as defined in division (A) of this section to remain on any premises the person owns or controls within the city. The City Council may by resolution order the nuisance abated. Before action is taken on that resolution, the City Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to the affected property owner and published once no less than one week prior to the meeting. The notice shall state the time and place of the meeting, the street affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At the hearing or adjournment thereof, the City Council shall hear any property owner with reference to the scope and desirability of the proposed project. The City Council shall thereafter adopt a resolution confirming the original resolution with modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

(C) *Record of costs.* The Clerk-Treasurer shall keep a record of the costs of abatement done under this section for all work done for which assessments are to be made, stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.

(D) *Unpaid charges.* The Clerk-Treasurer shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges or any portion thereof against the property involved as a special assessment as authorized by M.S. § 429.101, as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes.

Penalty, see SEC. 10.99

NUISANCES

SEC. 94.15 PUBLIC NUISANCE.

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

(A) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;

(B) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or

(C) Is guilty of any other act or omission declared by law or SEC. 94.16, 94.17 or 94.18, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.

Penalty, see SEC. 10.99

SEC. 94.16 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

(A) Exposed accumulation of decayed or unwholesome food or vegetable matter;

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

(D) Carcasses of animals not buried or destroyed within 24 hours after death;

(E) Accumulations of manure, refuse or other debris;

(F) 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;

(G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;

(H) All noxious weeds and other rank growths of vegetation upon public or private property;

(I) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;

(J) All public exposure of people having a contagious disease; and

(K) Any offensive trade or business as defined by statute not operating under local license.
Penalty, see SEC. 10.99

SEC. 94.17 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

The following are hereby declared to be nuisances affecting public morals and decency:

(A) All gambling devices, slot machines and punch boards, except as otherwise authorized by federal, state or local law;

(B) Betting, bookmaking and all apparatus used in those occupations;

(C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;

(D) All places where intoxicating 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 liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place;

(E) Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.
Penalty, see SEC. 10.99

SEC. 94.18 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following are declared to be nuisances affecting public peace and safety:

(A) All snow and ice not removed from public sidewalks 48 hours after the snow or other precipitation causing the condition has ceased to fall;

(B) All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

(C) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

(D)

(1) *Prohibited generally.* It shall be unlawful for any person to make or cause to be made any loud, unnecessary or unusual noise which either annoys, disturbs, or affects the comfort, repose, health or peace of others.

(2) *Prohibited specifically.* The following acts are declared to be loud, disturbing and unnecessary noises in violation of Section 94.18(D)(1), but such enumeration shall not be deemed to be exclusive.

- (a) *Horns and signaling devices.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicles, except as a danger warning.
- (b) *Radios; tape and disk players.* The using, operating or permitting to be played of a radio receiving set, tape or disk player, or other machine or device for the producing or reproducing of sound in such manner, considering the time, place and purpose for which the sound is produced, as to disturb the peace, quiet or repose of a person or persons of ordinary sensibilities.

- (i) The play, use or operation of any radio, tape or disk player, or other machine or device for the production or reproduction of sound in such a manner which is plainly audible at a distance of 50 feet from such machine or device shall be prima facie evidence of a violation of this section.
- (ii) When an unlawful sound violating this section 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 violation, the person in charge or control of the vehicle at the time of the violation is guilty of the violation.
- (iii) Section 94.18(D)(1) shall not apply to sound produced by the following:

- A. Amplifying equipment used in connection with activities which are authorized, sponsored or permitted by the city, including sporting or other public events as long as this activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity.
- B. Church bells or chimes.
- C. School bells.
- D. Machines or devices for the production of sound on or in authorized emergency vehicles.
- E. Governmental warning systems.
- F. Sounds emanating from the operation of motor vehicles on a public highway; aircraft; outdoor implements such as power lawn mowers, snow blowers, power hedge clippers, and power saws; pile drivers or jackhammers and other construction equipment, except during the hours of 10:00 p.m. to 7:00 a.m.; and, sounds emanating from lawful and proper activities at school grounds, playgrounds, parks or places wherein athletic contests take place.
- G. Noise created exclusively in the performance of emergency work to preserve the public health, safety or welfare, or in the performance of emergency work when all reasonable actions are taken to minimize the amount of noise.

(c) *Exhaust and Muffler.* No person shall operate or permit the operation of a motor vehicle upon a street, highway or alley in the City with an engine the exhaust system of which has been altered, modified or repaired, including the use of an engine retarding (Jake Brake) or a muffler or resonant kit, such that the noise emitted by the engine's exhaust system is increased to make loud explosive noises or unusual noise which either annoys, disturbs, or affects the comfort, repose, health or peace of others. (Ord. No. 6, 3rd Series, effective 3-28-08)

(E) The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle, 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.

(F) The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby. Operation of any device referred to above 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 violation of this section.

(G) The participation in a party or gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property.

(H) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under conditions as are permitted by this code or other applicable law;

(I) Radio aerials or television antennae erected or maintained in a dangerous manner;

(J) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;

(K) All hanging signs, awnings and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;

(L) The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;

(M) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;

(N) All dangerous, unguarded machinery in any public place, or so situated or operated on

private property as to attract the public;

(O) Waste water cast upon or permitted to flow upon streets or other public properties;

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

(Q) Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;

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

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

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

(U) All other conditions or things which are likely to cause injury to the person or property of anyone.

Penalty, see SEC. 10.99

SEC. 94.19 DUTIES OF CITY OFFICERS.

Any appropriate city officer or department shall enforce the provisions relating to nuisances. Any city officer shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

SEC. 94.20 ABATEMENT.

(A) *Enforcement.* Sections of this chapter enforced by the Police Department shall be enforced through citation, summons, complaint, or arrest, to the appropriate county or district court.

(B) *Notice.* For all violations of this chapter enforced by city officers other than the Police Department, written notice of violation; notice of the time, date, place and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this section.

(1) *Notice of violation.* Written notice of violation shall be served by a city officer on the owner of record or occupant of the premises either in person or by certified or registered

mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

(2) *Notice of City Council hearing.* Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.

(3) *Notice of City Council order.* Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be made as provided in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

(4) *Notice of motion for summary enforcement.* Written notice of any motion for summary enforcement shall be made as provided for in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

(C) *Procedure.* Whenever a proper city official determines that a public nuisance is being maintained or exists on the premises in the city, the officer shall notify in writing the owner of record or occupant of the premises of the fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement.

(D) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (B) and (C) of this section will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (B) of this section, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(E) *Immediate abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

Penalty, see SEC. 10.99

SEC. 94.21 RECOVERY OF COST.

(A) *Personal liability.* The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the Clerk-Treasurer or other 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 Clerk-Treasurer.

(B) *Assessment.* 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 Clerk-Treasurer shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other the charges as well as other charges for current services to be assessed under M.S. § 429.101, as it may be amended from time to time, 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 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, as the City Council may determine in each case.

Penalty, see SEC. 10.99

WEEDS

SEC. 94.35 WEEDS AND GRASS.

(A) On or before June 1 of each year, after the effective date of this subdivision and at such other times as ordered by resolution of the City Council, the City Clerk-Treasurer shall publish once in the official newspaper a notice directing owners and occupants of property within the City to cut and remove all weeds, whether noxious or not, and all grass outside the traveled portion of any street or alley adjacent to the property having attained a height of six (6) inches and stating that if not so cut and removed, the City may do so at the expense of the owner and occupant and, if not paid, the charge for such work may be made a special assessment against the property concerned. Failure of the City Clerk-Treasurer to properly publish the general notice does not relieve a person from the necessity of full compliance with Chapter 94 Section 94.01 and related provisions. The City shall also mail notice to affected property owners to cut and remove all weeds, whether noxious or not, and cut all grass, on private property and

on non-traveled portions of any abutting street or alley, having attained a height of six (6) inches, within three (3) days after such notice. If weeds are not so cut and removed, or if grass is not so cut, the City may do so and keep a record of the cost attributable to each property. See Section 94.01(D). (Ord. 26, 3rd Series, effective 1-28-11)

(B) This Subdivision shall not apply to: “Natural areas” which shall be defined as densely wooded areas, bogs and marshes, as well as undisturbed lands, an area where the land and vegetation appear not to have been graded, landscaped, mowed or otherwise disturbed by human or mechanical means at any time. The weed inspector or assignee shall use reasonable judgment in determining what constitutes this type of area based on the present appearance of the area and research as to the history of the area, if such information is available. “Natural areas” may also be created as follows:

(1) Those individuals who wish to naturalize portions of their property must submit a Landscaping Management Plan for approval. Such Plan will require a review before the Parks and Recreation Department, which will make recommendations to approve or disapprove the Plan to the City Council. The Landscaping Management Plan will require a public hearing.

(2) In the event that a notice of a possible violation of this Subdivision has been sent, and the individual wishes to submit a request to naturalize the area that is designated in the notice, the individual may, within the required time frame for correction of the violation, submit a Landscaping Management Plan. The City will take no enforcement action until a final determination has been made on the Plan.

(3) Landscaping Management Plan means a written plan relating to the management of the natural area, which contains a plot plan of the area upon which grass and other growth will exceed six (6) inches in height or length, a statement of intent and purpose for the area, a general description of the vegetation types, plant succession involved and specific management techniques to be employed. (Ord. 26, 3rd Series, effective 1-28-11)

(4) Notwithstanding the fact that approval has been given for a Landscaping Management Plan, the Fire Chief may order the cutting of such natural area at any time when in the exercise of his/her official duties, he/she determines that the growth has become so hazardous as to cause a danger to the safety of the inhabitants of any residential structure on said property or to the citizens and residents of the neighborhood in which the Landscaping Management Plan has been approved.

(C) Transmission line or utility easements.

(D) Park land.

(E) Storm water/sanitary ponds.

(F) Land used for agricultural purposes.

(G) Compost areas when the compost is in a compost enclosure which is of adequate construction to allow for the decomposition of the material and the compost is screened from view of adjacent property owners.

(H) An area that is steeply sloped as to make mowing or cutting of the vegetation not reasonable or practical for equipment operation or safety.

(I) Non-noxious weeds and grass and herbaceous vegetation within fifty (50) feet of natural or altered creeks, rivers and stream corridors, including riparian buffer strips that convey water.

Notwithstanding any provision of this Subdivision to the contrary, noxious weeds and other vegetation must be eliminated or cut as otherwise required by law or regulation.

(‘83 Code, SEC. 2.72, Subd. 4) (Ord. 156, 2nd Series, effective 5-16-2003) Penalty, see SEC. 10.99

OPEN BURNING

SEC. 94.60 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FIRE CHIEF. The Fire Chief of the Fire Department which provides fire protection services to the city.

OPEN BURNING. The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a “recreational fire” as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as “open burning.”

STARTER FUELS. Dry, untreated, unpainted, kindling, branches, cardboard or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution must be used to start an open burn.

WOOD. Dry, clean fuel only such as twigs, branches, limbs, “presto logs,” charcoal, cord wood or untreated dimensional lumber. The term does not include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three foot lengths.

RECREATIONAL FIRES. A fire set with approved starter fuel no more than 3 feet or less in diameter and a flame height of 2 feet or less contained within the border of a “recreational fire

site” using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created. No more than one recreational fire is allowed on any property at one time.

RECREATIONAL FIRE SITES. An area no more than 3 feet or less in diameter and contained within the border of a “recreational fire site” completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only in an area which is depressed below ground, on the ground, or on a raised bed. Included are outdoor wood burning fireplaces. Burning barrels are not a “recreation fire site” as defined herein. Recreational fire sites shall not be located closer than 15 feet to any structure.

SEC. 94.61 PROHIBITED MATERIALS.

(A) No person shall conduct, cause or permit open burning oils, petro fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint or paint fillers.

(B) No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures.

(C) No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.

(D) No person shall conduct, cause or permit open burning of any leaves or grass clippings. Penalty, see SEC. 10.99

SEC. 94.62 PERMIT REQUIRED FOR OPEN BURNING.

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit.
Penalty, see SEC. 10.99

SEC. 94.63 PURPOSES ALLOWED FOR OPEN BURNING.

(A) Open burn permits may be issued only for the following purposes:

- (1) Elimination of fire or health hazard that cannot be abated by other practical means.
- (2) Ground thawing for utility repair and construction.
- (3) Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading or other alternative methods are not practical.
- (4) Disposal of diseased trees generated on site, diseased or infected nursery stock, diseased bee hives.
- (5) Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical.
- (6) Recreation fire for public purpose.

SEC. 94.64 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.

(A) Open burning permits shall be obtained by making application on a form prescribed by the Department of Natural Resources (DNR) and adopted by the Fire Department. The permit application shall be presented to the Fire Chief for reviewing and processing those applications.

(B) An open burning permit may require the payment of a fee. Permit fees shall be in the amount established by ordinance, and as it may be amended from time to time.
Penalty, see SEC. 10.99

SEC. 94.65 PERMIT PROCESS FOR OPEN BURNING.

Upon receipt of the completed open burning permit application and permit fee, the Fire Chief shall schedule a preliminary site inspection to locate the proposed burn site, note special conditions, and set dates and time of permitted burn and review fire safety considerations.

SEC. 94.66 PERMIT HOLDER RESPONSIBILITY.

(A) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or his or her competent representative. The open burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan.

(B) The open burn fire shall be completely extinguished before the permit holder or his or

her representative leaves the site. No fire may be allowed to smolder with no person present. It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Police Department, Fire Department, MPCA representative or DNR forest officer.

(C) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees.

Penalty, see SEC. 10.99

SEC. 94.67 REVOCATION OF OPEN BURNING PERMIT.

The open burning permit is subject to revocation at the discretion of DNR forest officer or the Fire Chief. Reasons for revocation include but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.

Penalty, see SEC. 10.99

SEC. 94.68 DENIAL OF OPEN BURNING PERMIT.

If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical alternative method for disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the Fire Chief, these officers may deny the application for the open burn permit.

SEC. 94.69 BURNING BAN OR AIR QUALITY ALERT.

No open burning will be permitted when the city or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert.

Penalty, see SEC. 10.99

SEC. 94.70 RULES AND LAWS ADOPTED BY REFERENCE.

The provisions of M.S. § 88.16 to § 88.22, as amended from time to time, and the Minnesota State Fire Code, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

CHAPTER 95: PARKS AND RECREATION

Section

Park Regulations

- 95.25 Violation
- 95.26 Allowable hours of use
- 95.27 Weapons, gambling, alcoholic beverages and indecent conduct prohibited
- 95.28 Advertising, distribution of literature prohibited
- 95.29 Control of dogs and pets; noninterference with wildlife
- 95.30 Games, picnicking and fires
- 95.31 Traffic and parking regulations
- 95.32 Dumping refuse, depositing matter in ponds, and the like
- 95.33 Damaging or tampering with park property
- 95.34 Solicitation for immoral purpose
- 95.35 Permit required for exclusive use

PARK REGULATIONS

SEC. 95.25 VIOLATION.

It is unlawful for any person to, in any public park or recreation area, violate any of the following regulations contained in SEC. 95.26 through SEC. 95.35.
(‘83 Code, SEC. 10.13) Penalty, see SEC. 10.99

SEC. 95.26 ALLOWABLE HOURS OF USE.

Public parks and recreation areas shall not be occupied or used between 10:00 p.m. and 6:00 a.m. of the following day, except the camping area, or except by a special permit issued by the Park Director.
(‘83 Code, SEC. 10.13, Subd. 8) Penalty, see SEC. 10.99

SEC. 95.27 WEAPONS, GAMBLING, ALCOHOLIC BEVERAGES AND INDECENT CONDUCT PROHIBITED.

(A) No firearms, air rifles, BB guns, sling shots, explosives or fireworks shall be brought into or used in park areas, unless authorized by the Director of Parks and Recreation.

(B) Gambling, excessive use of alcoholic beverages, or abusive, boisterous, profane, or indecent language, conduct, or attire will not be allowed.
(‘83 Code, SEC. 10.13, Subds. 1, 2) Penalty, see SEC. 10.99

SEC. 95.28 ADVERTISING, DISTRIBUTION OF LITERATURE PROHIBITED.

(A) No unauthorized advertising, selling, or solicitation is allowed in parks or recreation areas.

(B) Distribution or display of obscene literature is prohibited in all parks and recreation areas.

(C) Placing of advertising, decorations or other devices of any kind on vases, statues, flagpoles, monuments or structures is prohibited.
(‘83 Code, SEC. 10.13, Subds. 3, 13, 16) Penalty, see SEC. 10.99

SEC. 95.29 CONTROL OF DOGS AND PETS; NONINTERFERENCE WITH WILDLIFE.

Dogs and pets must be kept under control. Wildlife must not be molested, disturbed or injured.
(‘83 Code, SEC. 10.13, Subd. 4) Penalty, see SEC. 10.99

SEC. 95.30 GAMES, PICNICKING AND FIRES.

(A) Active games must be limited to designated play areas.

(B) Picnicking and fires are allowed in designated areas only. Fires must be attended at all times and extinguished after use.

('83 Code, SEC. 10.13, Subds. 5, 7) Penalty, see SEC. 10.99

SEC. 95.31 TRAFFIC AND PARKING REGULATIONS.

Motorists will observe speed limits and drive on designated roadways only as posted, and park in designated areas.

('83 Code, SEC. 10.13, Subd. 6) Penalty, see SEC. 10.99

SEC. 95.32 DUMPING REFUSE, DEPOSITING MATTER IN PONDS, AND THE LIKE.

(A) Dumping or depositing bottles, broken glass, ashes, paper, boxes, cans or refuse of any kind is prohibited except in the containers provided in the parks.

(B) Discharge in waters of any pond, stream, or any other body of water, of any substance, or liquid, or solid, or any other matter or thing which will result in pollution of the water is prohibited.

('83 Code, SEC. 10.13, Subds. 9, 10) Penalty, see SEC. 10.99

SEC. 95.33 DAMAGING OR TAMPERING WITH PARK PROPERTY.

(A) Removal, breaking, destruction, injury, mutilation, or defacement in any way of any structure, monument, statue, vase, fountain, fence, railing, flag pole, vehicle, bench, tree, shrub, fern, plant, flower, fireplace or other property in any park is prohibited.

(B) Climbing of trees or flag poles, sitting or standing upon monuments, vases, fountains, railings or fences in any park or recreation area is prohibited.

('83 Code, SEC. 10.13, Subds. 11, 14) Penalty, see SEC. 10.99

SEC. 95.34 SOLICITATION FOR IMMORAL PURPOSE.

No person shall solicit the acquaintance of another in any park or recreation area for any immoral purposes.

('83 Code, SEC. 10.13, Subd. 12) Penalty, see SEC. 10.99

SEC. 95.35 PERMIT REQUIRED FOR EXCLUSIVE USE.

No person or organization shall use a park or park area for group celebrations, meetings, entertainment, and the like, which are considered “exclusive use,” except through use of a permit issued by the Parks Director.

(‘83 Code, SEC. 10.13, Subd. 15) Penalty, see SEC. 10.99

CHAPTER 96: STREETS AND SIDEWALKS

Section

- 96.01 General provisions applicable to this chapter
- 96.02 Obstructions in streets
- 96.03 Construction and reconstruction of roadway surfacing, sidewalk, curb and gutter
- 96.04 Street openings or excavations
- 96.05 Curb set-back regulation
- 96.06 Improvement of street; sewer and water lateral installation required
- 96.07 Painting or coloring street, sidewalk or curb and gutter
- 96.08 Sidewalk maintenance and repair
- 96.09 Ice, snow, dirt and refuse on sidewalks
- 96.10 Haul fee

- 96.99 Penalty

SEC. 96.01 GENERAL PROVISIONS APPLICABLE TO THIS CHAPTER.

(A) *Definitions.* Except as otherwise defined in the city code, or where the context clearly indicates a contrary intent, the words and terms defined in M.S. Chapter 169, as it may be amended from time to time, shall be applicable to this chapter. ('83 Code, SEC. 7.01)

(B) *Application.* Except as otherwise provided in this code, the provisions of this chapter are applicable to the drivers of all vehicles and animals upon streets, including, but not limited to, those owned or operated by the United States, the State of Minnesota, or any county, town, city, district, or other political subdivision. ('83 Code, SEC. 7.02)

(C) *Scope.* Except as otherwise provided in this code, the provisions of this chapter relate exclusively to the streets and alleys in the city, and the operation and parking of vehicles refer exclusively to the operation and parking of vehicles upon the streets and alleys. ('83 Code, SEC. 7.03, Subd. 1) (Ord. 15, 2nd Series, effective 5-18-85)

SEC. 96.02 OBSTRUCTIONS IN STREETS.

(A) *Obstructions.* It is a misdemeanor for any person to place, deposit, display or offer for sale, any fence, goods or other obstructions upon, over, across or under any street without first having obtained a written permit from the Council, and then only in compliance in all respects with the terms and conditions of the permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.

(B) *Fires.* It is a misdemeanor for any person to build or maintain a fire upon a street.

(C) *Dumping in streets.* It is a misdemeanor for any person to throw or deposit in any street any nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products, or to empty any water containing salt or other injurious chemical thereon. It is a violation of this section to haul any material, inadequately enclosed or covered, thereby permitting the same to fall upon streets. It is also a violation of this section to place or store any building materials or waste resulting from building construction or demolition on any street without first having obtained a written permit from the Council.

(D) *Signs and other structures.* It is a misdemeanor for any person to place or maintain a sign, advertisement, or other structure in any street without first having obtained a written permit from the city. In a district zoned for commercial or industrial enterprises special permission allowing an applicant to erect and maintain signs overhanging the street may be granted upon the terms and conditions as may be set forth in the zoning or construction provisions of the city code.

(E) *Placing snow or ice in a roadway or on a sidewalk.*

(1) It is a misdemeanor for any person, not acting under a specific contract with the city or without special permission from the city, to remove snow or ice from private property and place the same in any roadway or on a sidewalk.

(2) Where permission is granted by the city the person to whom the permission is granted shall be initially responsible for payment of all direct or indirect costs of removing the snow or ice from the street or sidewalk. If not paid, collection shall be by civil action or assessment against the benefitted property as any other special assessment.

(F) *Continuing violation.* Each day that any person continues in violation of this section shall be

a separate offense and punishable as such.

(G) *Condition.* Before granting any permit under any of the provisions of this section, the Council may impose insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding persons and property. The insurance or bond shall also protect the city from any suit, action or cause of action arising by reason of the obstruction.

(‘83 Code, SEC. 7.06) Penalty, see SEC. 96.99

SEC. 96.03 CONSTRUCTION AND RECONSTRUCTION OF ROADWAY SURFACING, SIDEWALK, CURB AND GUTTER.

(A) *Methods of procedure.*

(1) Abutting or affected property owners may contract for, construct or reconstruct roadway surfacing, sidewalk or curb and gutter in accordance with this section if advance payment is made therefor or arrangements for payment considered adequate by the city are completed in advance.

(2) The city may, with or without petition by the methods set forth in the local improvement code of Minnesota Statutes, presently beginning with M.S. § 429.011, as the same may from time to time be amended.

(B) *Permit required.* It is a misdemeanor to construct or reconstruct a sidewalk, curb and gutter, driveway, or roadway surfacing in any street or other public property in the city without a permit from the city. Application for the permit shall be made in the form approved by the city and shall sufficiently describe the contemplated improvements, the contemplated date of beginning of work, and the length of time required to complete the same, provided, that no permit shall be required for any improvement ordered installed by the Council. All applications shall be referred by the Building Official to the Public Works Director and no permit shall be issued until approval has been received from the Public Works Director. All applications shall contain an agreement by the applicant to be bound by this chapter and plans and specifications consistent with the provisions of this chapter and good engineering practices shall also accompany the application. A permit from the city shall not relieve the holder from damages to the person or property of another caused by the work.

(C) *Specifications and standards.* All construction and reconstruction of roadway surfacing, sidewalk and curb and gutter improvements, including curb cuts, shall be strictly in accordance with specifications and standards on file in the office of the City Engineer and open to inspection and copying there. The specifications and standards may be amended from time to time by the city, but shall be uniformly enforced.

(D) *Inspection.* The Building Official shall inspect the improvements as deemed necessary or advisable. Any work not done according to the applicable specifications and standards shall be removed and corrected at the expense of the permit holder. Any work done hereunder may be stopped by the Building Official if found to be unsatisfactory or not in accordance with the specifications and standards, but this shall not place a continuing burden upon the city to inspect or supervise the work.

(E) *Insurance required.* No permit shall be issued until the applicant has furnished the city with evidence of public liability insurance in the amount of \$100,000 for the injury of one person, \$300,000 for any occurrence, and \$25,000 for property damage.

(Ord. 9, 2nd Series, effective 5-15-84) (‘83 Code, SEC. 7.05) Penalty, see SEC. 96.99

SEC. 96.04 STREET OPENINGS OR EXCAVATIONS.

It is a misdemeanor for any person, except a city employee acting within the course and scope of his or her employment or a contractor acting within the course and scope of a contract with the city, to make any excavation, opening or tunnel in, over, across or upon a street or other public property without first having obtained a written permit from the Building Official as herein provided.

(A) *Application.* Application for a permit to make a street excavation shall describe with reasonable particularity the name and address of the applicant, the place, purpose and size of the excavation, and the other information as may be necessary or desirable to facilitate the investigation hereinafter provided for, and shall be filed with the Building Official.

(B) *Investigation and payment of estimated costs.* Upon receipt of the application, the Building Official shall cause the investigation to be made as he or she may deem necessary to determine estimated cost of repair, such as back-filling, compacting, resurfacing and replacement, and the conditions as to the time of commencement of work, manner of procedure and time limitation upon the excavation. The foregoing estimated costs shall include permanent and temporary repairs due to weather or other conditions, and the cost of the investigation shall be included in the estimate.

(C) *Protection of the city and the public.*

(1) *Non-completion or abandonment.* Work shall progress expeditiously to completion in accordance with any time limitation placed thereon so as to avoid unnecessary inconvenience to the public. In the event that work is not performed in accordance therewith, or shall cease or be abandoned without due cause, the city may, after six hours notice in writing to the holder of the permit of its intention to do so, correct the work, fill the excavation and repair the public property, and the cost thereof shall be paid by the person holding the permit.

(2) *Insurance.* Prior to commencement of the work described in the application, the applicant shall furnish the city satisfactory evidence in writing that the applicant will keep in effect public liability insurance of not less than \$100,000 for any person, \$300,000 for any occurrence and property damage insurance of not less than \$25,000, issued by an insurance company authorized to do business in the State of Minnesota on which the city is named as a co-insured.

(3) *Indemnification.* Before issuance of a permit, the applicant shall, in writing, agree to indemnify and hold the city harmless from any liability for injury or damage arising out of the action of the applicant in performance of the work, or any expense whatsoever incurred by the city incident to a claim or action brought or commenced by any person arising therefrom.

(D) *Issuance of permit.* The Building Official shall issue the permit after completion of the investigation, determination of all estimated costs as aforesaid; agreement by the applicant to the conditions of time and manner as aforesaid; agreement in writing by the applicant to pay all actual cost of repairs over and above the estimate, and, agreement in writing by the applicant to be bound by all of the provisions of this section. No permit shall be issued until the applicant has paid in full (or, in the alternative, furnished either an irrevocable and unconditional letter of credit drawn on a national bank and approved by the City Attorney or a performance bond approved by the City Attorney) the amount of the Building Official's estimated cost of the work to be performed, together with the investigation, inspection and permit fees as are fixed and determined by resolution of the Council. (Ord. 9, 2nd Series, effective 5-15-84)

(E) *Repairs.* All temporary and permanent repairs, including back-filling, compacting and resurfacing shall be made, or contracted for, by the city in a manner prescribed by the City Engineer and an accurate account of costs thereof shall be kept.

(F) *Cost adjustment.* Within 60 days following completion of the permanent repairs the

Clerk-Treasurer shall determine actual costs of repairs, including cost of investigation, and prepare and furnish to the permit holder an itemized statement thereof and claim additional payment from, or make refund (without interest) to, the permit holder, as the case may be.

(G) *Alternate method of charging.* In lieu of the above provisions relating to cost and cost adjustment for street openings, the city may charge on the basis of surface square feet removed, excavated cubic feet, or a combination of surface square feet and excavated cubic feet, on an established unit price uniformly charged.

(H) *Two-year period.* The applicant for the permit to make a street opening or excavation shall be responsible for the proper performance of the work on the right-of-way for a two-year period. The city shall inspect the work performed and determine if the final inspection after the two-year period is acceptable.

(‘83 Code, SEC. 7.07) Penalty, see SEC. 96.99

SEC. 96.05 CURB SET-BACK REGULATION.

(A) *Permit required.* It is a misdemeanor for any person to hereafter remove, or cause to be removed, any curb from its position abutting upon the roadway to another position without first making application to the Building Official. In determining whether or not to issue the permit, the Building Official shall consider all relevant factors including, but not necessarily limited to, the effect on public and franchised utilities, the inconvenience, if any, upon abutting property owners, vehicular and pedestrian safety, the number of curb cuts presently on the same parcel or property, and the effect on public parking. (Ord. 40, 2nd Series, effective 4-23-87)

(B) *Agreement required.* No permit shall be issued until the applicant, and abutting landowner if other than applicant, shall enter into a written agreement with the city agreeing to pay all costs of constructing and maintaining the setback area in at least as good condition as the abutting roadway, and further agreeing to demolish and remove the set-back and reconstruct the area as was at the expense of the landowner, his or her heirs or assigns if the area ever, in the Council’s opinion becomes a public hazard. The agreement shall be recorded in the office of the County Recorder, and shall run with the adjoining land.

(C) *Sign-posting.* “ANGLE PARKING ONLY” signs shall be erected and maintained at the expense of the adjoining landowner in all set-back areas now in use or hereafter constructed. It is unlawful for any person to park other than at an angle in the set-back areas, as angle parking is herein described and allowed.

(D) *Public rights preserved.* The set-back parking areas shall be kept open for public parking and the abutting landowner shall at no time acquire any special interest or control of or in such areas. (‘83 Code, SEC. 7.09) Penalty, see SEC. 96.99

SEC. 96.06 IMPROVEMENT OF STREET; SEWER AND WATER LATERAL INSTALLATION REQUIRED.

(A) *Requirement of sewer and water laterals.* No petition for the improvement of a street shall be considered by the Council if the petition contemplates constructing therein any part of a pavement or stabilized base, or curb and gutter, unless all sewer and water main installations shall have been made therein, including the installation of service laterals to the curb, if the area along the street will be served by the utilities installed in the street.

(B) *Sewer system service and water main service laterals.* No sewer system shall be hereafter

constructed or extended unless service laterals to platted lots and frontage facing thereon shall be extended simultaneously with construction of mains.

(C) *Waiver.* The Council may waive the requirements of this section only if it finds the effects thereof are burdensome and upon the notice and hearing as the Council may deem necessary or proper. ('83 Code, SEC. 7.11) Penalty, see SEC. 96.99

SEC. 96.07 PAINTING OR COLORING STREET, SIDEWALK OR CURB AND GUTTER.

It is unlawful for any person to paint, letter or color any street, sidewalk or curb and gutter for advertising purposes, or to paint or color any street, sidewalk or curb and gutter for any purpose, except as the same may be done by city employees acting within the course or scope of their employment. Provided, however, that this provision shall not apply to uniformly coloring concrete or other surfacing, or uniformly painted house numbers, as the coloring may be approved by the city. ('83 Code, SEC. 7.12) Penalty, see SEC. 96.99

SEC. 96.08 SIDEWALK MAINTENANCE AND REPAIR.

(A) *Primary responsibility.* It is the primary responsibility of the owner of property upon which there is abutting any sidewalk to keep and maintain the sidewalk in safe and serviceable condition.

(B) *Construction, reconstruction and repair specifications.* All construction, reconstruction or repair of sidewalks shall be done in strict accordance with specifications on file in the office of the Public Works Director.

(C) *Notice - no emergency.* Where, in the opinion of the Building Official, no emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. The notice shall require completion of the work within 90 days, and shall be mailed to the owner or owners shown to be on the records of the County Officer who mails tax statements.

(D) *Notice - emergency.* Where, in the opinion of the Building Official, an emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. The notice shall require completion of the work within ten days, and shall be mailed to the owner or owners shown to be on the records of the County Officer who mails tax statements.

(E) *Failure of owner to reconstruct or make repairs.* If the owner of the abutting property fails to make repairs or accomplish reconstruction as herein required, the Clerk-Treasurer shall report the failure to the Council and the Council may order the work to be done under its direction and the cost thereof assessed to the abutting property owner as any other special assessment.

(F) *Duty to inspect.* In order to accomplish the purpose of this section, it shall be the duty of the Building Official to inspect sidewalks within the city, or cause the same to be inspected under his or her direction.

(Ord. 9, 2nd Series, effective 5-15-84) ('83 Code, SEC. 7.14) Penalty, see SEC. 96.99

SEC. 96.09 ICE, SNOW, DIRT AND REFUSE ON SIDEWALKS.

Sidewalks shall be kept free of ice, snow, dirt and refuse in accordance with the provisions of city code.

('83 Code, SEC. 7.15) (Ord. 40, 2nd Series, effective 4-23-87) Penalty, see SEC. 96.99

SEC. 96.10 HAUL FEE.

(A) *Policy and purpose.* The city has determined that public works and public improvements which require the transport of a significant amount of material over city streets cause damage to and excessive wear and tear of the streets. It is consistent with the public interest that the costs associated with the use of city streets are paid as a part of the costs of the public works or improvements.

(B) *Haul fee.* The City Administrator may require contractors, as a part of any contract for a public work or public improvement let by the city either alone or in cooperation with any other governmental entity, a fee, payable to the city, for the use of city streets. The amount of the fee shall be \$1 per cubic yard or \$0.67 per ton of material (as estimated by the Public Works Director) to be transported upon city streets in connection with the contract.
(Ord. 149, 2nd Series, passed 4-23-02)

SEC. 96.99 PENALTY.

Every person violates a section, division, or provision of this title when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

(A) Where the specific section, division, or provision specifically makes violation a misdemeanor, the person shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, the person shall be punished as for a misdemeanor; where the person stands convicted of violation of any provision of this chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, he or she shall be punished as for a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(B) As to any violation not constituting a misdemeanor under the provisions of division (A) above, the person shall be punished as for a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of a fine of not more than \$300.

(C) As to any violation of a provision adopted by reference, he or she shall be punished as specified in the provision, so adopted.

(D) In the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(‘83 Code, SEC. 7.99)